Variation Agreement

#2

relating to

Partnership Schools | Kura Hourua

Her Majesty the Queen in right of New Zealand acting by and on behalf of the Minister of Education

Minister

and

He Puna Marama Charitable Trust

Sponsor

Date ~~April~~ **2018**
13 MAY

This **Agreement** is made on 13 MAY 2018

between (1) **Her Majesty the Queen in right of New Zealand acting by and on behalf of the Minister of Education (Minister)**

and (2) **He Puna Marama Charitable Trust (Sponsor)**

Introduction

A. Section 158D of the Education Act 1989 (the **Act**) enables the Minister, in the name and on behalf of the Crown, to enter into a contract with a sponsor for the operation, by that sponsor, of a Partnership School | Kura Hourua in accordance with the requirements set out in the Act.

B. The Minister and the Sponsor (jointly known as the **parties**) are parties to such a contract dated 11 September 2014 (the principal Agreement) to operate a Partnership School | Kura Hourua (Te Kāpehu Whetū – (Teina)) under the agreed terms and conditions as previously varied by Variation Agreement #1.

C. Pursuant to clause 34.12 of the principal Agreement, this variation amends the principal Agreement as required for the 2018 school year.

Effective Part

1. Amendments to the principal Agreement

1.1 The parties agree to vary the principal Agreement with effect from the effective date by:

(a) In clause 35.1 (definitions and Interpretation) deletion of the original definition of "National Standards" and its substitution with the following:

"National Standards means The New Zealand Curriculum Mathematics Standards for years 1-8 and The New Zealand Curriculum Reading and Writing Standards for years 1-8 published and available, as at the effective date, on http://nzcurriculum.tki.org.nz.

(b) In clause 35.1 addition of the following definition:

"**Practising certificate** has the meaning given in section 348 of the Education Act 1989".

(c) The deletion of clause 2 (International Student vacant place upper limit) of Schedule 1 (Student Enrolment and Absences) and its substitution with the following:

"2. International Student vacant place upper limit

The International Student vacant place upper limit for each Year is as follows:

Year	International Student Cap
2015	Nil

2016	Nil
2017	Nil
2018	Nil

(d) The deletion of clause 3.2 (School Terms) of Schedule 1 (Student Enrolment and Absences) and its substitution with the following:

"3.2 **School terms**

The minimum term dates for each Year when the School must be open for teaching Students are as follows:

Year	Term Dates			
2015	Term 1	16 February	until	17 April
	Term 2	5 May	until	4 July
	Term 3	21 July	until	26 September
	Term 4	13 October	until	12 December
	Total = 368 half days			
2016	Term 1	9 February	until	15 April
	Term 2	2 May	until	8 July
	Term 3	25 July	until	23 September
	Term 4	10 October	until	16 December
	Total = 382 half days			
2017	Term 1	30 January	until	13 Aprl
	Term 2	1 May	until	7 July
	Term 3	24 July	until	29 September
	Term 4	16 October	until	20 December
	Total = 396 half days			
2018	Term 1	7 February	until	13 April
	Term 2	30 April	until	6 July
	Term 3	23 July	until	28 September
	Term 4	15 October	until	20 December

	Total = 384 half days

"

(e) The deletion of clause 1 (Teaching Positions) of Schedule 4 (Governance and Teachers) and its substitution with the following:

"1. Teaching Positions

The number of full time teaching equivalent Teaching Positions for the School is as follows:

Year	Position	No
2015	Tumuaki – Education Leader	0.5
	Pouwhakaako - HOD	1
	Pouako	2
	Total	3.5
2016	Pouwhakaako - Lead	1
	Pouwhakaako - HOD	0
	Pouako	4
	Total	5
2017	Pouwhakaako	1
	Pouako	5
	Total	6
2018	Pouwhakaako	1
	Pouako	5
	Total	6

"

(f) The deletion of clause 2(a) (Number or percentage of Registered Teachers and Holders of Limited Authority to Teach) of Schedule 4 (Governance and Teachers) and its substitution with the following:

"2. Number or percentage of Registered Teachers and Holders of Limited Authority to Teach

(a) The number or percentage of Registered Teachers and Holders of Limited Authority to Teach is as follows:

Year	Registered	Limited Authority to Teach	Subtotal Reg/LAT (Minimum)	Non Registered (Maximum)	Total (Minimum)
2015	2	1	3	0.5	3.5
2016	5	0	5	1	6
2017	4	0	4	2	6
2018	5	0	5	1	6
2019	To be determined as a variation to this Agreement				
2020					

"

(g) The deletion of clause 2.3 (Financial performance) of Schedule 6 (Performance Management System) and its substitution with the following:

"2.3 **Financial performance**

The Sponsor will be periodically assessed against the following Performance Standards in relation to financial performance:

Measure	**Metric**	**Performance Standard**				**Measurement Frequency**
		2015	**2016**	**2017**	**2018**	
Operating surplus	Measured through information provided to the Ministry	2%-5%	2%-5%	2%-5%	2%-5%	Quarterly
Working capital ratio		2:1	2:1	2:1	2:1	
Debt/equity ratio		0.5:1	0.5:1	0.5:1	0.5:1	
Operating cash		Positive cash flow forecast = actual	Positive cash flow forecast = actual	Positive cash flow forecast = actual	Positive cash flow forecast = actual	
Enrolment variance		Establishment roll	85	110	110	

"

(h) The deletion of clause 2.4 (Targeting priority learners) of Schedule 6 (Performance Management System) and its substitution with the following:

"2.4 **Targeting priority learners**

The Sponsor will be periodically assessed against the following Performance Standards in relation to targeting priority learners:

Measure	Metric	Performance Standard				Measurement Frequency
		2015	2016	2017	2018	
Enrolment of priority groups	Number of Students who are Māori, Pasifika, students with special education needs and students from low socio-economic backgrounds	75%	75%	75%	75%	Quarterly

"

(i) The deletion of Annex A (Performance Standards for Student achievement against National Standards) of Schedule 6 (Performance Management System)) and its substitution with the following:

"Annex A: Performance Standards for Student achievement against Ngā Whanaketanga Rūmaki Māori

1. Primary (Class Levels 1-6)

1.1 Pānui (Reading)

Class Level	Performance Standard	
	2017	2018
1	85%	85%
2	85%	85%
3	85%	85%
4	85%	85%
5	85%	85%
6	85%	85%

1.2 **Pāngarau (Maths)**

Class Level	Performance Standard	
	2017	2018
1	85%	85%
2	85%	85%
3	85%	85%
4	85%	85%
5	85%	85%
6	85%	85%

1.3 Tuhituhi (Writing)

Class Level	Performance Standard	
	2017	2018
1	85%	85%
2	85%	85%
3	85%	85%
4	85%	85%
5	85%	85%
6	85%	85%

1.4 Taha Korēro (oral language)

Class Level	Performance Standard	
	2017	2018
1	85%	85%
2	85%	85%
3	85%	85%
4	85%	85%
5	85%	85%
6	85%	85%

(j) The deletion of Annex C (Performance Standards for Student engagement) of Schedule 6 (Performance Management System)) and its substitution with the following:

"Annex C: Performance Standards for Student engagement

1. Primary (Class Levels 1-6)

Measure	Performance Standard				
	2014	2015	2016	2017	2018
Unjustified absences	0.01 multiplied by the number of Students multiplied by the number of days the School is open				
Stand downs	0				
Suspensions	0				
Exclusions	0				

"Schedule 7: Payment

(k) The deletion of clause 1.2 (Guaranteed Minimum Roll) of Schedule 7 (Payment) and its substitution with the following:

"1.2 Guaranteed Minimum Roll

(a) Where this Schedule refers to the Guaranteed Minimum roll, this is 65 for the 2015 Year, 85 for the 2016 Year and 110 for the 2017 Year.

(b) The Guaranteed Minimum Roll for each subsequent Year will be agreed by the Minister and the Sponsor in writing by way of a variation to this Agreement, by the end of the then current Year. If agreement cannot be reached between the parties, the Minister shall make the final decision.

(c) The Guaranteed Minimum Roll is used for the purpose of calculating certain payments during the first three years of this Agreement.

(d) The Minister reserves the right to adjust the Guaranteed Minimum Roll at any time of any year, in which the Guaranteed Minimum Roll is in effect.

(l) The deletion of clause 1.4(b) and 1.4(h) from Schedule 7 (Payment) and the replacement of 1.4(h) with:

"For the 2017 Year, for the purpose of determining any funding component described in the table in paragraph (a) of this clause 1.4 where the School's roll is used to calculate a payment, the School's roll will be deemed to be the Guaranteed Minimum Roll or (if higher) the actual roll submitted through relevant roll returns of roll counts from ENROL as below:

Payment date	Roll used to calculate payment
1 January	An adjustment will be made based on 1 March roll return if higher than GMR
1 April	1 March Roll Return
1 July	1 June roll count from ENROL
1 October	1 September roll count from ENROL

2. Effective Date

2.1 The provisions of this Variation will come into effect on the date this Variation is signed by both parties (**effective date**).

3. General Provisions

(a) This Variation is intended to supplement and form part of the terms and conditions contained in the principal Agreement. The parties declare that the terms and conditions set out in the principal Agreement remain in full force and effect except to the extent that they have been amended or added to by this Variation.

(b) If there is any conflict between the terms and conditions contained in the principal Agreement and the terms and conditions set out in this Variation, the terms and conditions of this Variation will prevail.

(c) Headings, underlining and bold type are for convenience and do not affect the interpretation of this Variation, unless the context requires otherwise.

(d) Each party will do, execute and perform all such acts, deeds, matters and things as may be reasonably required by the other party to enable them to obtain the full benefit and advantage of the terms, intent and meaning of this Variation.

4. Counterpart Execution

4.1 This Variation may be signed in two or more counterparts, each of which is deemed an original, and all of which constitute one and the same instrument. This Variation will be considered executed upon the exchange by facsimile or by email in PDF format of executed signature pages.

Execution

Executed as an agreement.

SIGNED by **Her Majesty the Queen in right of New Zealand acting by and on behalf of the Minister of Education** by)

Ellen MacGregor-Reid)

acting pursuant to a delegation from the Minister of Education)

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SIGNED by **He Puna Marama Charitable Trust**

[redacted]

Trustee

Tamer K. K. Nui

Print Name

[redacted]

Trustee

RAEWYN TIPENE

Print Name