



Maungaharuru-Tangitū Trust

TRUST DEED

March 2017

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Parties

- 1 Charmaine Dawn Kui Butler;
- 2 Tania Marama Petrus Hopmans;
- 3 Tamehana Pekapeka Manaena;
- 4 Kerri Donna Nuku;
- 5 Adam Justin Puna;
- 6 George Paku Newton Reti;
- 7 Shane Richard Hatara Taurima,

together the Trustees.

Background

- A In 1992 the Maungaharuru-Tangitū Hapū established an Incorporated Society, Maungaharuru-Tangitū Incorporated, to work towards a settlement of the Treaty of Waitangi claims of the Hapū and to represent, manage, promote, foster, assist and develop the affair and interest of the Hapū.
- B The defining issue of the Hapū's Treaty of Waitangi claims related to the illegal and unjustified confiscation (raupatu) of the Hapū land by the Crown in 1867 under the New Zealand Settlements Act 1863.
- C On 20 October 2009 the mandate of Maungaharuru-Tangitū Incorporated was recognised by the Crown for the purposes of direct negotiations towards the settlement of the Hapū's historical Treaty of Waitangi Claims. Formal negotiations began on 26 June 2010 with the signing of Terms of Negotiations.
- D An Agreement in Principle relating to the settlement of those claims was reached on 22 September 2011 between the Maungaharuru-Tangitū Incorporated and the Crown. Negotiations then continued in order to finalise a Deed of Settlement.
- E In order to receive redress the Crown requires that the Hapū establish a post settlement governance entity to receive and manage Treaty Settlement redress.
- F Maungaharuru-Tangitū Incorporated held several consultation hui with the Hapū to discuss the establishment of this Trust and its terms.
- G The Hapū resolved to establish this Trust to act as the post settlement governance entity, and that the Trust (acting through the Trustees) will hold property jointly upon the trusts set out in the Deed, and for this purpose has determined to hold the sum of \$10 as the initial trust fund for the Trust.
- H The Initial Trustees of the Trust are to be the elected Board Members of the mandated negotiating entity, Maungaharuru-Tangitū Incorporated, to provide for consistency and transparency of representation until elections can be held for new Trustees.

- I The Hapū also intend that, following the receipt of Treaty Settlement redress, the Trust will take up the representative functions of Maungaharuru-Tangitū Incorporated and will become the representative entity for the collective interests of the Hapū.
- J These intentions, and the Trust Deed, were considered and formally approved by the Hapū via ballot conducted by Maungaharuru-Tangitū Incorporated on 4 December 2012.

Deed

1 Interpretation

1.1 Definitions

In this Deed the following terms have the following meanings except to the extent that they may be inconsistent with the context:

‘Adult Registered Members’ means those Members of the Hapū identified on the Hapū Register as being 18 years of age or over.

‘Advisory Trustee’ means an advisory trustee appointed in accordance with clause 16.1 (Advisory Trustee).

‘Agreement in Principle’ means the agreement between representatives of Maungaharuru-Tangitū Hapū and the Crown dated 22 September 2011 in relation to the settlement of Maungaharuru-Tangitū Hapū historical Treaty of Waitangi claims

‘Annual General Meeting’ means a meeting held in accordance with clause 7.1 (Trust to hold Annual General Meeting).

‘Balance Date’ means 31 December or any other date that the Trustees by resolution adopt as the date up to which the Trust’s financial statements are to be made in each year.

‘Chairperson’ means that Trustee appointed as chairperson in accordance with clause 5.1 (Trustees to elect) of Schedule 2 (Proceedings of Trustees).

‘Code of Conduct’ means the code of conduct prepared in accordance with clause 2 (Code of Conduct) of Schedule 2.

‘Crown’ has the meaning given to it in section 2(1) of the Public Finance Act 1989.

‘Custodial Trust Fund’ has the meaning given to it in clause 16.2ci (Custodian Trustee and Nominee).

‘Custodian Trustee’ means a custodian trustee appointed in accordance with clause 16.2 (Custodian Trustee and Nominee).

‘Deed’ means this deed of trust and includes any amendments to this deed of trust made in accordance with clause 20 (Amendments to the Deed) or as amended in any other manner permitted by law.

‘Deed of Settlement’ means the deed between representatives of Maungaharuru-Tangitū Hapū and the Crown recording the settlement of the historical Treaty of Waitangi claims of the Hapū.

‘Deputy Chairperson’ means that Trustee appointed as deputy chairperson in accordance with clause 5.1 (Trustees to elect) of Schedule 2 (Proceedings of Trustees).

‘Financial Statements’ means the financial statements prepared by a Chartered Accountant in public practice in accordance with applicable financial reporting that meet the needs of Maungaharuru-Tangitū Group.

‘Financial Year’ means any year or accounting period ending on the Balance Date.

‘General Meeting’ means a meeting of the Members of the Hapū that is held in accordance with clause 7 (General Meetings), whether it is an Annual General Meeting or a Special General Meeting.

‘Hapū’ means the Maungaharuru-Tangitū Hapū.

‘Hapū Register’ means the register of Members of the Hapū maintained by the Trust in accordance with Schedule 1 (Powers of Trustees).

‘Initial Trustees’ means the Parties to this Deed deemed to be initial trustees in accordance with clause 2.1 (Initial Trustees) of Schedule 3 (Elections of Trustees).

‘Kāhui Kaumātua’ means the committee established in accordance with clause 5.1 (Power to convene a meeting of Kāhui Kaumātua).

‘Major Transaction’ means:

- a the acquisition of, or an agreement to acquire, whether contingent or not, Property by the Trust, the value of which is more than half of the value of the Trust Fund before the acquisition;
- b the disposition of, or an agreement to dispose of, whether contingent or not, Property by the Trust, the value of which is more than half of the value of the Trust Fund before the disposition;
- c a transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities the value of which is more than half of the value of the Trust Fund before the transaction;
- d the disposition of, or an agreement to dispose of, whether contingent or not, any Taonga Property by the Trust, or the removal of the status of Taonga Property from any Property of the Trust; or
- e the approval by the Trustees of a transaction by a Trust Entity, where approval of that transaction is required by the constitutional documents of that Trust Entity and the value of that transaction is more than half of the value of the Trust Fund before the transaction;

but does not include:

- f any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all, or substantially all, of the Trust Fund;
- g any disposition of Property or Taonga Property by the Trust, or any Trust Entity, to any Trust Entity;

- h the receipt of redress or settlement assets pursuant to the Agreement in Principle, Deed of Settlement, or Settlement Legislation; or
- i any acquisition or disposition of Property by the Trust pursuant to the agreements set out in the Deed of Settlement, or any arrangements or transactions whatsoever to effect that acquisition or disposition.

‘Maungaharuru-Tangitū Hapū’ and ‘Hapū’ means:

- a the collective group composed of individuals who descend from the tīpuna listed in one or more of the following paragraphs:
 - i Tataramoa (for Ngāi Tatara and Ngāti Kurumōkihi);
 - ii Tukapua I (for Marangatūhetaua (also known as Ngāti Tū);
 - iii Whakaari (for Ngāti Whakaari);
 - iv Tauira and Mateawha (for Ngāi Tauira);
 - v Te Ruruku through Hemi Puna and Taraipene Tuaitu (for Ngāi Te Ruruku ki Tangoio); or
 - vi Tahumatua II (for Ngāi Tahu) and the tīpuna named in one of the paragraphs i to v above;
- b every whānau, hapū or group to the extent that it is composed of individuals referred to in paragraph (a) above, including the following groups:
 - i Ngāti Kurumōkihi (formally known as Ngāi Tatara);
 - ii Marangatūhetua (also known as Ngāti Tū);
 - iii Ngāti Whakaari;
 - iv Ngāi Tauira;
 - v Ngāi Te Ruruku ki Tangoio; and
 - vi Ngāi Tahu; and
- c every individual referred to in paragraph a above.

For the purposes of this definition a descendant may be descended by:

- a birth; or
- b legal adoption.

‘Maungaharuru-Tangitū Group’ means the Maungaharuru-Tangitū Trust and any Trust Entities.

‘Maungaharuru-Tangitū Trust’ and **‘Trust’** means the trust established by this Deed.

‘Member of the Hapū’ means a person who is referred to in the definition of Maungaharuru-Tangitū Hapū.

‘Nominee’ means a nominee appointed in accordance with clause 16.2 (Custodian Trustee and Nominee).

‘Perpetuity Period’ means, for the purposes of clause 23, the period that commences on the date of this Deed and ends:

- a 80 years less 1 day after the date of this Deed, that period being the period specified for the purposes of section 6 of the Perpetuities Act 1964 for so long as 80 years is the period specified in that section; or
- b if another period is specified in legislation, that other period.

‘Property’ means all property (whether real or personal) and includes choses in action, rights, interests and money.

‘Settlement Legislation’ means such Act or Acts of Parliament that may be passed so as to give effect to the Deed of Settlement and the promises contained within that deed.

‘Special General Meeting’ means a meeting held in accordance with clause 7.3.

‘Special Resolution’ means a resolution that has been properly notified and passed by 75% of those Adult Registered Members of the Hapū who cast a valid vote in accordance with the procedures set out in Schedule 4 (Voting process).

Taonga Property’ means any Property of the Trust that is declared to be Taonga Property in accordance with clause 9.3 (Declaration as Taonga Property) and listed on the Taonga Property Register.

‘Trust Entity’ means the Trust and any company that is wholly owned by the Trust (or a Trust Entity), and any other entity (including a society, trust, or limited liability partnership) where:

- a the Trust, a Trust Entity, or both the Trust and a Trust Entity retain the exclusive right to appoint or remove directors, trustees, or other office holders of that company or other entity; and
- b that company or other entity is established or acquired by the Trustees in accordance with clause 13 (Trust Entities) and Schedule 5 (Establishment of Trust Entities),

‘Trust Fund’ means the initial sum of \$10 referred to in the background to this Deed together with all other Property the Trustees may subsequently purchase, receive or otherwise acquire from themselves or from any other person, firm, corporation or the Crown for the purposes of the Trust, that are from time to time held by the Trustees, or their nominee, on the trusts of this Deed.

‘Trustees’ means the trustees elected or appointed from time to time in accordance with Schedule 3 (Elections of Trustees) of this Deed to act as the trustees for the time being of this Trust.

‘Whakapapa Committee’ means the committee established in accordance with clause 4.3 (Whakapapa Committee to be established).

‘Working Day’ means the days Monday through Friday exclusive of any public holiday and excluding 24 December to 2 January (inclusive).

1.2 General construction

In interpreting this Deed the following rules must be applied unless the context otherwise requires:

- a Headings to clauses are for reference only and are not an aid in interpretation;
- b References to statutory provisions will be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time;
- c References to documents will be construed as references to those documents as they may be amended from time to time;
- d References to clauses are to clauses of this Deed;
- e References to currency are to New Zealand currency;
- f All periods of time include the day on which the period commences and also the day on which the period ends; and
- g Words importing the plural include the singular and vice versa and words importing gender import all genders.

2 Establishment and objects of the Trust

2.1 Establishment of Trust

The Trustees declare and acknowledge that the Trustees hold and will continue to hold the Trust Fund upon the trusts and with the powers set out in this Deed. The Trust is to be known as the Maungaharuru-Tangitū Trust or such other name as the Trustees decide from time to time.

2.2 Counterparts

This Deed may be executed in any number of counterparts, copies of which will be deemed an original, and all of which together constitute one and the same instrument. Each of the Parties shall promptly sign the original copies of the Deed (such copies to be signed by all the Parties) after execution of counterparts.

2.3 Trustees representative

The Trustees shall be the representative for Maungaharuru-Tangitū Hapū in all matters relating to this Deed.

2.4 Administration of the Trust

The Trust shall be governed and administered by and in accordance with this Deed.

2.5 Objects of the Trust

The objects of the Trust shall be to receive, hold, manage, and administer the Trust Fund on trust for any object or purpose that is beneficial to the Members of the Hapū irrespective of where the Members of the Hapū reside and shall without limitation include:

- a to give effect to the Settlement Legislation;
- b to receive redress pursuant to the Deed of Settlement and hold and apply that redress in accordance with the provisions of this Deed;
- c to exercise strategic governance over the Trust Entities so as to manage prudently the affairs, business activities, assets and liabilities of the Trust;
- d to be the voice and representative body for Maungaharuru-Tangitū Hapū;
- e to foster and promote amongst Members of the Hapū:
 - i spiritual values, unity, support and cooperation;
 - ii recognition of traditional customs and values;
 - iii physical, social, and economic wellbeing and advancement; and
- f to carry on any other objectives which may be carried on in connection with the above objects or which may directly or indirectly achieve those objects.

3 Appointment, powers and meetings of the Trustees

3.1 Number of Trustees

There shall be between five and seven Trustees of the Trust following the retirement of the Initial Trustees pursuant to Schedule 3 (Elections of Trustees).

3.2 Appointment of Trustees

The Trustees from time to time shall be appointed to office in accordance with the provisions set out in Schedule 3 (Elections of Trustees).

3.3 Proceedings of Trustees

Except as otherwise provided in this Deed, the proceedings and other affairs of the Trustees shall be conducted in accordance with Schedule 2 (Proceedings of Trustees).

3.4 Powers of a natural person

The Trustees will have the powers of a natural person and all other powers that New Zealand law permits subject to clause 3.5 (Restriction on Major Transactions). Without limitation, the powers of the Trustees include by way of example the powers set out in Schedule 1 (Powers of Trustees). In the case of doubt, the construction to be adopted is to favour the broadening of the powers of the Trustees.

3.5 Restriction on Major Transactions

Notwithstanding clause 3.4 (Powers of a natural person), the Trustees must not enter into a Major Transaction unless that Major Transaction:

- a is approved by a Special Resolution; or
- b is contingent upon approval by a Special Resolution.

3.6 Trustees' expenses

Each Trustee shall be entitled to be reimbursed any expenses or outgoings reasonably and properly incurred in the business of the Trust, subject to the prior approval of the Trustees.

3.7 Trustees' remuneration

The Trustees may determine the level of remuneration payable to each Trustee provided that the Trustees shall;

- a annually seek external professional advice in relation to an appropriate level of remuneration for each Trustee;
- b fix a level of remuneration for each Trustee that is no greater than that recommended by external advice provided under clause 3.7a; and
- c at each Annual General Meeting provide the details of the external advice received under clause 3.7a and the level of remuneration set in accordance with clause 3.7b.

4 Hapū Register

4.1 Trust to maintain register

The Trustees shall establish and maintain a Hapū Register which records the full names, dates of birth and postal addresses of the Members of the Hapū.

4.2 Application for registration

All applications for registration as a Member of the Hapū must be made in writing to the Trust in the form approved by the Trustees from time to time. The application must cover:

- a the full name, date of birth and postal address of the applicant;
- b such evidence as the Trustees may from time to time require as to that applicant's status as a Member of the Hapū, including details of the whakapapa (genealogical) connection of the applicant to the Hapū; and
- c such further information as the Trustees may specify on the form.

4.3 Whakapapa Committee to be established

The Trustees shall establish a Whakapapa Committee, comprised of three Members of the Hapū with expertise and knowledge of the whakapapa of the Hapū, to make decisions on all applications made pursuant to clause 4.2 (Application for registration).

4.4 Decisions to be made on applications

Upon receipt of an application for membership in accordance with clause 4.2 (Application for registration), the Whakapapa Committee shall consider the application and shall make a decision as to whether the application should be accepted as to the applicant's status as a Member of the Hapū.

4.5 Successful applications to be notified and registered

In the event that the Whakapapa Committee decides that the application should be accepted then such decision shall be notified in writing to the Trust, which shall in turn notify the applicant and enter the applicant's name and other relevant details in the Hapū Register.

4.6 Notification of unsuccessful applicants

In the event that the Whakapapa Committee decides to decline the application then such decision shall be conveyed in writing to the Trustees together with the reason for the decision. The Trustees shall then notify the applicant in writing of the decision together with the reasons given for the decision.

4.7 Applicants may reapply

Any decision to decline an application for registration under clause 4.6 (Notification of unsuccessful applicants) does not prevent an applicant submitting a new application for registration which may include additional information in response to the Whakapapa Committee's decision.

5 Kāhui Kaumātua

5.1 Power to convene a meeting of Kāhui Kaumātua

The Trustees may establish from time to time a Kāhui Kaumātua on such terms of appointment, and subject to such rules, meeting procedures and processes, as may be prescribed by the Trustees from time to time.

5.2 Role of Kāhui Kaumātua

The Kāhui Kaumātua will, on request from the Trustees, be responsible for advising the Trustees on matters relating to the tikanga, reo, kawa, kōrero and whakapapa of the Hapū. The advice of the Kāhui Kaumātua is intended to guide the Trustees and is not binding.

5.3 Trustees may be members

A Trustee may be appointed to, or remain part of, the Kāhui Kaumātua provided that, in the event that a request for advice from the Trustees relates to a contentious issue amongst the Trustees, then any Trustee who is also a member of the Kāhui Kaumātua shall not take part in the deliberations of the Kāhui Kaumātua.

6 General manager and other employees

6.1 Trust may appoint general manager

The Trustees may appoint a general manager to manage the day to day administration of the Trust including without limitation the implementation of the Trust's planning, reporting and monitoring obligations under this Deed.

6.2 Trust employees

The general manager and the Chairperson of the Trust (or his or her delegate) shall be responsible for the employment of all other employees of the Trust.

6.3 General manager's delegation

The general manager shall exercise such other powers and discretions as are delegated to him or her by the Trustees from time to time.

6.4 Trustees

Subject to clause 18 (Conflicts of interest), a Trustee may be employed by the Trust, and employment by the Trust does not disqualify a Member of the Hapū from being nominated for election as a Trustee in accordance with Schedule 3 (Elections of Trustees).

7 General Meetings

7.1 Trust to hold Annual General Meeting

The Trustees shall no later than six calendar months after the end of each Financial Year, and in any event no more than 15 months after the date of the last annual general meeting of the Trust, hold a general meeting for the Members of the Hapū, to be called its Annual General Meeting and shall at that meeting:

- a present the annual report and Financial Statements;
- b present the proposed annual plan;

other business to be conducted at the Annual General Meeting shall include:

- c the approval of the appointment of the auditor for the next Financial Year;
- d the presentation of details relating to Trustees' remuneration pursuant to clause 3.7c (Trustees' remuneration);
- e any other notified business; and
- f any general business raised at that meeting and accepted for discussion by the Chairperson pursuant to clause 7.5 (Special General Meeting limited to notified business).

7.2 Notice of Annual General Meeting

The Trustees shall give not less than 20 Working Days notice of the holding of the Annual General Meeting, such notice to be sent, by postal or electronic means, to all Adult Registered

Members at the last address shown for each such Member. Notice of the meeting shall also be inserted in appropriate newspapers circulating in regions of New Zealand where the Trustees consider that a significant number of Adult Registered Members reside. All such notices shall contain:

- a the date, time and place of the Annual General Meeting;
- b an agenda of matters to be discussed, and a summary of resolutions to be put at the meeting; and
- c details of where copies of any information to be laid before the meeting, including full resolutions to be put, may be inspected.

7.3 Notice of Special General Meetings

In addition to the Annual General Meeting, the Trustees shall convene a Special General Meeting on the written request of:

- a the Chairperson and Deputy Chairperson;
- b the majority of the Trustees; or
- c 10 percent (10%) of all Adult Registered Members.

Notice of such a meeting shall be given in the same manner as for a notice of the Annual General Meeting and those requesting the meeting shall be required to provide a statement to the Trustees setting out the purposes for which the meeting has been requested and the specific agenda items proposed for such a meeting. The Trustees shall not be required to give notice calling the meeting until such a statement with agenda items has been received.

7.4 Annual General Meeting not limited to notified business

At the discretion of the Chairperson, any general business raised at the designated time for general business at any Annual General Meeting may be transacted in addition to the business expressly referred to in the notice calling that meeting.

7.5 Special General Meeting limited to notified business

No business shall be transacted at any Special General Meeting other than the business expressly referred to in the notice calling that meeting.

7.6 Invalidation

The accidental omission to give notice to, or a failure to receive notice of a General Meeting by an Adult Registered Member, does not invalidate the proceedings at that meeting.

7.7 Deficiency of notice

Subject to clause 7.5 (Special General Meeting limited to notified business), a deficiency or irregularity in a notice of any General Meeting will not invalidate anything done at the meeting if:

- a the deficiency or irregularity is not material; and
- b the Adult Registered Members who attend the meeting agree to waive the deficiency or irregularity.

7.8 Quorum

The quorum required for any General Meeting shall be at no less than 30 Adult Registered Members present in person and in the case of a Special General Meeting convened in accordance with clause 7.3c (Notice of Special General Meetings), the quorum must include 50% of those who made the written request.

7.9 Chairing of meetings

The Chairperson for the time being will be the chairperson of any General Meeting and will preside over and have control over the meeting, provided that:

- a if the Chairperson is not present at the time appointed for holding a meeting, then the Deputy Chairperson shall be the chairperson;
- b if neither the Chairperson nor Deputy Chairperson are present at the time appointed for holding a meeting then the Trustees present shall elect one of their number to substitute as the chairperson for that meeting; and
- c if a Special General Meeting has been convened in accordance with clause 7.3b or 7.3c (Notice of Special General Meetings) the Trustees will appoint an independent chair for that meeting.

7.10 Voting

To the extent that a vote is sought or required on any matter to be considered at any General Meeting, not being in respect of a Special Resolution to which Schedule 4 (Voting process) applies, the Trustees may determine that the vote is conducted:

- a by postal vote to a physical or electronic address, as determined by the Trustees from time to time;
- b at the hui; or
- c by both methods in paragraphs a and b above.

Voting at a hui may be by voice or a show of hands, and shall be passed by a majority of those present and entitled to vote. The chairperson of the meeting may also demand a poll on a resolution either before or after any vote. Every Adult Registered Member shall have one vote per resolution in any given voting process. However, except as provided in clauses 3.5 (Restriction on Major Transactions), 7.1c (Trust to hold Annual General Meeting), 24 (Winding up of the Trust) and in Schedule 4 (Voting process), the Trustees shall not be bound by a resolution passed pursuant to this clause, but will only be required to give consideration to any such resolution in administering the Trust Fund and carrying out the objects of the Trust.

7.11 Adjourned meetings

If within one hour of the time appointed for a General Meeting a quorum is not present, the meeting will stand adjourned to be reconvened seven days after the date of the meeting. On that later day, the meeting will be held again at the same time and in the same place as the adjourned meeting. If a quorum is not present within one hour from the time appointed for that adjourned meeting, the Adult Registered Members present will constitute a quorum.

7.12 Unruly meetings

If any General Meeting becomes so unruly or disorderly that in the opinion of the chairperson of the meeting the business of the meeting cannot be conducted in a proper and orderly manner, or if any meeting in the opinion of the chairperson becomes unduly protracted, the chairperson may, and without giving any reason, adjourn the meeting and may direct that any uncompleted item of business of which notice was given and which in his or her opinion, requires to be voted upon, be put to the vote by a poll, without further discussion.

7.13 Minutes

The Trustees shall keep a proper record in a minute book of all decisions taken and business transacted at every General Meeting.

7.14 Minutes to be evidence of proceedings

Any minute of the proceedings of a General Meeting which is purported to be signed by the chairperson at that meeting shall be evidence of those proceedings.

7.15 Minutes to be evidence of proper conduct

Where minutes of a General Meeting have been made in accordance with this clause then, until the contrary is proven, the meeting shall be deemed to have been properly convened and its proceedings to have been conducted properly.

8 Application of income

8.1 Application of income

The Trustees may at any time, after payment of or provision for all reasonable costs, charges and expenses of the Trustees in respect of the establishment and management of the Trust and Trust Entities, pay or apply all or any of the income of the Trust to or for the benefit of such one or more of the Members of the Hapū to the exclusion of the others and, if to or for one or more than one, in equal or unequal shares and on such terms and conditions as the Trustees in their absolute discretion may decide. In acting for the benefit of the Members of the Hapū the Trustees may also distribute income to a Trust Entity.

8.2 Accumulation in six months without payment of application of income

Any income of any Financial Year not paid or applied in accordance with clause 8.1 (Application of income) during or within six months from the end of that Financial Year shall be accumulated and any income so accumulated shall be added to and form part of the capital of the Trust Fund, and shall be subject to the trusts and powers herein declared in respect of the capital of the Trust Fund.

8.3 Application of capital

The Trustees may at any time pay or apply any of the capital of the Trust Fund to or for the benefit of such one or more of the Members of the Hapū to the exclusion of the others and, if to or for more than one, in equal or unequal shares and on such terms and conditions as the Trustees in their absolute discretion may decide. In acting for the benefit of the Members of the Hapū the Trustees may also distribute capital to a Trust Entity.

8.4 Trustees have absolute discretion

All powers and discretions that the Trustees have may be exercised by the Trustees in their absolute discretion and from time to time and on such terms and conditions and in such manner and by such means as the Trustees think fit.

9 Taonga Property

9.1 Identification of Special Property

The Trustees may identify any particular Property held by the Trust as being of such special significance to the Maungaharuru-Tangitū Hapū that additional protection is required to ensure that Property is retained on behalf of the Maungaharuru-Tangitū Hapū.

9.2 Consultation with Hapū

Where the Trustees have identified particular Property under clause 9.1 (Identification of Special Property), the Trustees shall consult, in a manner to be determined by the Trustees, with the Maungaharuru-Tangitū Hapū as to the need for special protection of that Property.

9.3 Declaration as Taonga Property

The Trustees may, having regard to the outcome of the consultation under clause 9.2 (Consultation with Hapū), declare the identified Property to be Taonga Property and must inform the Hapū of any such declaration in a manner determined by the Trustees.

9.4 Taonga Property register

The Trustees must maintain a register of all Taonga Property with such register being available for inspection by all Adult Registered Members.

9.5 Disposition of Taonga Property is a Major Transaction

When considering whether or not to dispose of, or to enter into any agreement that will result in the disposition of (whether contingent or not) any Taonga Property, the Trustees shall have regard to the fact that any such disposition will constitute a Major Transaction, as will any proposal to remove the status of Taonga Property from a particular Property.

10 Policies and plans

10.1 Trustees to prepare five year strategic plan

Within 24 months of the establishment of the Trust, the Trustees shall, having consulted with Members of the Hapū, produce, and maintain a current five year strategic plan. Such a plan shall:

- a set out the medium term vision of the Trust in respect of the matters referred to in clause 10.2 (Trustees to prepare annual plan); and
- b include an investment framework that provides guiding principles for the development of investment and distribution policies that the Trust intends to follow in respect of the Trust Fund and the Maungaharuru-Tangitū Group.

10.2 Trustees to prepare annual plan

The Trustees shall prepare, no later than one month before the commencement of each Financial Year, an annual plan which specifies in respect of that Financial Year the following information:

- a the objectives of the annual plan;
- b the strategic vision of the Trust for the Maungaharuru-Tangitū Group;
- c the nature and scope of the activities proposed by the Trust for the Maungaharuru-Tangitū Group in the performance of the objects of the Trust;
- d the ratio of capital to total assets;
- e the performance targets and measurements by which performance of the Maungaharuru-Tangitū Group may be judged;
- f the manner in which it is proposed that projected income will be dealt with;
- g any proposals for the activities of Maungaharuru-Tangitū Group; and
- h any proposals for the ongoing management of the Trust Fund.

In developing an annual plan the Trustees shall have regard to the vision and policies set out in the current five year strategic plan prepared in accordance with clause 10.1 (Trustees to prepare five year strategic plan).

11 Annual reports, accounts and audit

11.1 Preparation of annual report

The Trustees must, within four months after the end of each Financial Year, cause to be prepared an annual report on the affairs of the Maungaharuru-Tangitū Group covering the accounting period to the end of that Financial Year. The report shall include a comparison of performance against the annual plan and Financial Statements including a balance sheet and income and expenditure statements and notes so as to give a true and fair view of the financial affairs of the Trust for that Financial Year. The financial statements shall include as a separate item details of any remuneration or fees paid to any Trustee or any Trustee's firm **solely in his or her capacity as a Trustee in accordance with clause 3.7 (Remuneration)** and details of any premiums paid in respect of Trustees' indemnity insurance **in accordance with clause 15.1 (Indemnities)**.

11.2 Audit of financial statements

The Trustees must also ensure that the Financial Statements for each Financial Year are audited by a chartered accountant in public practice prior to the date of giving notice of the Annual General Meeting of the Trust for the Financial Year immediately following the Financial Year to which the financial statements relate.

11.3 Appointment of auditor

The auditor shall be appointed by the Trustees prior to the end of the Financial Year to which the audit relates and, where possible, the fee of the auditor shall also be fixed at that time. No

Trustee or employee of the Trust (including any firm of which such a person is a member or employee) may be appointed as the auditor. For the avoidance of doubt, the Trust's accountant shall not be appointed as auditor.

12 Investments

The proportion of the Trust Fund that the Trustees determine to invest during such time as it is held by the Trustees must be invested in accordance with the provisions of the Trustees Act 1956.

13 Trust Entities

13.1 Establishment of Trust Entities

The Trust may establish Trust Entities in order to receive, hold, or manage the Trust Fund or any Property forming part of the Trust Fund, provided that any Trust Entity must be established in accordance with the requirements set out in Schedule 5 (Establishment of Trust Entities).

13.2 Disestablishment of Trust Entities

The Trust may, from time to time, disestablish any Trust Entity.

13.3 Establishment of other entities

13.4 For the avoidance of doubt, the ability for the Trust to establish Trust Entities does not limit the powers of the Trustees under this Deed to enter into any other arrangement including the establishment, or acquisition of an interest in, other entities which do not meet the requirements of Schedule 5 (Establishment of Trust Entities) and are not Trust Entities.

14 Liability of Trustees

14.1 A Trustee shall only be liable for losses attributable to his or her dishonesty or to his or her wilful commission or omission of an act which he or she knows or should have known to be a breach of this Deed. In particular no Trustee shall be bound to take, or be liable for failing to take, any proceedings against a co-Trustee for any such breach or alleged breach.

15 Indemnity and insurance

15.1 Indemnity and insurance for Trustees

Any Trustee, officer or employee of the Trust shall be indemnified or have his or her insurance costs met out of the Trust Fund against any liability which he or she incurs in defending any civil or criminal proceedings issued because of his or her actions in relation to the Trust, where those proceedings do not arise out of any failure by the Trustee, officer or employee and he or she was acting in good faith in a manner that he or she believed to be in the best interests of the Trust with the object of fulfilling the objects of the Trust.

15.2 Indemnity and insurance costs to be just and equitable

All indemnities and insurance costs may only be paid or reimbursed to the extent that those costs are just and equitable. If a question arises as to the extent of indemnity and insurance cost the Trustees shall seek independent advice as to a just and equitable level of costs.

15.3 Indemnity and insurance re specific trusts

If any assets are held by the Trustees on any separate specific trust, then any Trustee, officer or employee of the Trust may, in respect of proceedings brought in relation to that separate specific trust, only be indemnified or have his or her insurance costs met out of those assets.

15.4 Record of decisions

All decisions made under this clause to give or approve indemnities or meet or approve any insurance costs shall be recorded in the minutes of the meeting at which such a decision was made together with the reasons why such indemnities or insurance costs were thought by them to be just and equitable.

16 Advisory Trustee and Custodian Trustee

16.1 Advisory Trustee

The Trustees may, by resolution in writing, appoint any person as an advisory trustee of the Trust. The Advisory Trustee shall have the status and powers conferred on advisory trustees by the Trustees Act 1956.

16.2 Custodian Trustee and Nominee

The Trustees may, by resolution in writing, appoint any person as a Custodian Trustee or Nominee of the Trust Fund. The provisions of the Trustee Act 1956 shall apply as if references in it to a Custodian Trustee were references to Custodian Trustee or Nominee, except as modified or extended as follows:

- a all or any of the Trust Fund may be vested in the Custodian Trustee or Nominee as if the Custodian Trustee or Nominee were sole trustee;
- b the portion of the Trust Fund that is from time to time vested in the Custodian Trustee or Nominee is the Custodial Trust Fund, and the provisions of section 50 of the Trustee Act 1956 shall apply as if references in it to the trust property were references to the Custodian Trust Fund;
- c the Custodian Trustee or Nominee must:
 - i hold the part of the Trust Fund that is transferred to the Custodial Trustee or Nominee by the Trustees (the '**Custodial Trust Fund**');
 - ii invest the Custodial Trust Fund and dispose of it in accordance with any direction in writing by the Trustees; and
 - iii execute all documents and perform all acts that the Trustees in writing direct.

16.3 Removal of Advisory Trustee, Custodian Trustee or Nominee

The Trustees may, without needing to give any reason, remove any Advisory Trustee, or Custodian Trustee, or Nominee by passing a resolution approved by a majority of the Trustees entitled to vote at a meeting of Trustees.

16.4 Trustees may pay fee

The Trustees may pay a fee to the Advisory Trustee, Custodian Trustee or Nominee.

17 Advice to Trustees

17.1 Trustees may rely on advice

The Trustees may, when exercising their powers or performing their duties as Trustees, rely on reports, statements, financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

- a an employee of the Trust or any director, trustee, board member or employee of a Trust Entity whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned;
- b a professional advisor or expert in relation to matters which the Trustees believe on reasonable grounds to be within a person's professional or expert competence; and
- c any other Trustee or member of a committee upon which a Trustee did not serve at the relevant time and in relation to matters that are within that other Trustee's or committee member's designated authority. However this shall only apply to the extent that the Trustees act in good faith, after reasonable enquiry when the need for an enquiry is indicated by the circumstances, and without knowledge that would cause such acceptance to be unwarranted.

17.2 Trustees may obtain opinion

If the Trustees are in doubt over any matter relating to the management and administration of the Trust Fund, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a Barrister and Solicitor of the High Court of New Zealand of at least seven years' standing. In respect of any such opinion, and subject to clause 14.1 (Liability of Trustees), the Trustees may act without being liable to any person who may claim to be beneficially entitled in respect of anything done in accordance with that opinion. This right to obtain and act upon an opinion, however, will not restrict any right on the part of the Trust to apply to the High Court of New Zealand for directions.

18 Conflicts of interest

18.1 Definition of interested Trustee

A Trustee will be interested in a matter if the Trustee:

- a is a party to, or will derive a material financial benefit from that matter;
- b has a material financial interest in another party to the matter;

- c is a director, trustee, board member, or officer of another party to, or person who will or may derive a material financial benefit from, the matter, not being a party that is wholly owned, or controlled, by the Trust or any Trust Entity;
- d is the parent, child or spouse of another party to, or person who will derive a material financial benefit from, the matter; or
- e is otherwise directly or indirectly interested in the matter.

For the purposes of paragraph c above, a party will be controlled by the Trust or a Trust Entity if the composition of the board of that party (whether a company, trust, or other entity) is controlled by the Trust or Trust Entity.

However, no Trustee will be interested in a matter where that Trustee is a member of a hapu or iwi where his or her interest is not different in kind from the interests of other members of that hapu or iwi.

18.2 Disclosure of interest to other Trustees

A Trustee must forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust, disclose to his or her co-Trustees at a meeting of the Trust:

- a if the monetary value of the Trustee's interest is able to be quantified, the nature and monetary value of that interest; or
- b if the monetary value of that Trustee's interest cannot be quantified, the nature and extent of that interest.

18.3 Disclosure of interest of another Trustee

Where a Trustee is aware of an actual or potential conflict of interest of another Trustee then that person has a duty to draw the attention of the Trust to the conflict of interest.

18.4 Recording of interest

The Trust shall establish and maintain an interests register for the purpose of recording the details of interested representatives. Immediately following his or her appointment, a Trustee must enter any interests he or she may have into the interests register. A Trustee must also enter into the interests register the details of any interest disclosed to other Trustees in accordance with clause 18.2 (Disclosure of interest to other Trustees).

18.5 Dealings with interested Trustees

An interested Trustee shall not take part in any deliberation or vote in respect of any matter in which that Trustee is interested, nor shall the Trustee be counted for the purposes of forming a quorum in any meeting to consider such a matter.

19 Dispute resolution process

19.1 Disputes

In the event that a dispute arises in relation to any aspect of the Trust, or the Trust Entities, including, but not limited to, disputes on matters of tikanga, reo, kawa, whakapapa, and kōrero, then that dispute shall be referred in the first instance to the Trustees.

19.2 Notice of dispute

All disputes referred to the Trustees in accordance with clause 19.1 (Disputes) shall be submitted to the Trustees by notice in writing and the Trust shall acknowledge receipt in writing within 10 Working Days of the date of receipt of the notice. The Trustees shall appoint one or more of their number to act as mediator(s) to attempt to facilitate, mediate and effect a settlement of such dispute.

19.3 Reference of dispute

If a dispute is not settled within 20 Working Days of the receipt by the Trustees of written notice of the dispute in accordance with clause 19.2 (Notice of dispute) then it shall be referred to the Kāhui Kaumātua or to a Disputes Committee constituted in accordance with clauses 19.4 (Dispute Committee to be appointed as required) and 19.5 (Appointment and composition of Disputes Committee).

19.4 Dispute Committee to be appointed as required

There shall not be a permanent Disputes Committee. The Disputes Committee shall be appointed by the Trustees on a case by case basis having regard to the precise subject matter of the dispute in question and only after the expiry of the 20 Working Day period referred to in clause 19.3 (Reference of dispute).

19.5 Appointment and composition of Disputes Committee

A Disputes Committee shall comprise three persons, of whom no more than two may be Trustees, who shall be appointed for their skills and expertise in dealing with the issues that are the subject of the relevant dispute.

19.6 Role of Disputes Committee

The role of a Disputes Committee shall be to facilitate and make findings and decisions on the disputes referred to it.

19.7 Deliberations of Disputes Committee

In dealing with any dispute a Disputes Committee shall, subject to meeting the requirements of natural justice and tikanga, have the sole discretion to call for evidence and determine the manner in which a dispute before it should be dealt with. The findings and decisions of a Disputes Committee shall be final.

19.8 Notification of outcome

A Disputes Committee shall give its findings and decision together with reasons, in writing to the Trustees and any other party to the dispute.

20 Amendments to the Deed

20.1 Special Resolution required

All amendments to the Deed shall only be made with the approval of a Special Resolution passed in accordance with Schedule 4 (Voting process).

20.2 Amendment to make Trust a charity

Notwithstanding any other provision in this Deed to the contrary, this Deed may be amended, and the benefits conferred hereunder altered, in order for the Trust to become a charity and to qualify for any tax exemptions available from time to time for charitable entities under the provisions of the Income Tax Act 2007, provided that such amendment:

- a is made in accordance with clause 20.1 (Special Resolution required);
- b does not change the objects of the Trust so that the Trustees are no longer required to act for the benefit of the Members of the Hapū; and
- c does not change the definition in clause 1.1 (Definitions) of Maungaharuru-Tangitu Hapū.

The Trustees may also apply for incorporation under the Charitable Trusts Act 1957 and registration under the Charities Act 2005.

21 Access to the Documents

The Trustees shall ensure that the following documents are available for viewing by Members of the Hapū:

- a a copy of this Deed;
- b any current annual plan and five year strategic plan prepared in accordance with clause 10.1 (Trustees to prepare five year strategic plan) and clause 10.2 (Trustees to prepare annual plan)
- c annual reports, Financial Statements and annual plans presented for the purposes of the last three Annual General Meetings in accordance with clause 7.1 (Trust to hold Annual General Meeting).

The Trustees may comply with this requirement by ensuring that such documents are available electronically or by maintaining a physical copy of such documents at a specified location.

22 Resettlement

- 22.1 The Trustees have the power in its discretion to settle or resettle any or all of the Trust Fund upon trust in any manner which in the opinion of the Trustee is for the advancement or benefit of the Hapū and is consistent with the objects of the Trust, subject to compliance with clause 3.5 (Restriction on Major Transactions).

23 Perpetuities

- 23.1 If the rule against perpetuities applies to the Trust, the Trustees shall proceed to wind up the Trust in accordance with clause 24 (Winding up of the Trust) by the last day of the Perpetuity Period.

24 Winding up of the Trust

- 24.1 The Trust established by this Deed shall only be terminated or dissolved if the Adult Registered Members have, by Special Resolution resolved that it has become impossible, impracticable, or inexpedient for the Trust to carry out the objects of the Trust.
- 24.2 On the termination or dissolution of the Trust, the Trust Fund after the payment of costs, debts and liabilities shall be paid to another trust or entity that the Trustees in their absolute discretion are satisfied has been established for the benefit of the Maungaharuru-Tangitū Hapū. Any payment under this clause may be made on such terms and subject to such conditions (if any) as the Trustees in their absolute discretion determine.

25 Governing law

- 25.1 This Deed and the Trust are governed by and construed in accordance with the laws of New Zealand.

Execution

Signed by
in the presence of:

Charmaine Dawn Kui Butler

Witness signature _____

Full name _____

Occupation _____

Town/city _____

Signed by
in the presence of:

Tania Marama Petrus Hopmans

Witness signature _____

Full name _____

Occupation _____

Town/city _____

Signed by
in the presence of:

Tamehana Pekapeka Manaena

Witness signature _____

Full name _____

Occupation _____

Town/city _____

Signed by
in the presence of:

Kerri Donna Nuku

Witness signature _____

Full name _____

Occupation _____

Town/city _____

Signed by
in the presence of:

Adam Justin Puna

Witness signature _____

Full name _____

Occupation _____

Town/city _____

Signed by
in the presence of:

George Paku Newton Reti

Witness signature _____

Full name _____

Occupation _____

Town/city _____

Signed by
in the presence of:

Shane Richard Hatara Taurima

Witness signature _____

Full name _____

Occupation _____

Town/city _____

Schedule 1: Powers of Trustees

1 Powers of the Trustees

1.1 Without limiting clause 3.4 (Powers of a natural person) of this Deed, the Trustees shall have the powers:

- a to purchase and hold Property;
- b to lease Property;
- c to grant leases of Property;
- d to make any grants, scholarships or koha which are consistent with the objects of the Trust;
- e to borrow, obtain credit, or to otherwise raise funds to further the objects of the Trust;
- f to carry on any business or venture, and:
 - i to use for the business or venture any Property that is part of the Trust Fund;
 - ii to form (whether by itself or with others) a company, partnership or venture to carry on the business; and
 - iii to be a director or partner or party of or to that company or partnership or venture and to retain for themselves any reasonable remuneration paid;
- g to accumulate the income of the Trust Fund;
- h to apply or set aside any part of the Trust Fund towards the payment of any liabilities or obligations incurred or suffered by the Trustees or falling due in the future;
- i in relation to any company or other body (whether incorporated or unincorporated) or chose in action or fund:
 - i appoint directors, trustees, decision-makers, controllers, officers or employees of it;
 - ii consent to any reorganisation or reconstruction of it, or dealing with it, and any increase or reductions of the capital of it; and
 - iii provide out of the Trust Fund capital for it whether by advances, loans, deposits, grants, contributions or otherwise (with or without security) or by taking further securities in it;
- j to enter into contracts for the provision of services to fulfil the functions and objects of the Trust;
- k to open and maintain a bank account and to decide who will be the signatories to that account;
- l in relation to any share or other security that is part of the Trust Fund:
 - i exercise any voting, controlling or decision-making rights or powers attaching to it; and

- ii concur in any reconstruction or amalgamation of it or in any modification of the rights of the holders of it or of others interested in it and generally to act in respect of it;
- m to appoint, engage or employ any person or company for any period:
 - i as an expert or professional person or entity to advise on or carry out any of the trusts and powers authorised by this Deed;
 - ii as manager or agent for or on behalf of the Trustees in all or any matters relating to the management and the control of the Trust, and any business owned by the Trustees or in which it is concerned; or
 - iii as an employee of the Trust in all or any matters relating to the Trust;
- n to act upon any opinion or advice or information obtained from a person or entity referred to in paragraph 1.1m;
- o to determine all questions and matters of doubt that may arise in the course of the management, administration, investment, realisation, distribution, liquidation, partition, resettlement or winding up of the Trust Fund or the Trust, or to apply for directions under section 66 of the Trustee Act 1965;
- p to commence and carry on or defend, and to abandon or compromise any legal proceedings whatsoever by or against the Trust or its officers and otherwise concerning the affairs of the Trust;
- q generally to do all such other lawful acts and things that are incidental or conducive to fulfilling the functions and objects of the Trust; and
- r to pay from the Trust Fund all reasonable costs or expenses incurred in the course of the Trustees discharging, carrying out, or exercising any of their duties or powers.

Schedule 2: Proceedings of Trustees

1 Trustees to regulate meetings

- 1.1 The Trustees shall meet together for the dispatch of business, and may adjourn and otherwise regulate their meetings as they think fit.

2 Code of Conduct

- 2.1 The Trustees shall prepare a Code of Conduct to guide the behaviour of Trustees so as to avoid bringing the Trust into disrepute.

3 Notice of meeting

3.1 Notice to Trustees

Written notice of every meeting shall be either hand-delivered, or sent by postal or electronic means, to each Trustee at least seven days before the date of the meeting unless all Trustees agree otherwise. However, it shall not be necessary to give notice of a meeting of Trustees to any Trustees for the time being absent from New Zealand unless that Trustee has provided details for where he or she may be contacted while overseas. No notice shall be required for adjourned meetings except to those Trustees who were not present when the meeting was adjourned.

3.2 Content of notice

Every notice of a meeting shall state the place, day and time of the meeting, and the subject-matter of the meeting.

3.3 Waiver of notice

The requirement for notice of a meeting may be waived if all the Trustees who are at the time entitled to receive notice of a meeting give their written consent to such a waiver prior to or at the meeting.

3.4 Meeting limited to notified business

No business shall be transacted at any meeting of Trustees other than the business expressly referred to in the notice calling the meeting.

4 Quorum

- 4.1 Five Trustees shall constitute a quorum at meetings of the Trustees.

5 Chairperson and Deputy Chairperson

5.1 Trustees to elect

At the first meeting of the Trustees and at each subsequent first meeting following a Trustees election (excluding any election required to fill a casual vacancy) the Trustees shall elect one

of their number to be Chairperson and (at their discretion) one of their number to be Deputy Chairperson.

5.2 Termination of office

The Chairperson and Deputy Chairperson will each cease to hold office in the event that he or she resigns from that office, ceases to be a Trustee or is removed from that office by the Trustees passing a resolution of no confidence in him or her. In the event that the Chairperson or Deputy Chairperson ceases to hold that office then a further election shall be held for such position.

6 Proceedings at meetings

6.1 Decisions by majority vote

Unless stated otherwise in this Deed, any question arising at any meeting of the Trustees shall, in the first instance, be attempted to be resolved by consensus. Should consensus not be possible questions will be decided by a majority of votes of Trustees at the meeting.

6.2 Chairperson

The Chairperson shall take the chair at all meetings of the Trustees. If the Chairperson is not present then the Deputy Chairperson, if there is one, shall take the chair. If there is no Deputy Chairperson or the Deputy Chairperson is also not present then the Trustees present shall elect one of their number to be Chairperson of the meeting.

6.3 Vacancies

The Trustees may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below five Trustees, the continuing Trustees may act only for the purpose of advising of the vacancy or vacancies and taking the steps necessary to procure the election of new Trustees to fill the vacancy or vacancies, and for no other purpose.

6.4 Defects in appointment

All acts done by any meeting of the Trustees or of any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of such Trustee or person co-opted to any committee, or that they were disqualified, be valid as if every such person had been duly appointed and was qualified to act.

7 Delegation by Trustees

7.1 Trustees may delegate

The Trustees may from time to time as they think expedient for carrying out any of the objects of the Trust delegate any one or more of their powers under this Deed to a sub-committee, Trustee, employee or other person. Any sub-committee established to exercise powers under this Deed, other than the Whakapapa Committee, must include at least one Trustee.

7.2 Trustees to remain responsible

Notwithstanding the delegation by the Trustees of any of their powers under clause 7.1 (Trustees may delegate) of this Schedule, the Trustees shall remain responsible for the

exercise of that power by the delegate as if the Trustees had exercised the power themselves, unless the Trustees:

- a believed on reasonable grounds when making the delegation that the delegate would exercise the power in accordance with the provisions of this Deed and the duties owed by the Trustees in the exercise of their office under this Deed; and
- b have monitored, by means of reasonable methods that they have followed, the exercise of the power by the delegate.

7.3 Regulation of procedure by sub-committees

Subject to the provisions of this Deed, any sub-committee established by the Trustees may:

- a with the prior approval of the Trustees, co-opt any person to be a member of that sub-committee; and
- b otherwise regulate its meetings as it sees fit.

8 Written resolutions in lieu of meeting

- 8.1 A written resolution signed by all the Trustees or by all the members of a sub-committee shall be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees or of that sub-committee (as the case may be). Such a resolution may comprise several duplicated documents, each signed by one or more of the Trustees or members of the sub-committee (as the case may be).

9 Minutes

9.1 Minutes to be kept

The Trustees shall keep a proper record in a minute book of all decisions taken and business transacted at every meeting of the Trustees.

9.2 Minutes to be evidence of proceedings

Any minute of the proceedings at a meeting which is purported to be signed by the Chairperson of that meeting shall be evidence of those proceedings.

9.3 Minutes to be evidence of proper conduct

Where minutes of the proceedings at a meeting of the Trustees have been made in accordance with the provisions of this rule then, until the contrary is proved, the meeting shall be deemed to have been properly convened and its proceedings to have been properly conducted.

10 Holding of meetings via electronic conferencing

- 10.1 For the purposes of this Deed the linking via telephone, video, or other means of electronic conferencing of a number of Trustees or sub-committee members who constitute a quorum shall be deemed to constitute a meeting of the Trustees or the sub-committee members (as the case may be) so long as the following conditions are met:

- a all of the Trustees or committee members (as the case may be) for the time being entitled to receive notice of a meeting shall be entitled to notice of an electronic conference meeting and to be linked for the purposes of such a meeting;
- b throughout the electronic conference meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part;
- c a participant in the electronic conference meeting may not leave the meeting by disconnecting his or her telephone or other means of communication without first obtaining the Chairperson's express consent. Accordingly, a participant shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the electronic conference meeting unless he or she leaves the meeting with the Chairperson's express consent;
- d a minute of the proceedings at the electronic conference meeting shall be sufficient evidence of those proceedings, and of the observance of all necessary formalities, if certified as a correct minute by the Chairperson of that meeting; and
- e all the provisions in this Deed relating to meetings shall apply to any such electronic conference meeting.

11 Form of contracts

11.1 Contracts by deed

Any contract which, if made between private persons, must be by deed shall if made by the Trust be in writing signed under the name of the Trust by any three Trustees, provided one is the Chairperson or Deputy Chairperson.

11.2 Other contracts

Any other contract shall, if made by the Trust, be in writing signed under the name of the Trust by a person acting with the express or implied authority of the Trustees.

11.3 Contracts pursuant to resolution

Notwithstanding anything to the contrary in this clause 11 (Form of Contracts) of this Schedule, no contract made by or on behalf of the Trust shall be invalid by reason only that it is not made in the manner provided by this clause if it was made pursuant to a resolution of the Trustees.

Schedule 3: Elections of Trustees

1 Eligibility for appointment

1.1 Trustee eligibility

To be elected, a nominee for appointment must:

- a as at the closing date for nominations, be recorded in the Hapū Register as an Adult Registered Member; and
- b not:
 - i be bankrupt, or have within five years been adjudged bankrupt;
 - ii have ever been convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961, or an offence under section 373(4) of the Companies Act 1993 (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004);
 - iii be or have been disqualified from being a director of a company registered under the Companies Act 1955 or the Companies Act 1993;
 - iv be or ever have been removed as a trustee of a trust by order of Court on the grounds of breach of trust, lack of competence or failure to carry out the duties of a trustee satisfactorily;
 - v be physically or mentally incapacitated to the extent that he or she is unable to perform the duties of a Trustee;
 - vi be subject to a property order made under section 30 or 31 of the Protection of Personal Property Rights Act 1988;
 - vii have been convicted in the last 10 years of an offence punishable by more than three years imprisonment (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004); and
 - viii have been removed as a Trustee under clause 6 (Removal of Trustee) of this Schedule 3 within the past three years.

2 Initial and subsequent Trustees

2.1 Initial Trustees

The parties to this Deed shall be the Initial Trustees of the Trust.

2.2 First Trustee elections

Following the establishment of the Trust, Trustee elections shall be held on the following basis in order to establish a rotational election process.

- a An election shall be held prior to the first Annual General Meeting following the establishment of the Trust for three Trustee vacancies.

- b A subsequent election shall be held within 12 months of the election referred to in clause 2.2a of this Schedule for two Trustee vacancies; and
- c A further election shall be held within 12 months of the election referred to in clause 2.2b of this Schedule for two Trustee vacancies.

2.3 Trustees retiring at the initial Trustee elections

Three of the nine Initial Trustees shall retire at each election referred to in clause 2.2 (First Trustee elections) of this Schedule and be eligible, should they wish, for re-election at the relevant Trustee election. The Trustees retiring in accordance with this provision shall be determined by agreement of all of the Trustees or by lot if no agreement is reached.

2.4 Subsequent Trustee elections

Following the elections referred to in clause 2.2 (First Trustee elections) of this Schedule, elections shall continue to be held annually and shall occur prior to each Annual General Meeting.

3 Term of Office

3.1 Term of office

Subject to clause 2 (Initial and Subsequent Trustees) of this Schedule, the Trustees from time to time shall hold office for a term of three years.

3.2 Eligibility of retiring Trustees

Trustees retiring from office shall be eligible for reappointment.

3.3 Casual vacancies

Should:

- a there be no person elected to replace a Trustee following the expiry of a Trustee's term of office; or
- b any casual vacancy arise prior to the expiry of any Trustee's term of office,

then the Trustees may hold a further election in accordance with this Schedule or appoint any Adult Registered Member as Trustee to fill such vacant office until the next Annual General Meeting.

3.4 Term of casual appointments

In the case of an election held pursuant to clause 3.3 (Casual vacancies) of this Schedule the Trustee thereby elected shall, as the case may be, hold office:

- a in the case of a Trustee elected pursuant to clause 3.3a (Casual vacancies) of this Schedule, for the same term as that Trustee would have been elected had he or she been elected immediately following the retirement of the previous Trustee, under clause 3.1 (Term of office) of this Schedule; or
- b In the case of a Trustee elected pursuant to clause 3.3b (Casual vacancies) of this Schedule, for the balance of the term of office of the Trustee that he or she has replaced.

4 Making of nominations for election of Trustees

4.1 Calling for nominations

The Trustees shall give notice calling for nominations for those Trustee positions for which elections are required at least three months before the annual general meeting of the Trust for that Financial Year. Such notice shall specify the method of making nominations, and the latest date by which nominations must be made and lodged with the Trust or such other person as the notice directs.

4.2 Timing for nominations

All nominations must be lodged with the Trust no later than 15 Working Days following the date upon which the notice calling for nominations is first given.

4.3 Form of notice

All notices given under this clause shall be:

- a in writing and sent to each Adult Registered Member at the last physical or electronic address shown for each such Adult Registered Member on the Hapū Register. If notice sent to an electronic address fails, and the Trustees are aware of the failure, then the notice must subsequently be sent to the last known physical address. For the avoidance of doubt, each Member of the Hapū shall be responsible for ensuring his or her contact details are correct;
- b advertised in any major national newspapers circulating in New Zealand and in any provincial newspapers circulating in Hawke's Bay;
- c advertised by electronic or digital means including on the Trust's website; and
- d by such other means as the Trustees may determine.

4.4 Nominations to be in writing

The nomination of a candidate for election as a Trustee shall be in writing on the form approved by the Trustees from time to time and signed by not less than five Adult Registered Members.

4.5 Consent of nominee

The consent of each candidate to his or her nomination, and their agreement to be bound by the Code of Conduct should they be elected, shall be endorsed on the nomination form, provided that a candidate may at any time, by notice to the Trust, withdraw his or her nomination.

4.6 Statement of skills and experience

Each candidate shall provide, no later than 15 Working Days following the date upon which the notice calling for nominations is first given, a brief summary of the skills and experience the candidate believes are relevant to support their election as a Trustee. The Trust shall make such information available to Members of the Hapū during the course of the election process.

5 Holding of elections

5.1 Mode of voting at elections

Voting at all elections shall be by way of postal ballot in accordance with Schedule 4 (Voting process).

5.2 Candidates with most votes elected

The successful candidates for election as Trustees shall be those candidates who receive the most validly cast votes from the Adult Registered Members.

5.3 No elections in certain circumstances

In the event that the number of nominees for the position of Trustees are equivalent to or less than the number of Trustee positions that are to be filled in a given election, no election shall be necessary and the person or persons nominated shall be deemed to have been duly appointed.

6 Removal of Trustee

6.1 Suspension of Trustee

A Trustee may be suspended from office, and no longer be eligible to continue to exercise any powers under this Deed as a Trustee, should 75% of the remaining Trustees become concerned, on reasonable grounds, that the actions of the Trustee have breached the Code of Conduct and in doing so have resulted in a material detriment to the Trust. Any such resolution, together with the reasons for the Trustees' concerns, must be set out in writing and signed by the Trustees passing the resolution.

6.2 Review of Suspension

Following the suspension of a Trustee in accordance with clause 6.1 (Suspension of Trustee) of this Schedule 3 the remaining Trustees shall, pursuant to clause 17.2 (Trustees may obtain opinion), promptly seek independent legal advice regarding the decision to suspend the Trustee. In doing so both the suspended Trustee, and the remaining Trustees, shall have the right to make a written submission setting out their views.

6.3 Removal of Trustee

Should the review of the decision to suspend a Trustee conclude that:

- a the actions of the suspended Trustee have breached the Code of Conduct, and in doing so have resulted in a material detriment to the Trust, then the suspended Trustee shall be removed from office; or
- b the actions of the suspended Trustee have not breached the Code of Conduct in a manner which has resulted in a material detriment to the Trust, then the suspension shall cease and the Trustee shall be entitled to exercise their powers under this Deed as a Trustee from the date that decision is notified to the Trustees.

6.4 Lifting of suspension

At any point during the suspension of a Trustee the remaining Trustees may resolve, by a 75% majority, to remove the suspension and re-instate a suspended Trustee. Should a suspended Trustee be re-instated under this clause, or as a result of clause 6.3b of this Schedule 3, there shall be no right of recourse or challenge in relation to the decision to suspend the Trustee and any decisions taking by the remaining Trustees during the period of the suspension shall not be invalidated as a result.

7 Termination of office of Trustees

7.1 Notwithstanding the foregoing clauses of this Schedule, a Trustee shall cease to hold office if he or she:

- a at any time ceases to fulfil the requirements set out in clause 1 (Trustee eligibility) of this Schedule;
- b retires from office by giving written notice to the Trust;
- c completes his or her term of office and is not re-elected;
- d refuses to act;
- e is absent without leave from three consecutive ordinary meetings of the Trustees without good reason or without the permission of the Trustees;
- f is removed from office in accordance with clause 6 (Removal of Trustee) of this Schedule 3; or
- g dies.

8 Record of changes of Trustees

8.1 Upon the notification of every appointment, retirement, re-appointment or termination of office of any Trustee the Trustees will ensure that an entry is made in the minute book of the Trust to that effect.

Schedule 4: Voting process

1 Voting

1.1 Voting process required

A voting process conducted in accordance with this Schedule is required in relation to:

- a the election of Trustees in accordance with Schedule 3 (Elections of Trustees);
- b the approval of a Major Transaction in accordance with clause 3.5 (Major Transactions) of this Deed;
- c the approval of amendments to this Deed in accordance with clause 20 (Amendments to the Deed) of this Deed; and
- d the winding up Maungaharuru-Tangitū Trust in accordance with clause 24 (Winding up of the Trust) of this Deed; and
- e any other matter as determined by the Trustees from time to time.

1.2 Method of voting

A voting process conducted in accordance with this Schedule must be conducted by postal vote either to a physical, electronic or digital address, as determined by the Trustees from time to time.

1.3 Eligibility to vote

Those eligible to vote in accordance with this Schedule are:

- a those Adult Registered Members identified on the Hapū Register on the closing date for voting; and
- b subject to clause 8.3b (Only one vote to be cast) of this Schedule, any other Member of the Hapū who is over the age of 18 years and has on or before the closing date for voting, provided to the Chief Returning Officer an application for registration as a Member of the Hapū which complies with clause 4.2 (Application for registration) of this Deed.

1.4 Members limited to one vote

Each Adult Member of the Hapū will only be eligible to cast one vote per resolution in any given voting process.

2 Special General Meeting not required

- 2.1 A Special General Meeting may be called for the purposes of considering the matter subject to a voting process, or for announcing the outcome of a vote, but is not a requirement under this Schedule.

3 Notice

- 3.1 Any vote taken under this Schedule must be publicly notified not less than 20 Working Days before the date of the vote.

4 Method of giving notice

- 4.1 Notice of a vote shall be:

- a in writing and sent to all Adult Registered Members at the last physical, or electronic address shown for each such Adult Registered Member on the Hapū Register. If notice sent to an electronic address fails, and the Trustees are aware of the failure, then the notice must subsequently be sent to the last known physical address. For the avoidance of doubt, each Member of the Hapū shall be responsible for ensuring his or her contact details are correct;
- b advertised in any major national newspapers circulating in New Zealand and in any provincial newspapers circulating in Hawke's Bay;
- c advertised by electronic means including on the Trust's website; and
- d by such other means as the Trustees may determine.

5 Contents of notice to members

- 5.1 All notices given in accordance with clause 4.1a (Method of giving notice) of this Schedule shall contain:
- a the date, time and place of any General Meeting called for the purposes of considering a the matters subject to the voting process;
 - b details of the matters subject to the voting process;
 - c the date voting closes;
 - d details of how and where any further information may be obtained;
 - e details of the procedure to be followed in casting a vote; and
 - f a voting form.

6 Contents of advertisement

- 6.1 All advertisements published in accordance with clauses 4.1b and 4.1c (Method of giving notice) shall contain at least the matters referred to in paragraphs 5.1a to 5.1d (Contents of notice to members) of this Schedule. Such advertisements may also contain other details as determined by the Trustees from time to time.

7 Voting

- 7.1 **Other details to accompany vote**

Each voting form must contain sufficient information to identify the voter and the voting documents issued to that voter.

7.2 Timing of postal votes

Votes must be cast no later than the closing date for voting. Postal votes sent to a physical address and otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than three Working Days after the closing date, but only if the envelope containing the voting form is date stamped on or before the date that voting closes.

8 Appointment of Chief Returning Officer

8.1 Appointment of Chief Returning Officer

The Trustees shall appoint a Chief Returning Officer who shall not be a Trustee or employee of the Trust, and who shall be a person of standing within the community. The Chief Returning Officer shall be responsible for co-ordinating the voting process and may appoint such other persons as he or she considers necessary to assist with that task provided that such persons shall also not be Trustees or employees of the Trust.

8.2 Chief Returning Officer to receive voting forms

All voting forms must be addressed to the Chief Returning Officer.

8.3 Only one vote to be cast

The Chief Returning Officer shall:

- a ensure that appropriate measures are in place to ensure that only one vote is cast by each Adult Registered Member per resolution; and
- b where any provisional vote is cast pursuant to clause 1.3b (Eligibility to vote) of this Schedule, before counting that provisional vote consult with the Whakapapa Committee to ensure that the person casting the vote is eligible to be registered on the Hapū Register.

8.4 Recording of votes

A record shall be kept by the Chief Returning Officer of all votes received.

9 Counting of votes

9.1 All votes to be counted

Upon the expiry of the date for the receipt of votes, the Chief Returning Officer shall record and count all votes validly cast.

9.2 Certifying and notifying result

Once all votes have been counted:

- a If the validity or otherwise of the provisional votes may affect the outcome of the voting process, the Chief Returning Officer must not certify the result until the validity of the

provisional votes has been confirmed pursuant to clause 8.3b (Only one vote to be cast) of this Schedule and any valid provisional vote has been counted; or

- b if the validity or otherwise of the provisional votes will not affect the result, the Chief Returning Officer may certify the result notwithstanding that the validity of the provisional votes has not been confirmed pursuant to clause 8.3b (Only one vote to be cast) of this Schedule and the provisional votes have not been counted.

10 Retention of voting records

10.1 Compiling and sealing voting records

The Chief Returning Officer shall, as soon as practicable after he or she has certified the result of the voting process, place all voting forms and other voting records in a sealed packet. The Chief Returning Officer shall endorse upon the sealed packet a description of the contents of that packet and the final date for voting. The Chief Returning Officer shall then sign the endorsement and forward the sealed packet to the Trust.

10.2 Retention and disposal of packets

The sealed packets received from the Chief Returning Officer shall be safely kept unopened by the Trust for a period of one year from the closing date for voting to which the packet relates. At the expiry of that one year period the packets shall be destroyed unopened.

Schedule 5: Establishment of Trust Entities

1 Requirements for Trust Entities

- 1.1 In establishing a Trust Entity the Trustees shall ensure that the constitutional documents of a Trust Entity provides that:
- a the Trust Entity shall be governed by its respective board and the role of the Trustees in respect of each Trust Entity shall be limited to the exercise of the rights conferred on the Trust as shareholder or (as applicable) appointer;
 - b the Trustees shall have and retain the power to appoint and remove the directors, trustees or board members (as the case may be) of any Trust Entity;
 - c the Trustees shall determine the remuneration payable to any directors, trustees or board members of any Trust Entity;
 - d the shareholder, or (as applicable) appointer, must approve a major transaction including:
 - i the acquisition of, or an agreement to acquire, whether contingent or not, Property by the Trust Entity, the value of which is more than half of the value of the Trust Entity's assets before the acquisition;
 - ii the disposition of, or an agreement to dispose of, whether contingent or not, Property by the Trust Entity, the value of which is more than half of the value of the Trust Entity's assets before the disposition;
 - iii a transaction that has or is likely to have the effect of the Trust Entity acquiring rights or interests or incurring obligations or liabilities the value of which is more than half of the value of the Trust Entity's assets before the transaction;
 - iv the disposition of, or an agreement to dispose of, whether contingent or not, any Taonga Property by the Trust Entity, or the removal of the status of Taonga Property from any Property of the Trust Entity; or
 - v the Trust Entity's own approval of a transaction by another Trust Entity, where approval of that transaction is required by the constitutional documents of the other Trust Entity and the value of that transaction is more than half of the value of the Trust Entity's own assets before the transaction;
- but would not apply to:
- vi any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all, or substantially all, of the Trust Entity assets;
 - vii any disposition of Property or Taonga Property by the Trust Entity, to any other Trust Entity;
- e the Trust Entity has the ability to recognise and protect Taonga Property which may be held by the Trust Entity, consistent with this Deed;

- f any directors, trustees or Board members appointed by or at the direction of the Trust to any Trust Entity do not act in a manner which brings or is likely to bring the Hapū, the Trustees or any Trust Entity into disrepute;
- g the Trust Entity:
 - i maintains a statement of intent setting out its long term objectives and the general principles by which it proposes to operate, which shall be updated as required by the Trustees to take into account changes in circumstances that may arise from time to time, including without limitation changes to the nature of its business and the business of any of its subsidiaries;
 - ii prepares and maintains a five year strategic plan which sets out its medium term vision and the specific steps that it proposes to take during that period to fulfil the objectives and principles set out in the statement of intent referred to in subparagraph i of this clause;
 - iii prepares an annual plan setting out the steps to be taken in the relevant Financial Year to meet its five year strategic planning objectives and fulfil the objectives and principles set out in the statement of intent;
 - iv within two calendar months after the completion of the first, second and third quarter of each Financial Year sends to the Trustees a report on its operations and financial position together with an unaudited summary of financial results as at the end of that period (such reports to be in such form as the Trustees may require from time to time); and
 - v provides reports to the Trustees each Financial Year in such form and with such detail as required by the Trustees. Reports shall include a comparison of the performance of the Trust Entity against both the annual plan of the Trust and that Trust Entity for that Financial Year and any medium and longer term planning objectives (as set out in the five year strategic plans and statement of intent); and
- h all statements of intent, five year strategic plans and annual plans must be approved by the Trustees. However, this shall not extend the Trustees to give directions beyond approving or not approving any plan or statement of intent or otherwise exercising their powers as shareholder or appointer, with the intention that directors, trustees or board members shall otherwise retain full discretion in respect of the implementation of the plans and statements of intent.

2 Other considerations

- 2.1 In establishing a Trust Entity the Trustees may also consider whether the constitutional documents of a Trust Entity should provide for:
 - a a requirement for the development of additional policies to be approved by the Trustees;
 - b a requirement as to the proportion or number of directors, trustees or board members who may also be Trustees;
 - c consistency between any General Meeting requirements for a Trust Entity and the General Meeting provision set out in this Deed;

- d any restrictions or limits on the establishment of subsidiaries by a Trust Entity;
- e requirements in relation to the particular skills and expertise required of a director, trustee or board member of the Trust Entity bearing in mind the activities that the relevant Trust Entity undertakes or is likely to undertake in the future and the mix of skills and expertise that is required on the relevant board of that Trust Entity;
- f a conflict of interest clause consistent with that included in this Deed; and
- g limits on the ability to amend the constitutional documents of any Trust Entity.