
DEED OF TRUST OF NGĀTI TARA TOKANUI
TRUST

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NGĀTI TARA TOKANUI GOVERNANCE ENTITY TRUST DEED

Executed as a DEED dated  FEBRUARY 2014

1. DEFINITIONS AND INTERPRETATIONS

1.1 Defined Terms: In this Trust Deed, unless the context otherwise requires:

"**Adult Member of Ngāti Tara Tokanui**" means a Member of Ngāti Tara Tokanui who is 18 years of age or over;

"**Adult Registered Member of Ngāti Tara Tokanui**" means a Member of Ngāti Tara Tokanui identified on the Ngāti Tara Tokanui Membership Register as being 18 years of age or over;

"**Annual Plan**" means the annual plan of the Trust which is prepared in accordance with clause 8.1;

"**Annual Report**" means the annual report of the Ngāti Tara Tokanui Group which is prepared by the Trustees in accordance with clause 9.1;

"**Balance Date**" means 30 June 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;

"**Business Day**" means any day on which registered banks are open for business in Auckland;

"**Chairperson**" means the chairperson from time to time of the Trust appointed by the Trustees in accordance with rule 4 of the Third Schedule;

"**Chief Returning Officer**" means as the context requires:

- (a) the person appointed from time to time as chief returning officer for the purposes of Trustee elections in accordance with rule 10 of the Second Schedule; or
- (b) the person appointed as chief returning officer for the purposes of a Special Resolution in accordance with rule 7.1 of the Fourth Schedule;

"**Consolidated Financial Statements**" means the consolidated financial statements of the Ngāti Tara Tokanui Group prepared by the Trustees in accordance with clause 9.1;

"**Custodian Trustee**" means the custodian trustee that may be appointed or incorporated in accordance with clause 24.1;

"**Customary Rights**" means rights according to tikanga Māori (Māori customary law, values and practices) including:

- (a) rights to occupy land;
- (b) rights in relation to the use and stewardship of land or other natural or physical resources; and
- (c) rights of burial;

"**Deed**" means this deed of trust and includes the background and the schedules to this deed;

"**Deed of Settlement**" means the deed/s that will be entered into between representatives of Ngāti Tara Tokanui and the Crown recording the settlement of the Ngāti Tara Tokanui Claims;

"**Deputy Chairperson**" means the deputy chairperson from time to time of the Trust if one is appointed in accordance of rule 4 of the Third Schedule;

"**Disputes Committee**" means a committee formed in accordance with clauses 29.4 and 29.5;

"**Electoral Review Officer**" means the person appointed to act as electoral review officer in accordance with rule 13.2 of the Second Schedule;

"**Five Year Plan**" means the five year plan of the Trust prepared in accordance with clause 8.2;

"**Income Year**" means any year or accounting period beginning 1 July of one calendar year and ending 30 June of the following calendar year or any other period that the Trustees by resolution adopt;

"**Initial Trustees**" means the Trustees identified in clause 3.1;

"**Manager**" means the person appointed in accordance with clause 4.1;

"**Kaumatua**" means someone aged over 65 years and registered to Ngāti Tara Tokanui;

"**Major Transaction**" in relation to any member of the Ngāti Tara Tokanui Group means:

- (a) the acquisition of, or an agreement to acquire, whether contingent or not, Property by that member the value of which is more than half the value of the Trust's Assets before the acquisition; or
- (b) the disposition of, or an agreement to dispose of, whether contingent or not, Property by that member the value of which is more than half the value of the Trust's Assets before disposition; or
- (c) a transaction that has or is likely to have the effect of that member acquiring rights or interests or incurring obligations or liabilities the value of which is more than half the value of the Trust's Assets before the transaction;

but does not include:

- (a) any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all or substantially all of the Trust's Assets (whether the Assets are held by the Trust or any other member of the Ngāti Tara Tokanui Group); or
- (b) any acquisition of Property by a member of the Ngāti Tara Tokanui Group from any other wholly-owned member of Ngāti Tara Tokanui Group; or
- (c) any disposition of Property by a member of the Ngāti Tara Tokanui Group to any other wholly owned member of the Ngāti Tara Tokanui Group;

Nothing in paragraph (c) of this definition applies by reason only of that member giving, or entering into an agreement to give, a charge secured over assets of the member the


value of which is more than one (1) half of the value of the Trust's Assets for the purpose of securing the repayment of money or the performance of an obligation.

For the purposes of paragraphs (a) to (c) of this definition of the value of the Trust's Assets shall be calculated based on the value of the assets of the Ngāti Tara Tokanui Group;

"Member of Ngāti Tara Tokanui" means an individual referred to in paragraph (a) of the definition of Ngāti Tara Tokanui and includes Whangai;

"Membership Validation Committee" means the committee appointed in accordance with rule 4 of the First Schedule;

"Ngāti Tara Tokanui" means:

- (a) the collective group composed of individuals who descend from a Ngāti Tara Tokanui Ancestors; and
- (b) every whānau, hapū, or group to the extent that it is composed of individuals referred to in paragraph (a), including the following Ngāti Tara Tokanui hapū:
 - (i) Ngāti Tara 
 - (ii) Ngāti Koi
 - (iii) Ngāti Tokanui
- (c) every individual referred to in paragraph (a); and
- (d) for the purpose of this definition, a person is descended from another person if the first person is descended from the other by:
 - (i) birth;
 - (ii) legal adoption; or
 - (iii) Māori customary adoption in accordance with Ngāti Tara Tokanui tikanga (Whangai);

"Ngāti Tara Tokanui Ancestor or Tupuna" means an individual who exercised rights by virtue of being descended from:

- (a) Tara; and / or
- (b) a recognised ancestor of any of the groups listed in paragraph (b) of the definition of Ngāti Tara Tokanui; and
- (c) who exercised the customary rights predominantly in relation to the Ngāti Tara Tokanui Area of Interest after 6 February 1840;

"Ngāti Tara Tokanui Area of Interest" means the Area of Interest of Ngāti Tara Tokanui as identified and defined in the Deed of Settlement;

"Ngāti Tara Tokanui Claims" means Ngāti Tara Tokanui historical claims against the Crown in respect of the Crown's breaches of its obligations to Ngāti Tara Tokanui under the Treaty of Waitangi; as identified in the Deed of Settlement;

"Ngāti Tara Tokanui Group" means the Trust and any Subsidiaries (if any);

"**Ngāti Tara Tokanui Membership Register**" means the register of Members of Ngāti Tara Tokanui that is to be maintained by the Trust in accordance with the First Schedule to this Deed;

"**Poari Whai Oranga / Whai Matauranga Activities**" means any activity carried out in pursuit of the Trust's purposes which has as its principal objective the cultural and social development of Ngāti Tara Tokanui, and shall include without limitation:

- (a) The fostering of all aspects of Ngāti Tara Tokanui Tikanga, reo, kawa and korero;
- (b) The provision of support and assistance to Members of Ngāti Tara Tokanui in respect of education, housing, health care, age care and relief of those suffering from mental or physical sickness or disability;
- (c) The development and enhancement of community facilities for the benefit of Ngāti Tara Tokanui; and
- (d) The provision of funding to Members of Ngāti Tara Tokanui for the cultural and social development of Ngāti Tara Tokanui;

"**Property**" means all property (whether real or personal) and includes choses in action, rights, interests and money;

"**Provisional Vote**" means a vote cast pursuant to rule 10.4 of the Second Schedule or rule 8.3 of the Fourth Schedule, as the case may be;

"**Registrar-General of Land**" or "**Registrar-General**" means the Registrar-General of Land appointed in accordance with section 4 of the Land Transfer Act 1952;

"**Related Person**" has the same meaning as provided in the Income Tax Act 2007;

"**Settlement Act**" means such Act or Acts of Parliament that may be passed so as to give effect to the Deed of Settlement and the premises contained within that deed;

"**Settlement Date**" means the date defined as the Settlement Date in the Deed of Settlement or Settlement Act;

"**Special Resolution**" means a resolution that has been passed with the approval of not less than 75% of the Adult Registered Members of Ngāti Tara Tokanui who validly cast a vote in accordance with the process set out in the Fourth Schedule;

"**Statements of Intent**" means the statements of intent prepared by any Subsidiary in accordance with clause 10.1;

"**Subsidiaries**" or "**Subsidiary**" means any entity that is:

- (a) wholly owned;
- (b) controlled directly; or
- (c) controlled indirectly by the Trust;

"**Trust**" means the trust created by this Deed which is to be called the Ngāti Tara Tokanui Trust;

"**Trust Deed**" means this deed of trust and includes the recitals and the schedules to this deed;

"Trust's Assets" means the trust fund of the Trust and shall include all assets received or otherwise owned or acquired from time to time by the Trust, including without limitation all assets received pursuant to the Deed of Settlement and Settlement Act, and any money, investments or other property paid or given to or acquired or agreed to be acquired by the Trust;

"Trust Period" means the period from the date of this Deed until the Vesting Day;
 "Trust's Purposes" means the objects and purposes set out in clause 2.4;

"Trustees" means the trustees appointed from time to time in accordance with clause 3 and the Second Schedule of this Deed to represent Ngāti Tara Tokanui and to act as the trustees for the time being of the Trust and "Trustee" shall mean any one (1) of those persons;

"Waahi Pooti" means the place or places nominated by the Trust for the purposes of allowing Members of Ngāti Tara Tokanui 18 years of age or over to cast in person their vote on the election of a Trustee elected in accordance with this Deed; and

"Whangai" means a person who has been adopted by a Member of Ngāti Tara Tokanui in accordance with the tikanga of Ngāti Tara Tokanui but who does not descend from a Ngāti Tara Tokanui Ancestor as defined in this Deed.

1.2 **Interpretation:** In this Trust Deed, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing one gender include the other genders;
- (c) references to a person include corporations and unincorporated bodies of persons, governments or other public bodies or agencies whether or not having a separate legal personality;
- (d) references to a statute shall be deemed to be references to that statute as amended, re-enacted or substituted from time to time;
- (e) references to a clause, recital or a schedule shall be to a clause, recital or a schedule to this Deed;
- (f) the schedules to this Deed shall form part of this Deed;
- (g) headings appear as a matter of convenience only and shall not affect the interpretation of this Deed; and
- (h) references to a company are references to a company incorporated pursuant to the Companies Act 1993.

2. CONSTITUTION, STATUS AND OBJECTS OF THE TRUST

2.1 **Trust Established:** The Initial Trustees acknowledge that they hold the Trust's Assets upon the trusts for the Beneficiaries and with the powers set out in this Deed. The Initial Trustees further acknowledge that the trust hereby created shall be known as the Ngāti Tara Tokanui Trust.

2.2 **Trust Administration:** The Trust shall be governed and administered by and in accordance with this Deed.

- 2.3 **Powers of Trust:** The Trustees, on behalf of the Trust, shall be capable of holding real and personal property, of suing and being sued, and shall have all of the rights, powers and privileges of a natural person with the intention that they shall, in their capacity as Trustees, have the fullest powers necessary to do all such things that they consider necessary in their sole discretion to perform or otherwise carry out the Trust's Purposes including but without limiting the foregoing the Trustees are capable of:
- (a) incorporating companies, establishing trusts and investing in share capital;
 - (b) advancing or gifting funds; and
 - (c) applying income or capital.
- 2.4 **Objects and purposes of the Trust:** The purposes for which the Trust is established are to receive, manage, hold and administer the Trust's Assets on behalf of and for the benefit of the present and future Members of Ngāti Tara Tokanui in accordance with this Deed including, without limitation:
- (a) the pursuit of Poari Whai Oranga / Whāai Matauranga Activities including the promotion amongst Ngāti Tara Tokanui of the educational, spiritual, economic, social and cultural advancement or well-being of Ngāti Tara Tokanui;
 - (b) the on-going maintenance and establishment of places of cultural or spiritual significance to Ngāti Tara Tokanui;
 - (c) the promotion amongst Ngāti Tara Tokanui of health and well-being generally, including of the aged or those suffering from mental or physical sickness or disability;
 - (d) the undertaking of commercial activities to support the other objects and purposes of the Trust; and
 - (e) any other purpose that is considered by the Trust from time to time to be beneficial to Ngāti Tara Tokanui.
- 2.5 **Restriction on Major Transactions:** Notwithstanding clause 2.3, the Trustees or any entity which is a member of the Ngāti Tara Tokanui Group must not enter into a Major Transaction unless that Major Transaction:
- (a) is approved by way of Special Resolution in accordance with the Fourth Schedule; or
 - (b) is contingent upon approval by way of Special Resolution.

3. APPOINTMENT, POWERS AND MEETINGS OF TRUSTEES

- 3.1 **Initial Trustees:** Pending election and appointment of Trustees in accordance with the Second Schedule, the Initial Trustees shall be:
- (a) Amelia Amy Tuihana Williams;
 - (b) Russell Charles Karu;
 - (c) Kerry Patricia Karu;
 - (d) Nicholas Erin Hiwi Singh;

(e) Nancye Bessie Gage; and

(f) Phyllis Mott.

- 3.2 **Appointment in accordance with Second Schedule:** Subject to clause 3.1 the Trustees from time to time of the Trust shall be appointed to office in accordance with the rules set out in the Second Schedule.
- 3.3 **Trustees to control Trust affairs:** Subject to any requirements imposed by this Deed, the Deed of Settlement, the Settlement Act and in accordance with law the Trustees shall control and supervise the business and affairs of the Trust in such a manner as they, in their sole discretion, see fit.
- 3.4 **Proceedings of Trustees:** Except as otherwise provided in the Deed the proceedings and other affairs of the Trustees shall be conducted in accordance with the rules set out in the Third Schedule.
- 3.5 **Trustees Remuneration:** Trustees' remuneration must:
- (a) be authorised by a resolution of Adult Registered Members of Ngāti Tara Tokanui in accordance with clause 13.2. In recommending trustee remuneration levels the Trustees must first seek professional advice in that regard; but
- (b) in respect of the initial Trustees in clause 3.1, who will be appointed before the first annual general meeting, be set by them for the period they hold office as initial Trustees, on the basis of professional advice they must seek.
- 3.6 **Trustee Expenses:** Trustees will be entitled to be reimbursed reasonable expenses incurred in relation to their acting as Trustees.
- 3.7 **Professional Trustees:** Notwithstanding clause 3.5 any Trustee may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by the Trustee or by any firm or entity of which that Trustee is a member, employee or associate in connection with the affairs of the Trust in a professional capacity as distinct from services performed by them in their role as Trustee without obtaining authorisation in accordance with clause 3.5.

4. MANAGER AND OTHER EMPLOYEES

- 4.1 **Trustees to appoint Manager:** The Trustees may appoint a 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
- 4.2 **Delegations to Manager:** The Manager shall be responsible for the employment of all other employees of the Trust and shall exercise such other powers and discretions as are delegated to him or her by the Trustees from time to time.
- 4.3 **Trustee Role:** A Trustee may not hold the position of Manager nor be an employee of any entity or trust in the Ngāti Tara Tokanui Group.


5. TRUSTEES TO ESTABLISH SUBSIDIARIES

- 5.1 **Establishment of Subsidiaries:** In receiving, managing and supervising the use of the Trust's Assets on behalf of Ngāti Tara Tokanui, whether pursuant to the Deed of Settlement, the Settlement Act or otherwise, the Trustees may establish and oversee

the operations of any Subsidiary to manage Commercial Activities and Poari Whai Oranga / Whai Matauranga Activities.

- 5.2 **Ownership and Control of Subsidiaries:** Any Subsidiary must manage any of the Trust's Assets its holds solely for the benefit of the Members of Ngāti Tara Tokanui. The Trustees shall have and retain the power to appoint and remove the trustees and directors or any responsible bodies of any Subsidiary wholly owned or directly controlled by the Trust.
- 5.3 **Trustees to monitor:** In giving effect to the Trust's Purposes the Trustees shall be responsible for monitoring and otherwise overseeing the activities of any Subsidiary. The Trust shall exercise its control in any Subsidiaries in such a way as to ensure any Subsidiary carries out their activities in a manner which is consistent with the Trusts Purposes.
- 5.4 **Assets held for Ngāti Tara Tokanui:** All assets held and income derived by any member of the Ngāti Tara Tokanui Group shall be applied in a manner which is consistent with the Trust's Purposes.
- 5.5 **Directors responsible for governance:** For the avoidance of doubt, and except as expressly provided by this Deed, all companies and other entities within the Ngāti Tara Tokanui Group shall be governed by their respective boards and the role of the Trustees in respect of those companies other entities shall be limited to the exercise of the rights conferred on the Trustees as shareholders, or (as applicable) appointer, and beneficiary of the relevant entity.
- 5.6 **Remuneration of directors and other trustees:** The Trustees shall determine the remuneration payable to any director or trustee or controlling body of any Subsidiary that is wholly owned or directly controlled by the Trust.
- 5.7 **No influence in determining remuneration:** No Trustee receiving any remuneration referred to in Clause 5.6 shall take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration nor shall the Trustee in any way determine or materially influence directly or indirectly the nature or amount of that payment if the circumstances in which it is to be paid.

6. APPOINTMENT OF DIRECTORS AND TRUSTEES

- 6.1 **Appointment and removal of directors and trustees:**  directors and trustees or any responsible body of any Subsidiary that is wholly owned or directly controlled by the Trust shall be appointed and removed by the Trustees.
- 6.2 **Trustees as directors and trustees of Subsidiaries:** Trustees in office may be appointed as directors or trustees of any individual Subsidiary.
- 6.3 **Appointments with regard to skills and expertise:** A director and a trustee or controlling body of any Subsidiary shall only be appointed if that person has the particular skills and expertise that are required of a member of the board to which the appointment relates and having regard to the activities that the Subsidiary undertakes or is likely to undertake in the future and the mix of skills and expertise that is required on the relevant board.

7. APPLICATION OF INCOME AND CAPITAL

- 7.1 **Trustees may apply income and capital:** During the Trust Period, and subject to any other requirements in this Trust Deed, the Trustees may:

- (a) provide for the payment, application or appropriation, or decide to pay, apply or appropriate as much of the available income in any Income Year to or for the benefit of Members of Ngāti Tara Tokanui;
- (b) use or apply any capital of the Trust's Assets to or for the benefit of Members of Ngāti Tara Tokanui for the Trust's Purpose without first using or applying the whole or any portion of the income of the Trust's Assets for that year; or
- (c) set aside reserves or accumulations for future use or application by the Trustees, as the Trustees in their sole discretion think fit for or towards the Trust's Purpose.

7.2 Payments out of income: The Trustees may, in making any decisions about the application of income in any Income Year, decide to have set aside, deducted from, or paid out of income such amounts as the Trustees in their discretion think fit, including:

- (a) as a reserve against losses and contingencies, and the Trustees may write off losses from time to time or resort to any reserve fund in mitigation of losses or for any other purpose; or
- (b) as a reserve to meet fluctuations of income in future years and other contingencies.

7.3 Matters to consider in applying income: In making any decision as to the application of the income in any Income Year, the Trustees shall, in exercising their discretion:

- (a) determine how much of the income should cease to be income and be added to and form part of the capital of the Trust's Assets, provided that the Trustees may not in the Income Year convert the entire income of the Trust into capital; and
- (b) endeavour to act fairly in considering the needs and interests of present and future Members of Ngāti Tara Tokanui.

7.4 Accumulation in six months where income not applied: Any income from any Income Year that is not paid or applied in accordance with this clause 7 during or within the six (6) months from the end of that Income Year shall be accumulated and any income so accumulated shall be added to and form part of the capital of the Trust's Assets and shall be subject to the trusts and powers herein declared in respect of the capital of the Trust's Assets.

8. PLANS

8.1 Trustees to prepare Annual Plan: In addition to the requirement in clause 8.3, the Trustees shall prepare no later than one (1) month before the commencement of each Income Year after Settlement Date an Annual Plan which specifies in respect of that Income Year information including:

- (a) the strategic vision of the Trust for the Ngāti Tara Tokanui Group;
- (b) the nature and scope of the activities proposed by the Trustees for the Ngāti Tara Tokanui Group in the performance of the Trust's purposes;
- (c) the ratio of capital to total assets;
- (d) the performance targets and measurements by which performance of the Ngāti Tara Tokanui Group may be judged;

- (e) the manner in which it is proposed that projected income will be dealt with;
- (f) any proposals for the on-going management of the Trust's Assets having regard to the interests of all Members of Ngāti Tara Tokanui; and
- (g) any other information as the Trustees in their discretion consider necessary or appropriate.

8.2 **Trustees to prepare Five Year Plan:** In addition to the requirement in clause 8.3, the Trustees shall also produce within 18 months following Settlement Date, and update not less than every two (2) years, a Five Year Plan. Such a plan shall set out the longer term vision of the Trustees in respect of the matters referred to in clause 8.1(a) to 8.1(g) and shall include a statement by the Trustees of the commercial, management and distribution policies that the Trustees intends to follow in respect of the Trust Assets.

8.3 **Initial Annual Plan and Five Year Plan:** In addition to the requirements in clauses 8.1 and 8.2 the Trustees shall, within one (1) month of establishment of the Trust prepare and produce an Annual Plan and Five Year Plan that comply with the matters in clause 8.1 and 8.2. Those plans shall have effect until such time as they are replaced by new plans as required in clause 8.1 and 8.2.

9. ANNUAL REPORTS, ACCOUNTS AND AUDITOR

9.1 **Preparation of annual report:** The Trustees must, within five (5) months after the end of each Income Year after Settlement Date, and no later than 20 Business Days prior to an annual general meeting, cause to be prepared an annual report on the affairs of the Ngāti Tara Tokanui Group covering the accounting period ending at the end of that Income Year which includes a comparison of performance against the Annual Plan, and Consolidated Financial Statements including a balance sheet and income and expenditure statement and notes to those documents so as to give a true and fair view of the financial affairs of the Ngāti Tara Tokanui Group for that Income Year. The Consolidated Financial Statements shall include as a separate item details of any remuneration or fees paid to any Trustee or any Trustee's firm (including without limitation any such payment to any Trustee as a director or trustee of any other member of the Ngāti Tara Tokanui Group) and details of any premiums paid in respect of Trustees' indemnity insurance (or any indemnity payments made by an insurer).

9.2 **Audit of financial statements:** The Trustees must also ensure that the Consolidated Financial Statements for each Income Year after Settlement Date are audited by a chartered accountant in public practice prior to the date for giving notice of the annual general meeting of the Trust for the Income Year immediately following the Income Year to which the financial statements relate.

9.3 **Appointment of auditor:** The auditor shall be appointed by the Trustees prior to the end of the Income Year after Settlement Date 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 the auditor.

10. SUBSIDIARIES TO PREPARE PLANS AND REPORTS

10.1 **Subsidiaries to prepare Plans and Statements of Intent:** The Trustees shall procure that each Subsidiary will:

- (a) within three (3) months of the establishment of the Subsidiary, prepare a Statement of Intent setting out its long term objectives and the general principles by which it proposes to operate;
 - (b) as required by the Trustees, update the Statement of Intent 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;
 - (c) within three (3) months of the establishment of the Subsidiary, prepare a Five Year Plan which shall be updated not less than every two (2) years, and 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 paragraph (a) of this clause;
 - (d) no later than one (1) month following the completion of the Five Year Plan referred to in paragraph (c) of this clause, and thereafter no later than two (2) months before the commencement of each Income Year, prepare an Annual Plan setting out the steps to be taken in the relevant Income Year to meet its five year planning objectives and fulfil the objectives and principles of the Statement of Intent;
 - (e) in addition to any normal reporting requirements, within two (2) calendar months after the completion of the first, second and third quarter of each Income Year send to the Trustees reports 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).
- 10.2 **Trust approval required:** Prior to being implemented all Statements of Intent and Annual Plans must be approved by the Trustees. Such approval shall be given in light of the Trust's overall plans and policies in respect of the Trust's Assets and the Ngāti Tara Tokanui Group.
- 10.3 **Reports to comply with Companies Act 1993:** The Trustees shall procure that all annual reports by any Subsidiary that is a company comply in all respects with the requirements of the Companies Act 1993, including without limitation:
- (a) the description required by section 211(1)(a) of the Companies Act 1993 of the nature of the business of the Subsidiary or any of its subsidiaries, or the classes of business in which the Subsidiary has an interest, whether as a shareholder of another company or otherwise;
 - (b) the financial statements (or as appropriate group financial statements) for that Income Year completed and signed in accordance with the Financial Reporting Act 1993; and
 - (c) the auditor's report of the financial statements (or group financial statements) of the Subsidiary for that Income Year.
- 10.4 **Standard for other Subsidiaries:** All reports by Subsidiaries that are not companies need to comply with the generally accepted reporting standards applicable to that entity.
- 10.5 **Report to include comparison against plans:** In addition to the matters set out in clauses 10.3 and 10.4, the Trustees shall procure that all reports by any Subsidiary include a comparison of its performance against both its respective annual plans for that Income Year and its medium and longer term planning objectives (as set out in the each Subsidiary's Statement of Intent).

- 10.6 **Protection of Information:** For the avoidance of doubt, nothing in this clause 10 limits or affects the rights of the Trustees, as shareholders in any Subsidiary that is a company, to agree pursuant to section 211(3) of the Companies Act 1993 not to include information in the annual report of that Subsidiary.

11. DISCLOSURE OF PLANS, REPORTS AND MINUTES

- 11.1 **Documents to be available for inspection:** The Trustees shall hold at their offices and make available for inspection by any Member of Ngāti Tara Tokanui during normal business hours on any Business Day:

- (a) the Annual Report for each of the preceding three (3) Income Years;
- (b) the Consolidated Financial Statements for the preceding three (3) Income Years;
- (c) the Annual Plan;
- (d) the Five Year Plan;
- (e) the Statements of Intent;
- (f) the minute book kept in accordance with clause 13.14 of all decisions taken and business transacted at every annual general meeting and special general meeting;
- (g) their own personal details on the Ngāti Tara Tokanui Membership Register; (h) the Deed and any amendment to the Deed; and
- (h) the current constitution or trust deed of any Subsidiary.

- 11.2 **Costs of copying:** Any Member of Ngāti Tara Tokanui shall be entitled to obtain copies of the information referred to in clause 11.1. However the Trustees shall also be entitled to recover at their discretion all reasonable copying or postage costs (if any).

12. NO DISCLOSURE OF SENSITIVE INFORMATION

- 12.1 For the avoidance of doubt, but subject to the Trustees reporting obligations in clauses 8.1, 11.1(a), 11.1(b), 11.1(f), 13.1(a) and 13.1(b), the Trustees may at their sole discretion limit disclosure of any information about the activities or proposed activities of the Trustees and the Ngāti Tara Tokanui Group which the Trustees consider on reasonable grounds to be commercially or otherwise sensitive.

13. GENERAL MEETINGS

- 13.1 **Trustees to hold annual general meeting:** The Trust shall, no later than six (6) calendar months after the end of each Income Year after Settlement Date, and in any event no more than 15 months after the date of the last annual general meeting of the Trustees, hold a general meeting for the Members of Ngāti Tara Tokanui, to be called its annual general meeting, and shall at that meeting:

- (a) report on the operations of the Ngāti Tara Tokanui Group during the preceding Income Year;

- (b) present the Annual Report (which must have been made available no later than 20 working days prior to the annual general meeting) and duly audited Consolidated Financial Statements;
- (c) present the proposed Annual Plan;
- (d) announce the names of all newly appointed Trustees;
- (e) approve the appointment of the auditor for the next Income Year; (f) approve the Trustees' remuneration;
- (f) undertake all other notified business; and
- (g) at the discretion of the chairperson of the meeting, undertake any other general business raised at that meeting.

13.2 Approval of Trustees' remuneration and appointment of auditor:

- (a) No remuneration will be paid to a Trustee in his or her capacity as a Trustee unless that remuneration has been authorised by a resolution of the Adult Registered Members of Ngāti Tara Tokanui present at the annual general meeting. Each such resolution will express the remuneration to be paid to the Trustees as a monetary sum per annum payable either to all Trustees taken together or to any person who from time to time holds office as a Trustee. This clause does not apply to any remuneration paid to any Trustee in his or her capacity as a director or trustee of any other member of the Ngāti Tara Tokanui Group. That remuneration shall be determined by the Trustees pursuant to clause 5.
- (b) The appointment of the auditor for the next Income Year must be authorised by a resolution of the Adult Registered Members of Ngāti Tara Tokanui present at the annual general meeting.

13.3 Notice of general meeting: The Trustees shall give not less than twenty-one days' notice of the holding of the annual general meeting, such notice to be posted (including, by electronic form where available) to all Adult Registered Members of Ngāti Tara Tokanui at the last address shown for each such Adult Registered Member of Ngāti Tara Tokanui on the Ngāti Tara Tokanui Register and to all other Members of Ngāti Tara Tokanui 18 years of age or older who have requested private notice of any meeting. 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. Notice of the meeting shall also be inserted prominently in appropriate major metropolitan newspapers circulating in New Zealand and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Tara Tokanui reside. All such notices shall contain:

- (a) the date, time and place of the meeting;
- (b) an agenda of matters to be discussed at the meeting; and
- (c) details of where copies of any information to be laid before the meeting may be inspected

13.4 Notice of special meetings: In addition to the annual general meeting of the Trust, the Trustees shall convene a special general meeting of the Trustees for the Members of Ngāti Tara Tokanui on the requisition of:

- (a) the Chairperson and Deputy Chairperson for the time being of the Trust; or

- (b) at least 75 percent of the Trustees; or
- (c) 25 of the Adult Registered Members of Ngāti Tara Tokanui.

Notice of such a meeting shall be given in the same manner as for a notice of the annual general meeting and those requisitioning the meeting shall be required to provide a statement to the Trustees setting out the purposes for which the meeting has been requisitioned 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.

- 13.5 **Annual general meeting not limited to notified business:** At the discretion of the chairperson of the meeting, 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.
- 13.6 **Special 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.
- 13.7 **Invalidation:** The proceedings of a meeting are not invalidated by the accidental omission to give notice to, or a failure to receive notice of an annual or special general meeting by, a Member of Ngāti Tara Tokanui.
- 13.8 **Deficiency of notice:** Subject to clause 13.6, a deficiency or irregularity in a notice of any special or general meeting will not invalidate anything done at the meeting if the deficiency or irregularity is not material:
- 13.9 **Quorum:** The quorum required for any annual or special general meeting of the Trust shall be 25 Adult Registered Members of Ngāti Tara Tokanui present in person, and one or more Trustees present in person. For the avoidance of doubt, if a Trustee is an Adult Registered Member of Ngāti Tara Tokanui they are entitled to vote.
- 13.10 **Chairing of meetings:** The Chairperson for the time being of the Trust will be the chairperson of any annual or special general meeting and will preside over and have control over the meeting. If the Chairperson is not present at the time appointed for holding a meeting, then the Deputy Chairperson shall be the chair. If the Deputy Chairperson is also not present, then the Trustees present shall elect one (1) of their number to substitute as the chairperson for that meeting.
- 13.11 **Voting:** To the extent that a vote is sought or required at any annual or special general meeting, every Adult Registered Member of Ngāti Tara Tokanui present shall have one (1) vote. All resolutions except Special Resolutions require the approval of not less than a majority of the Adult Registered Members of Ngāti Tara Tokanui who validly cast a vote. Voting may be by voice or on a show of hands. The chairperson of the meeting may also demand a poll on a resolution either before or after any vote, which among other things, requires the Adult Registered Members to verify their eligibility by a process directed by the chairperson of the meeting. However, except as provided in clauses 2.5, 13.1(e), 13.1(f), 13.2, 25.1, 26 and 27 and where Special Resolutions have been passed in accordance with the Fourth Schedule the Trustees shall not be bound by a resolution passed at any annual or special general meeting, but will only be required to give consideration to any such resolution in administering the Trust's Assets and carrying out the Trust's Purposes. The latest version of the Ngāti Tara Tokanui Membership Register will be present at any annual or special general meetings.
- 13.12 **Adjourned meetings:** If after one (1) hour of the time appointed for an annual or special general meeting, a quorum is not present, the meeting will stand adjourned to be re-convened seven (7) 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 after one hour from the time appointed for that adjourned meeting, the Adult Registered Members of Ngāti Tara Tokanui present will constitute a quorum.

- 13.13 **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 or 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 and the meeting will be considered closed.
- 13.14 **Minutes:** The Trustees shall keep a proper record in a minute book of all decisions taken and business transacted at every annual general meeting and special general meeting.
- 13.15 **Minutes to be evidence of proceedings:** Any minute of the proceedings at an annual general meeting or a special general meeting which is purported to be signed by the chairperson at that meeting shall be evidence of those proceedings.
- 13.16 **Minutes to be evidence of proper conduct:** Where minutes of an annual general meeting or a special 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.

14. DISCLOSURE OF INTERESTS

- 14.1 **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, officer or trustee 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 in the case of a trust controlled, by the Trust or any other member of the Trust;
 - (d) is the parent, child, spouse, de facto or civil union partner of another party to, or person who will or may derive a material financial benefit from, the matter; or
 - (e) is otherwise directly or indirectly interested in the matter.
- 14.2 **Interests in common with Members of Ngāti Tara Tokanui:** Notwithstanding clauses 14.1 no Trustee will be interested in a matter where his or her interest is not different in kind from the interests of other Members of Ngāti Tara Tokanui.
- 14.3 **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 this to his or her co- Trustees at the next meeting of the Trustees and:
- (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 the Trustee's interest cannot be quantified, the nature and extent of that interest.

14.4 **Recording of Interest:** A disclosure of interest by a Trustee (and the nature and extent or monetary value of that interest) shall be recorded in the minute book and the interest register of the Trust.

15. DEALINGS WITH "INTERESTED" TRUSTEES

15.1 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.

16. PROHIBITION OF BENEFIT OR ADVANTAGE

16.1 In the carrying on of any business by any member of the Ngāti Tara Tokanui Group under this Deed, and in the exercise of any power authorising the remuneration of the Trustees, no benefit, advantage or income shall be afforded to, or received, gained, achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able by virtue of that capacity in any way (whether directly or indirectly) to determine, or to materially influence the determination of the nature or amount of that benefit, advantage or income, or the circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.

17. DISCLOSURE OF TRUSTEE REMUNERATION ETC

17.1 The Trustees shall, in accordance with clause 9.1, show the amount of any remuneration paid to any Trustee or any Trustee's firm and the amount of any premiums paid out of the Trust's Assets for any Trustee indemnity insurance separately in the financial statements including any payments made pursuant to clause 20.

18. ADVICE TO TRUSTEES

18.1 **Trustees may rely on advice:** The Trustees may, when exercising their powers or performing their duties, rely on reports, statements and 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 whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned; and
- (b) a professional adviser or expert in relation to matters which the Trustees believe on reasonable grounds to be within the person's professional or expert competence.

18.2 **Trust may obtain a legal opinion:** If the Trustees are in doubt over any matter relating to the management and administration of the Trust's Assets, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a lawyer who has held a practising certificate for at least seven (7) years. The right to obtain and act upon a legal opinion, however, will not restrict any right on the part of the Trustees to apply to the High Court of New Zealand for directions.

19. LIABILITY OF TRUSTEES

- 19.1 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.

20. INDEMNITY AND INSURANCE

- 20.1 **Indemnity and insurance for Trustees:** Any Trustee, officer or employee of the Trust may be indemnified or have their insurance costs met out of the Trust's Assets 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:
- (a) Those proceedings do not arise out of any failure by the Trustee, officer or employee; and
 - (b) 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 Trust's Purposes.
- 20.2 **Indemnity and insurance costs to be just and equitable:** All indemnities and insurance costs may only be provided to the extent that the Trustees in their discretion think just and equitable.
- 20.3 **Indemnity and insurance re specific trusts:** If any assets are held by the Trust 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 their insurance costs met out of those assets.
- 20.4 **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.

21. NGĀTI TARA TOKANUI NOT TO BE BROUGHT INTO DISREPUTE

- 21.1 **Trustees not to bring into disrepute:** No Trustee shall act in a manner which brings or is likely to bring the Trust or any member of the Ngāti Tara Tokanui Group into disrepute. Examples of actions (or omissions):
- (a) a Trustee refusing to act when they should;
 - (b) sustained absence of a Trustee without permission or reasonable excuse;
 - (c) conviction of a serious dishonesty offence or an indictable offence; or
 - (d) bankruptcy or being subject to a compulsory treatment order.
- 21.2 **Directors not to bring into disrepute:** The Trustees shall also require that any directors or trustees appointed by or at the direction of the Trustees to any company (or as applicable) any trust in which the Trustees have an interest do not act in a manner which brings or is likely to bring the Trust or any member of the Ngāti Tara Tokanui Group into disrepute.

- 21.3 **Trustee may be censured or removed:** Any Trustee that acts in a manner that brings or is likely to bring into disrepute the Trust or any member of the Ngāti Tara Tokanui Group may, by a resolution passed by a majority of not less than 75% of the other Trustees, be formally censured or removed from office.
- 21.4 **Censure or removal to be notified:** The censure or removal of a Trustee in accordance with this clause shall, together with reasons, be reported to the Members of Ngāti Tara Tokanui at the next annual general meeting of the Trust following such censure or removal.
- 21.5 **Effect of Removal:** A Trustee removed from office in accordance with clause 21.3 shall cease to hold office as a Trustee forthwith and shall not be entitled to be re-elected as a Trustee for a period of not less than three (3) years following his or her removal.
- 21.6 **Replacement of Trustee:** The removal of a Trustee in accordance with clause 21.3 shall give rise to a casual vacancy which shall be filled in accordance with rule 4.6 of the Second Schedule. The election process must take place within three (3) months of any removal of a Trustee in accordance with this clause.

22. GIFTS OR DONATIONS

- 22.1 **Trustees may accept specific trusts:** Notwithstanding any other provision in this Trust Deed, the Trustees may accept or otherwise deal with any property upon trust for the purposes of the Trust or for any specific purpose that comes within the Trust's Purposes. Such a trust may include any trust for the benefit of the Members of Ngāti Tara Tokanui or any of them. Any property held by the Trust pursuant to this clause shall be dealt with in accordance with the terms of the trust and shall not constitute part of the Trust Assets.
- 22.2 **Specific trusts to be separate:** If the Trust accepts a trust for any specific purpose as outlined in clause 22.1 above it must keep the property subject to such trust and any income derived from it separate from the Trust's Assets, and administer that property and income as a separate specific trust in terms of the trust under which it was accepted.
- 22.3 **Use of specific trust assets:** The Trustees shall not use the assets of any separate specific trust to make good any deficit, loss, damage or breach of trust relating to any other assets that the Trust may hold, and the Trustees shall also not use the Trust's Assets to make good any deficit, loss, damage or breach of trust relating to any specific trust.
- 22.4 **Expenses of specific trusts:** Each separate specific trust shall bear its own administration expenses plus a fair proportion (determined by the Trustees) of the administration expenses applicable to the Trust.

23. RECEIPTS FOR PAYMENTS

- 23.1 The receipt of payments by the Trustees signed by any person or persons authorised to give receipts on behalf of the Trust shall be a complete discharge from the Trust for that payment.

24. CUSTODIAN TRUSTEE

- 24.1 The Trustees may appoint or incorporate a Custodian Trustee and on any such appointment or incorporation the following provisions shall have effect:

- (a) The Trustees shall require the Custodian Trustee to sign this Deed agreeing to be bound by its terms;
- (b) The Trust's Assets may be vested in the Custodian Trustee as if the Custodian Trustee were sole Trustee;
- (c) The Custodian Trustee holds the title so vested in him or her or it on trust for the Trustees;
- (d) The management of the Trust's Assets and the exercise of all powers and discretions exercisable by the Trustees under this Deed shall remain vested in the Trustees as fully and effectively as if there were no Custodian Trustee;
- (e) The sole function of the Custodian Trustee shall be to hold the Trust's Assets property, invest its funds and dispose of the assets in accordance with any direction in writing by the Trustees for which purpose the Custodian Trustee shall execute all such documents and perform all such acts as the Trustees in writing direct;
- (f) The Custodian Trustee shall not be liable for acting on any such direction provided that if the Custodian Trustee is of the opinion that any such direction conflicts with the trusts or the law or exposes the Custodian Trustee to any liability or is otherwise objectionable the Custodian Trustee may apply to the Court for directions and any order giving any such directions shall bind both the Custodian Trustee and the Trustees providing the Trustees are made parties to the proceeding;
- (g) The Custodian Trustee shall not be liable for any act or default on the part of any of the Trustees, provided the Custodian Trustee is not knowingly a participant in any wilful breach of trust by such Trustee(s);
- (h) All actions and proceedings touching or concerning the Trust's Assets may be brought or defended in the name of the Custodian Trustee at the written direction of the Trustees and, as between the Trustees and the Custodian Trustee, the Custodian Trustee shall not be liable for the costs and the Trustees shall indemnify the Custodian Trustee for such proceedings; and
- (i) No person dealing with the Custodian Trustee shall be concerned to enquire as to the concurrence or otherwise of the Trustees or be affected by notice of the fact that the Trustees have not concurred.

25. AMENDMENTS TO DEED

25.1 **Special Resolution required:** Subject to clause 25.2 and clause 25.3, all amendments to the Deed shall only be made with the approval of a Special Resolution passed in accordance with the Fourth Schedule.

25.2 **Limitations on Amendment:** No amendment shall be made to the Deed which:

- (a) changes the Trust's Purposes so that the Trustees are no longer required to act for the collective benefit of the present and future Members of Ngāti Tara Tokanui;
- (b) changes this clause 25.2;
- (c) changes clause 27;

- (d) changes the finally agreed definition of Member of Ngāti Tara Tokanui or Ngāti Tara Tokanui Claims after settlement legislation has been passed; and
- (e) changes the requirement for a Special Resolution (as defined from time to time) in clause 25.1.
- (f) changes rule 3.1 of the Fourth Schedule relating to the voting threshold 75% of Ngāti Tara Tokanui

25.3 Amendment to make definitions consistent with Deed of Settlement and Settlement Legislation: Notwithstanding any other provision in this Deed to the contrary, this Deed must be amended by the Trustees to make the definition of Member of Ngāti Tara Tokanui, Ngāti Tara Tokanui , Ngāti Tara Tokanui Ancestor or Ngāti Tara Tokanui Claims the same as that set out in the final Deed of Settlement and the Settlement Legislation. If the Deed is amended due to operation of this sub-clause a Special Resolution passed in accordance with the Fourth Schedule is not required.

25.4 Consideration of proposals: Every Adult Registered Member of Ngāti Tara Tokanui may put forward for consideration by the Trustees proposals for amendments to the Deed. Any proposal put forward under this clause 25.4 must be in writing and addressed to the Chairperson at the registered office of the Trust. Any proposal put forward under this clause 25.4 must be considered by the Trustees at their next available meeting. If the proposal for an amendment to the Deed complies with clauses 25.2 and 25.4 the Trustees must call a special general meeting to consider the proposal. If the Trustees do not discard the proposal in accordance with clause 25.5 they may, in their discretion, discuss it at the next annual general meeting.

25.5 Proposals to be discarded: Where a proposal for amendments to the Deed does not comply with clause 25.2 and 25.4, the Trustees may discard the proposal and the Trustees will not be required to call a special general meeting in accordance with the Fourth Schedule.

26. RESETTLEMENT

The Trustee has the power to settle or resettle any or all of the Trust's Assets upon trust in any manner in which, in the opinion of the Trustees is for the advancement or benefit of the present or future Members of Ngāti Tara Tokanui provided that the purposes of that resettled trust is within the purposes including incidental purposes, in this Trust Deed provided that the resettlement is approved by a Special Resolution.

27. TERMINATION OF TRUST

27.1 Subject to clause 25.2:

- (a) The Trust established by this Deed shall only be terminated or dissolved if the Adult Registered Members of Ngāti Tara Tokanui have, by Special Resolution, resolved that it has become impossible, impracticable or inexpedient to carry out the Trust's Purposes; and
- (b) On the termination or dissolution of this Trust, the Trust's Assets after the payment of costs, debts and liabilities shall be paid to another trust or entity that has been established for the benefit of the present and future Members of Ngāti Tara Tokanui.

28. ARCHIVING OF RECORDS

- 28.1 **Records to be held for seven years:** All minutes and other records of any proceedings of the Trustees and any companies and other entities in the Ngāti Tara Tokanui Group shall be held by the Trust and those companies and other entities for a period of seven (7) years.
- 28.2 **Records to be archived:** At the expiry of seven (7) years the Trust shall archive the records of the Trust and the companies and other entities in the Ngāti Tara Tokanui Group for such period as the Trustees consider necessary.
- 28.3 **Records may be retained for longer:** Notwithstanding clauses 28.1 and 28.2 the Trustees and any of the companies and other entities within the Ngāti Tara Tokanui Group may hold on to any records for a period exceeding seven (7) years if in their discretion such records contain information that is commercially or otherwise sensitive or is still required by the Trust or entity to which the information relates.

29. DISPUTE RESOLUTION

- 29.1 **Disputes:** In the event that a dispute arises between:
- (a) any Members of Ngāti Tara Tokanui; or
 - (b) the Trustees and any Members of Ngāti Tara Tokanui,
- regarding membership or otherwise in connection with the tikanga, reo, kawa, whakapapa and korero of Ngāti Tara Tokanui then that dispute shall be referred in first instance to the Trustees.
- 29.2 **Notice of Dispute:** All disputes referred to the Trustees in accordance with clause 29.1 shall be submitted to the Trustees by notice in writing and the Trustees shall acknowledge receipt in writing within 10 Business Days of the date of receipt of the notice.
- 29.3 **Reference of Dispute:** If a dispute is not settled within 30 days of the receipt by the Trustees of written notice of the dispute in accordance with clause 29.2 then it shall be referred to a Disputes Committee constituted in accordance with clause 29.4 and 29.5.
- 29.4 **Disputes Committee to be appointed as required:** There shall not be a permanent Disputes Committee. Disputes Committees shall be appointed 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 30 day period referred to in clause 29.3.
- 29.5 **Appointment and composition of Disputes Committee:** A Disputes Committee shall comprise three members who shall be appointed by the Trust. The Trust shall ensure the appointees to the committee are persons who would be regarded amongst Ngāti Tara Tokanui specifically and Māori generally as being of good reputation and standing in the community and who hold proven experience in mediation and alternatives disputes resolution provided that the Trust shall ensure that no appointees has a conflict of interest in the particular question or dispute to be referred to the Disputes Committee.
- 29.6 **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.
- 29.7 **Deliberations of Disputes Committee:** In dealing with any dispute a Disputes Committee shall, subject to meeting the requirements of natural justice, 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 and binding on the parties subject to clause 31.16 of the Trust Deed.

- 29.8 **Disputes Committee May convene hui:** In facilitating the resolution of any dispute a Disputes Committee may convene a general meeting of Ngāti Tara Tokanui in order to discuss the matters that are in dispute.
- 29.9 **Hui to meet notice requirements:** Any general meeting called by a Disputes Committee in order to try to settle any disputes shall be called in accordance with the requirements as to notice and meeting procedure that apply in respect of general meetings of Ngāti Tara Tokanui as set out in this Deed.
- 29.10 **Notification of Outcome:** A Disputes Committee shall give its findings and decision, together with the reasons therefore, in writing to the Trustees and any other party to the dispute.
- 29.11 **Trust to make final determination:** The Trustees will then, having regard to the findings of the Disputes Committee, make a final determination which shall be binding on all of the parties to the dispute.

30. PERPETUITIES AND VESTING DAY

- 30.1 The Vesting Day for the Trust is the day that is eighty years less one (1) day after the date of this Deed, that date being within the perpetuities period permitted by section 6 of the Perpetuities Act 1964 and the perpetuities period applicable to the Trust is hereby specified accordingly. On the Vesting Day, the Trustees shall hold the remaining capital and income of the Trust's Assets on trust for the Members of Ngāti Tara Tokanui then living as tenants in common in equal shares.
- 30.2 If the Settlement Act provides that the rule against perpetuities, and the other rules of law regulated by the Perpetuities Act 1964, are not to apply to the Trust, clause 29(1) shall be void.

31. FISHERIES SETTLEMENT ASSETS

- 31.1 For the purposes of this clause 31:

"Annual Catch Entitlement" has the meaning given to it in section 2(1) of the Fisheries Act 1996;

"Aquaculture Activity" has the meaning given to it in section 2(1) of the Resource Management Act 1991;

"Aquaculture Settlement Assets" means "Settlement Assets" under the Māori Commercial Aquaculture Claims Settlement Act 2004;

"Asset Holding Company" means:

- (a) a Subsidiary;
- (b) a company, which for the time being meets the requirements for an Asset Holding Company under the Māori Fisheries Act 2004 including but without limitation, the requirement that the Asset Holding Company pay all dividends solely to the Trust;

(c) a company that holds the Fisheries Settlement Assets on behalf of the Trust; and

(d) includes any subsidiary of the Asset Holding Company;

"Commercial Aquaculture Activities" means any Aquaculture Activity undertaken for the purpose of sale;

"Fishing Enterprise" means:

(a) a Subsidiary established for the purpose of utilising the Annual Catch Entitlement from the Settlement Quota; and

(b) includes any subsidiary of the Fishing Enterprise;

"Fisheries Settlement Assets" means Income Shares, Settlement Quota and Aquaculture Settlement Assets received by the Trust from either Te Ohu Kai Moana Trustee Limited or as otherwise acquired under the Legislation;

"Income Shares" means income shares within the meaning of the Māori Fisheries Act 2004 that is held by the Asset Holding Company on behalf of Ngāti Tara Tokanui;

"Iwi Aquaculture Organisation" has the meaning given to it in the Māori Commercial Aquaculture Claims Settlement Act 2004;

"Mandated Iwi Organisation" has the meaning given to it in the Māori Fisheries Act 2004;

"Hauraki Iwi" has the same meaning given to it in the Pare Hauraki Fishing Trust Deed;

"Legislation" means the Māori Fisheries Act 2004 and the Māori Commercial Aquaculture Claims Settlement Act 2004;

"Pare Hauraki Fishing Trust" means Hauraki Māori Trust Board acting in its capacity as trustee of Pare Hauraki Fishing Trust as the joint mandated iwi organisation (as defined in the Māori Fisheries Act 2004) that was recognised by Te Ohu Kai Moana Trustee Limited as such in March 2009;

"Pare Hauraki Fishing Trust Deed" means the deed of trust establishing the Pare Hauraki Fishing Trust circa 2006; and

"Settlement Quota" has the meaning given to it by the Māori Fisheries Act 2004.

31.2 **Māori Fisheries Act 2004:** Pursuant to the Legislation, Fisheries Settlement Assets of Ngāti Tara Tokanui are beneficially held and managed by the Pare Hauraki Fishing Trust. These assets are held by the Pare Hauraki Fishing Trust as part of the collective fisheries assets of the Hauraki Iwi. The Legislation contemplates and the Pare Hauraki Fishing Trust Deed provides, for Ngāti Tara Tokanui to withdraw its Fisheries Settlement Assets and transfer these assets to its own Mandated Iwi Organisation. In the event that Ngāti Tara Tokanui chooses to withdraw it is intended that this Trust will become the Mandated Iwi Organisation for Ngāti Tara Tokanui.

31.3 **Withdrawal from the Pare Hauraki Fishing Trust:** If Ngāti Tara Tokanui chooses to withdraw from the Pare Hauraki Fishing Trust in accordance with the provisions of the Māori Fisheries Act 2004 upon completion of the withdrawing process (and if necessary once this process has commenced) the provisions of this clause 31 shall apply.

- 31.4 **Mandated Iwi Organisation:** The Trust shall act as the Mandated Iwi Organisation and Iwi Aquaculture Organisation for Ngāti Tara Tokanui for the purposes of the Legislation.
- 31.5 **Asset Holding Company:** The Trust shall have an Asset Holding Company, which shall hold on behalf of the Trust, the Fisheries Settlement Assets. The Asset Holding Company will be a Subsidiary and will in addition to this clause 31 comply with the provisions of this Deed as they relate to Subsidiaries.
- 31.6 **Strategic Governance:** The trust must, to the extent that is practically possible, exercise strategic governance over any Asset Holding Company any Fishing Enterprise and any joint venture that involves Fisheries Settlement Assets.
- 31.7 **Subsidiaries of Asset Holding Company:** The Asset Holding Company may establish one or more subsidiaries to be a subsidiary Asset Holding Company and transfer to that subsidiary some or all of the Fisheries Settlement Assets the Asset Holding Company receives. Any such subsidiary must be wholly owned and controlled by the Asset Holding Company and provide any dividends solely to the Asset Holding Company.
- 31.8 **Fishing Enterprise:** If the Trust wishes to have its own fishing operation, utilising Annual Catch Entitlement from its Settlement Quota to harvest, process, or market fish, or to be involved in a joint venture for these purposes, the Trust must establish a Fishing Enterprise separate from, but responsible to the Trust to undertake these operations. The Fishing Enterprise must be a separate entity from any Asset Holding Company.
- 31.9 **Directors and Trustees of Fishing Enterprise and Asset Holding Company:** No more than 40% of the directors or trustees of any Fishing Enterprise or Asset Holding Company can be the Trustees then in office.
- 31.10 **Disposal of Fisheries Settlement Assets:** Any proposal in relation to the disposal of Income Shares pursuant to section 70 of the Māori Fisheries Act 2004 or in relation to the disposal of Settlement Quota pursuant to sections 159, 162, or 172 of the Māori Fisheries Act 2004 or in relation to the disposal of authorisations or costal permits pursuant to section 50 of the Māori Commercial Aquaculture Claims Settlement Act 2004, may only proceed if a Special Resolution has been passed in accordance with the Fourth Schedule.
- 31.11 **Undertaking Commercial Aquaculture Activities:** The Trust must not undertake Commercial Aquaculture Activities except through a separate enterprise that is responsible to the Trust.
- 31.12 **Annual General Meeting:** At the annual general meeting the trustees will present any proposed amendments to the constitution of any Asset Holding Company.
- 31.13 **Annual Report of Trust:** Any annual report prepared by the Trust must include:
- (a) a report giving information of the sales and exchanges of Settlement Quota in the previous year including:
 - (i) the quantity of Settlement Quota held by the Asset Holding Company;
 - (ii) the value of the Settlement Quota sold or exchanged;
 - (iii) the identity of the purchaser or other party to the exchange;
 - (iv) any transaction with Settlement Quota that has resulted in a registered interest by way of a caveat or mortgage placed over the Settlement Quota;

- (v) the Settlement Quota interests that have been registered against the Settlement Quota shares; and
 - (vi) the value of any Income Shares sold, exchanged or otherwise acquired;
 - (b) a report on the interactions of the Trust in fisheries matters with:
 - (i) other entities within the Ngāti Tara Tokanui Group;
 - (ii) other mandated iwi organisations; and
 - (iii) Te Ohu Kai Moana Trustee Limited;
 - (c) a report on any changes to the Trust Deed or the constitution of any Asset Holding Company; and
 - (d) Information on the steps taken by the Trust to increase the number of Registered Members of Ngāti Tara Tokanui.
- 31.14 **Annual Plan of Trust:** Any annual plan prepared by the Trust must include:
- (a) the Trust's policy in respect of sales and exchanges of Settlement Quota; and
 - (b) any proposed changes to the constitutional documents of any Asset Holding Company.
- 31.15 **Annual Report of Asset Holding Company:** Any annual report of any Asset Holding Company must include:
- (a) the investment of money of that Asset Holding Company or any of its subsidiaries;
 - (b) the key strategies for the use and development of the Settlement Quota and Income Shares;
 - (c) the expected financial return on the Settlement Quota and Income Shares; and
 - (d) any programme to:
 - (i) manage the sale of Annual Catch Entitlements; and
 - (ii) reorganise the Settlement Quota as by buying and selling settlement quota in accordance with the Māori Fisheries Act 2004.
- 31.16 **Dispute Resolution:** If a dispute arises as defined in section 180(1)(m) of the Māori Fisheries Act 2004 or as defined in section 52(7) of the Māori Commercial Aquaculture Claims Settlement Act 2004 the dispute will be determined in accordance with the Legislation. For the purposes of the Legislation, the disputes procedure contained in clause 29 shall be deemed to constitute the process for resolving the dispute that is required pursuant to section 181(1) of the Māori Fisheries Act 2004 and that is required pursuant to section 53 of the Māori Commercial Aquaculture Claims Settlement Act 2004.
- 31.17 **Amendments to provisions required by the Māori Fisheries Act 2004:** Any amendment to this Trust Deed must not be inconsistent with the Māori Fisheries Act 2004 and no amendment may be made to this Trust Deed until two years has passed since the Trust was recognised by Te Ohu Kai Moana Trustee Limited.

31.18 **Resettlement:** Any resettlement of any of the Fisheries Settlement Assets must be done in accordance with the Legislation.

32. REVIEW OF TRUST DEED

32.1 **Review required:** The Trustees shall, within five (5) years of the Settlement Date, initiate a review of the terms and operations of this Deed and, in particular, shall review the arrangements relating to the election of Trustees and all other aspects of the representation of Ngāti Tara Tokanui by the Trust.

32.2 **Deed review process:** In conducting this review the Trustees shall engage and consult with Ngāti Tara Tokanui in order to seek the views of Ngāti Tara Tokanui on the terms and operation of this Deed and, in particular, the arrangements relating to the election of Trustees and all other aspects of the representation of Ngāti Tara Tokanui by the Settlement Trust and shall have regard to the tikanga of Ngāti Tara Tokanui.

32.3 **Review to be independently facilitated:** The process of engagement and consultation required by clause 32.2 shall be undertaken by an independent facilitator appointed by the Trustees. The role of independent facilitator shall be to:

- (a) liaise with the Trustees in the preparation of any discussion materials to be distributed to -Ngāti Tara Tokanui;
- (b) facilitate any hui;
- (c) receive, compile and review any written submissions received from Ngāti Tara Tokanui;
- (d) make recommendations to the Trustees as to the amendments that should be made to the Deed as a consequence of the information received from the process of engagement and consultation.

32.4 **Outcome of review:** Following the completion of the review, and consideration by the Trustees of the report made by the independent facilitator in accordance with clause 32.3 the Trustees shall recommend amendments (if any) to this Deed and seek the approval of those amendments by Special Resolution in accordance with the Fourth Schedule.

FIRST SCHEDULE

NGĀTI TARA TOKANUI MEMBERSHIP REGISTER

1. TRUST TO KEEP REGISTER

- 1.1 **Trust to maintain register:** The Trustees shall administer and maintain the Ngāti Tara Tokanui Membership Register which is a register of the Members of Ngāti Tara Tokanui.
- 1.2 **Register to comply with this Schedule:** The Ngāti Tara Tokanui Membership Register shall be maintained in accordance with the rules and procedures set out in this Schedule.

2. CONTENTS OF REGISTER

- 2.1 **Register to contain Members' details:** The Ngāti Tara Tokanui Membership Register shall record in it the full names, dates of birth, postal addresses and email addresses of the Members of Ngāti Tara Tokanui.
- 2.2 **Beneficiary Registration Number:** The Trustees will allocate a beneficiary identification number to each Adult Registered Member of Ngāti Tara Tokanui on the Register. The Trustees will immediately after allocation, notify the relevant Adult Registered Member of Ngāti Tara Tokanui of his or her beneficiary identification number.

3. APPLICATIONS FOR REGISTRATION

- 3.1 **Form of applications:** All applications for registration as a Member of Ngāti Tara Tokanui must be made in writing to the Trustees in the application form approved from time to time by the Trustees. The application must contain:
- (a) the full name, date of birth and postal address of the applicant;
 - (b) the whakapapa (genealogical connections) through which the applicant claims affiliation to Ngāti Tara Tokanui;
 - (c) such evidence as the Trustees may from time to time require as to that applicant's status as a Member of Ngāti Tara Tokanui; and
 - (d) an option for the applicant to state whether they want to receive private notices about meetings, trustee elections and special resolutions.
- 3.2 **Applications to be made by:** An application for registration as a Member of Ngāti Tara Tokanui may be made by:
- (a) Members of Ngāti Tara Tokanui who are 18 years of age or older, on their own behalf or by their legal guardian;
 - (b) other Members of Ngāti Tara Tokanui who are under the age of 18 years, by their parent or legal guardian on their behalf.

4. DECISIONS AS TO MEMBERSHIP

- 4.1 **Membership Validation Committee to be established:** The Trustees shall establish a Membership Validation Committee to make decisions on all applications made pursuant to rule 3.1 of this Schedule for registration as a Member of Ngāti Tara Tokanui.

- 4.2 **Composition of Membership Validation Committee:** The Membership Validation Committee shall comprise not less than three (3) and not more than five (5) Kaumatua with the expertise and knowledge of Ngāti Tara Tokanui whakapapa necessary to make determinations regarding membership applications. The Membership Validation Committee must notify the Trust of the appointees to the Membership Validation Committee within 10 working days of receipt of a request from the Trust.
- 4.3 **Consideration of applications:** All applications for membership pursuant to rule 3.1 of this Schedule together with any supporting evidence shall be forwarded by the Trustees to the Membership Validation Committee.
- 4.4 **Decisions to be made on applications:** Upon receipt of an application for membership in accordance with rule 3.1 of this Schedule the Membership Validation Committee shall consider the application and shall make a decision as to whether or not the applicant should be accepted as a Member of Ngāti Tara Tokanui.
- 4.5 **Successful applicants to be notified and registered:** In the event that the Membership Validation Committee decides that the application should be accepted then such decision shall be notified in writing to the Trustees, which shall in turn notify the applicant and enter the applicant's name and other relevant details (including beneficiary identification number in accordance with rule 2.2) in the appropriate part of the Ngāti Tara Tokanui Membership Register.
- 4.6 **Notification to unsuccessful applicants:** In the event that the Membership Validation Committee decides to decline the application then such decision shall be conveyed in writing to the Trustees together with the reasons 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 **Unsuccessful applicant may reapply:** Any applicant whose application has been declined may:
- (a) dispute the outcome in accordance with clause 31; or
 - (b) at any time seek to have his or her application reconsidered by the Membership Validation Committee provided that such application for reconsideration may only be made on the basis of new evidence (being evidence that was not submitted or considered as part of the initial or, if more than one (1), any previous application) as to the applicant's status as a Member of Ngāti Tara Tokanui.

5. MAINTENANCE OF REGISTER

- 5.1 **Trustees to establish policies:** The Trustees shall take such steps and institute such policies as are necessary to ensure that the Ngāti Tara Tokanui Membership Register is maintained in a condition that is as up to date, accurate and complete as possible in recording the Members of Ngāti Tara Tokanui.
- 5.2 **Assistance in identifying membership:** In maintaining the Ngāti Tara Tokanui Register the Trustees shall include in the policies that it develops policies for assisting in the identification and registration of those Members of Ngāti Tara Tokanui that are not for the time being on the Ngāti Tara Tokanui Membership Register. Such policies shall include policies as to the nature of the assistance that the Trustees will provide to those persons that believe that they are Members of Ngāti Tara Tokanui but for whatever reason are not able to establish such membership.
- 5.3 **Responsibility of Members of Ngāti Tara Tokanui:** Notwithstanding rule 1.1 of this Schedule it shall be the responsibility of each person who is a Member of Ngāti Tara

Tokenui (or in the case of those persons under 18 years of age, the parent or guardian of that person) to ensure that his or her name is included in the Ngāti Tara Tokanui Membership Register and that his or her full postal address for the time being is provided and updated. Any Member of Ngāti Tara Tokanui may choose to terminate their registration of membership of Ngāti Tara Tokanui, by notifying the Trustees in writing.

- 5.4 **Consequences of registration:** Registration of any person on the Ngāti Tara Tokanui Membership Register as a Member of Ngāti Tara Tokanui shall be conclusive evidence of that person's status as a Member of Ngāti Tara Tokanui.

SECOND SCHEDULE
ELECTIONS OF TRUSTEES

1. PROCEDURE

- 1.1 This Schedule to apply: The Trustees shall be appointed in accordance with the rules and procedures set out in this Schedule.

2. ELIGIBILITY FOR APPOINTMENT

- 2.1 **Nominee to be registered:** To be elected as a Trustee a nominee must, as at the closing date for nominations, be recorded in the Ngāti Tara Tokanui Membership Register as an Adult Registered Member of Ngāti Tara Tokanui, and be eligible in accordance with rule 6.7 of this Schedule.
- 2.2 **Trustees Roles:** A Trustee may not hold the position of the Manager nor be an employee of any entity or trust in the Ngāti Tara Tokanui Group.
- 2.3 **Number of Trustees:** There shall be no less than four (4) and no more than seven (7) Trustees at any one time.

3. ELECTION OF TRUSTEES

- 3.1. **Election of Trustees:** The Adult Registered Members of Ngāti Tara Tokanui and Members of Ngāti Tara Tokanui, who cast a Provisional Vote that is confirmed in accordance with rule 10.4 of this Schedule, shall be entitled to elect the Trustees in accordance with the rules for elections as set out in this Schedule.

The Trustees will be the top voted candidates nominated for the Trustee positions (if there are less than seven nominees at the time the calling for nominations close then all nominees will be elected automatically). Trustees must represent the interests of all Members of Ngāti Tara Tokanui irrespective of whanau affiliations. If there are an equal number of votes for the last available position, then the successful candidate will be decided by the drawing of lots.

4. TERM OF OFFICE

- 4.1 **Term of office:** Subject to rule 4.2 of this Schedule the Trustees from time to time shall hold office for a term of three (3) years.
- 4.2 **Retirement and rotation of Initial Trustees:** The Initial Trustees shall retire from office with elections having been held for their respective positions as Trustee as follows:
- (a) As at the date of the annual general meeting of the Trust in the first Income Year following the Settlement Date, four of the Initial Trustees shall retire and an election shall be held for four Trustee positions;
 - (b) As at the date of the annual general meeting of the Trust in the second Income Year following the Settlement Date, the remaining Initial Trustees shall retire and an election shall be held for their Trustee positions.
- 4.3 **Order of retirement of Initial Trustees:** The order of retirement of the Initial Trustees under rule 4.2 of this Schedule shall be determined by agreement failing which the determination shall be made by lot.
- 4.4 **Term following retirement of Initial Trustees:** Following the retirement of the Initial Trustees in accordance with rule 4.2 of this Schedule, each Trustee shall hold office until

the conclusion of the annual general meeting of the Trust in the third Income Year following his or her appointment. However, if because of a review of the election of a Trustee's replacement under rule 13 of this Schedule the appointment of that Trustee's replacement has not been completed as at the expiry of the Trustee's term, then that Trustee shall continue to hold office by virtue of his or her previous appointment until the review process is completed. For the purposes of calculating the term of the replacement Trustee, that replacement Trustee shall, once he or she takes office, be deemed to have taken office on the date upon which the term of office of the previous Trustee expired, being the date of the relevant annual general meeting.

- 4.5 **Eligibility of retiring Trustees:** Retiring Trustees shall be eligible for re-election.
- 4.6 **Casual vacancies:** Should there be less than four Trustees in office as a result of:
- (a) there being no person elected to replace a Trustee following that Trustee's retirement; or
 - (b) any casual vacancy arising prior to the expiry of any Trustee's term of office; and
 - (c) the term to run for that vacant position in either 4.6(a) and 4.6(b) exceeds six months;
- then that vacancy shall be filled by the holding of a further election in accordance with this Schedule.
- 4.7 **Term of casual appointments:** In the case of an appointment made pursuant to rule 4.6 of this Schedule the Trustee thereby appointed shall, as the case may be, hold office:
- (a) In the case of a Trustee appointed pursuant to rule 4.6(a), for the same term as that Trustee would have been appointed had he or she been appointed, immediately following the retirement of the previous Trustee, under rule 4.4 of this Schedule; or
 - (b) In the case of a Trustee appointed pursuant to rule 4.6(b), for the balance of the term of office of the Trustee that he or she has replaced.

5. TIMING OF ELECTIONS

- 5.1 The elections for Trustees in any given Income Year must, except in the case of elections to fill casual vacancies under rule 4.6 or to the extent that any review under rule 13 of this Schedule has been sought in respect of an election, be concluded by the time of the annual general meeting of the Trust in that Income Year.

6. MAKING OF NOMINATIONS

- 6.1 **Calling for nominations:** The Trust shall give notice calling for nominations for those Trustee positions for which elections are required at least 3 months before the annual general meeting of the Trust for that Income Year, and in any event in sufficient time for the election to be concluded in accordance with rule 5 of this Schedule. Such notice shall specify the method of making nominations, the requirement in rule 2.1 of this Schedule in terms of Trustee eligibility and the latest date by which nominations must be made and lodged with the Trustees or such other persons as the notice directs.
- 6.2 **Timing for nominations:** All nominations must be lodged with the Trustees no later than 21 days following the date upon which the notice calling for nominations is first given.

- 6.3 **Form of notice:** All notices given under this rule shall be given in the following manner:
- (a) By post (or by electronic form where available) to each Adult Registered Member of Ngāti Tara Tokanui shown on the Ngāti Tara Tokanui Membership Register and to any other Member of Ngāti Tara Tokanui 18 years of age or over who has made a written request for a notice. If notice sent to an electronic address fails, and the Trustees are aware of the failure, then the notice must be sent to the last known physical address;
 - (b) by newspaper advertisement published on at least two (2) separate days and inserted prominently in any major metropolitan newspapers and/or any provincial newspaper circulating in regions where the Trustees consider that a significant number of Members of Ngāti Tara Tokanui reside; and
 - (c) by such other means as the Trustees may determine.
- 6.4 **Inclusion of invitation to register:** Any such notice shall also invite applications from qualified persons for inclusion of their names in the Ngāti Tara Tokanui Membership Register, and shall set out the date upon which a registration must be received for the applicant, if successful, to be eligible to vote in the notified election, being the same date as that fixed as the latest date for making and lodging nominations.
- 6.5 **Nomination to be in writing:** The nomination of a candidate for election as a Trustee shall be in writing signed by not less than three (3) Adult Registered Members of Ngāti Tara Tokanui who is entitled to vote in respect of the election of that candidate in accordance with the First Schedule.
- 6.6 **Consent of nominee:** The consent of each candidate to his or her nomination shall be endorsed on the nomination paper, provided that a candidate may at any time, by notice to the Trustees, withdraw his or her nomination.
- 6.7 **Eligibility for nomination:** Notwithstanding the foregoing rules of this Schedule, an Adult Registered Member of Ngāti Tara Tokanui shall not be eligible for nomination as a candidate for election as a Trustee if he or she:
- (a) is or has 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);
 - (b) is bankrupt or has made any composition or arrangement with his or her creditors;
 - (c) has been convicted of an indictable offence (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004); or
 - (d) becomes subject to a compulsory treatment order under the Mental Health (Compulsory Treatment and Assessment) Act 1992 or becomes subject to a care and protection order under the Protection of Personal and Property Rights Act 1988;
 - (e) has within the last three (3) years been removed from the office of Trustee in accordance with clause 22.3.

7. HOLDING OF ELECTIONS

- 7.1 **Mode of Voting at Elections:** Subject to rule 7.3 of this Schedule, voting at all elections shall be by way of secret ballot. Voting may be completed by either:

- (a) delivering their voting form to the Chief Returning Officer by post or by electronic form where available or at a Waahi Pooti; or
 - (b) e-voting.
- 7.2 **No elections where nominees equal vacancies:** In the event that the total number of nominations of Trustees is less than or equal to the total number of vacancies, no election shall be necessary and the person or persons nominated shall be deemed to have been duly appointed.
- 7.3 **Adult Members to vote in elections:** Each Adult Member of Ngāti Tara Tokanui is eligible to vote in an election provided that:
- (a) each Adult Member of Ngāti Tara Tokanui will only be eligible to cast one vote in an election; and
 - (b) each Adult Member of Ngāti Tara Tokanui must, at the date voting closes either be an Adult Registered Member of Ngāti Tara Tokanui or have completed and sent with their voting form an application form for registration which complies with rule 3.1 of the First Schedule.
- 8. NOTICE OF ELECTIONS**
- 8.1 **Notice to be given:** Immediately after the closing date for nominations, the Trustees shall, where an election is required:
- (a) fix a closing date for the election (being the last day upon which a vote may be validly cast in the election); and
 - (b) subject to rules 7.2 and 8.2, set a date and venue for the Waahi Pooti.
- 8.2 **Period of notice:** The Trust shall give not less than 28 days' notice of the closing date for the elections and the method by which votes may be cast as set out in rule 7.1 of this Schedule.
- 8.3 **Method of giving notice:** Notice under rule 8.2 of this Schedule shall be given by:
- (a) posting notice (including, by electronic form where available) to each Adult Registered Member of Ngāti Tara Tokanui shown on the Ngāti Tara Tokanui Membership Register and to any other Member of Ngāti Tara Tokanui who is 18 years of age or over who has requested written notice of trustee elections. If notice sent to an electronic address fails, and the Trust is aware of the failure, then the notice must be sent to the last known physical address;
 - (b) inserting a prominent advertisement on at least 2 separate days in appropriate major metropolitan newspapers and in any provincial newspapers circulating in regions where the Trust considers that a significant number of Members of Ngāti Tara Tokanui reside;
 - (c) advertising on a radio station or radio stations broadcasting in the district or districts where the Trust considers that a significant number of Members of Ngāti Tara Tokanui reside; and
 - (d) posting on the Trust website, if the Trust has one.

- 8.4 **General content of notices:** Every notice given in accordance with rule 8.3(a) and (b) of this Schedule shall contain:
- (a) a list of the nominees for election as Trustees; and
 - (b) the mode by which votes may be cast as set out in rule 7.1 of this Schedule.
- 8.5 **Additional content of notice:** Each notice given in accordance with rule 8.3(a) of this Schedule shall also contain:
- (a) a voting form that complies with rule 9.1; and
 - (b) details of the procedure to be followed in making a vote by post or by electronic form, including the date by which the voting form must be received by the Chief Returning Officer; and
 - (c) a statement that voting forms may be either posted or delivered to the Chief Returning Officer at a Waahi Pooti.
- 8.6 **Additional information in other notices:** Each notice given in accordance with rule 8.3(b), (c) and (d) of this Schedule shall also give details about how voting forms may be obtained.
- 9. VOTING**
- 9.1 **Other details to accompany vote:** Each voting form must contain information that is sufficient to identify the voter and the voting documents issued to that voter.
- 9.2 **Timing of postal votes:** Votes must be made no later than the closing date for the election of the Trustees to which the postal vote relates. Votes otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than 3 days after the closing date for the election, but only if the envelope containing the voting form is date stamped on or before the closing date for the election.
- 10. APPOINTMENT OF CHIEF RETURNING OFFICER**
- 10.1 **Appointment of Chief Returning Officer:** For the purposes of elections the Trustees shall appoint as required a Chief Returning Officer who shall not be a Trustee or employee of the Trust. The Trustees shall ensure that the Chief Returning Officer is appointed on terms requiring the Chief Returning Officer to act in accordance with the provisions of this Deed setting out the powers and duties of the Chief Returning Officer. The Chief Returning Officer shall be responsible for co-ordinating Trustee elections.
- 10.2 **Chief Returning Officer to receive voting forms:** All voting forms must be addressed to the Chief Returning Officer.
- 10.3 **Only one vote to be cast:** The Chief Returning Officer shall ensure that appropriate measures are in place to ensure that only one vote is cast by each Adult Registered Member of Ngāti Tara Tokanui.
- 10.4 **Provisional votes:** Where an Adult Member of Ngāti Tara Tokanui is not also an Adult Registered Member of Ngāti Tara Tokanui and has voted in accordance with rule 7.3(b) of this Schedule:
- (a) such vote is provisional until such time as the application form for registration as an Adult Registered Member of Ngāti Tara Tokanui is approved by the Membership Validation Committee as set out in the First Schedule; and

- (b) where the application form for registration as an Adult Registered Member of Ngāti Tara Tokanui is declined in accordance with the First Schedule, the said vote will be invalidated.

32.5 **Recording of votes:** A record shall be kept by the Chief Returning Officer of all votes received.

11. COUNTING OF VOTES

11.1 **All votes to be counted:** Upon the expiry of the date for the receipt of postal votes, the Chief Returning Officer shall record and count all votes validly cast.

11.2 **Certification and notifying election result:** Once all votes have been counted and the result of the election determined by the Chief Returning Officer, the Chief Returning Officer shall certify the result of the election and communicate the result of the election to the Trustees. The Trustees shall thereafter advise the candidates of the result and give notice of the same at the annual general meeting of the Trust in accordance with clause 14.1(d). The candidates in each election who receive the highest number of valid votes for the relevant vacancies will be elected Trustees.

11.3 **Provisional Votes:** Where, in respect of any election, one or more Provisional Votes has been cast:

- (a) if the validity or otherwise of the Provisional Votes may affect the outcome of the election, the Chief Returning Officer may not certify the result of the election until the validity of the Provisional Votes has been confirmed pursuant to rule 10.5 of this Schedule and any valid Provisional Vote has been counted;
- (b) if the validity or otherwise of the Provisional Votes will not affect the result of the election, the Chief Returning Officer may certify the result notwithstanding that the validity of the Provisional votes has not been confirmed pursuant to rule 10.5 of this Schedule and the Provisional Votes have not been counted.

12. RETENTION OF ELECTION RECORDS

12.1 **Compiling and sealing voting records:** The Chief Returning Officer shall, as soon as practicable after he or she has certified the result of the election, place all voting forms and other voting records into a sealed packet. The Chief Returning Officer shall endorse upon the sealed packet a description of the contents of that packet together with the final date for voting in that election. The Chief Returning Officer shall then sign the endorsement and forward the sealed packet to the Trustees.

12.2 **Retention and disposal of packets:** Subject to rule 14.1(b) the sealed packets received from the Chief Returning Officer shall be safely kept unopened by the Trustees for a period of one (1) year from the closing date for making votes in the election to which the packet relates. At the expiry of that one (1) year period the packets shall be destroyed unopened.

13. REVIEW OF ELECTION RESULTS

13.1 **Candidates may seek review:** Any candidate may, within 14 days after the certification of the election result and the giving of notice by the Trust in respect of that election, seek a review of that election.

13.2 **Appointment of Electoral Review Officer:** For the purposes of carrying out reviews in respect of any election the Trustees shall ensure that an Electoral Review Officer is appointed. The Election Review Officer shall be the person nominated from time to time by the President of the Auckland District Law Society or his or her nominee.

- 13.3 **Electoral Review Officer to conduct reviews:** All reviews shall be carried out by the Electoral Review Officer from time to time.
- 13.4 **Form of request for review:** All applications for a review shall be submitted to the Trustees and:
- (a) shall be in writing;
 - (b) shall set out the grounds for the review, which grounds shall be set out with sufficient particularity to enable the Electoral Review Officer to ascertain precisely the basis upon which the review is being sought; and
 - (c) shall be accompanied by any evidence that the applicant for review has to substantiate the grounds given in the application.
- 13.5 **Service of application on other candidates:** The application for review and any accompanying evidence shall also be served by the candidate referred to in rule 13.1 upon all other candidates in the election to which the review relates, either at the same time, or as close thereto as is possible, as the review application is lodged with the Trustees.
- 13.6 **Costs:** Upon making an application for review the applicant shall also lodge with the Trustees the sum of \$500 (five hundred dollars) or such a sum as the Electoral Officer may determine from time to time to cover the costs of review as the Electoral Review Officer (acting reasonably) may from time to time determine. That sum shall be held by the Trustees pending the outcome of the review application. If the application is successful then the sum shall be refunded to the applicant, otherwise it shall be used to off-set the costs of the review.
14. **CONDUCT OF REVIEW**
- 14.1 **Notification of Electoral Review Officer:** Upon the receipt of an application for review the Trustees shall notify the Electoral Review Officer and provide to him or her:
- (a) a copy of the application and any accompanying evidence; and
 - (b) the sealed packet of voting forms and other voting documents received from the Chief Returning Officer for that election.
- 14.2 **Electoral Review Officer to exercise wide powers:** Subject to compliance by the Electoral Review Officer with the rules of natural justice the Electoral Review Officer shall have the power to inquire into and decide upon any matter relating to a review in such manner as he or she thinks fit and may in particular seek such further evidence or reports as he or she deems necessary including any reports or evidence from the Chief Returning Officer for the relevant election.
- 14.3 **Electoral Review Officer to be guided by substantial merits:** In reaching his or her conclusion on any review the Electoral Review Officer shall be guided by the substantial merits of the application without regard to legal forms or technicalities, including any technical defect in complying with the requirements of this Deed, the intention being that no election shall be declared invalid by reason of such technical defect if the Electoral Review Officer is satisfied that the election was so conducted as to be substantially in compliance with the requirements of this Deed and that such defect did not materially affect the result of the election.
- 14.4 **Certification of result of review:** At the conclusion of the Electoral Review Officer's consideration of the review he or she shall determine whether the successful candidate, or any other candidate, was duly elected, or whether the election was void and should

be conducted again, and shall forthwith certify his or her decision with reasons to the Trustees. The Trustees shall then give notice of the result of the review and advise the candidates of the outcome.

14.5 **Decision to be final:** All decisions of the Electoral Review Officer shall be final (noting that the right to seek judicial review in the High Court is always available).

15. **TERMINATION OF OFFICE OF TRUSTEES**

15.1 **Termination of office of Trustees:** Notwithstanding the foregoing rules of this Schedule, a Trustee shall cease to hold office if he or she:

- (a) retires from office by giving written notice to the Trustees or dies;
- (b) completes his or her term of office and is not reappointed;
- (c) refuses to act;
- (d) is absent without leave from three (3) consecutive ordinary meetings of the Trustees without good reason or without the permission of the Chairperson;
- (e) is 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;
- (f) is bankrupt or makes any composition or arrangement with his or her creditors;
- (g) is convicted of an indictable offence; or
- (h) becomes subject to a compulsory treatment order under the Mental Health (Compulsory Treatment and Assessment) Act 1992 or becomes subject to a care and protection order under the Protection of Personal and Property Rights Act 1988; or
- (i) is removed from the office of Trustee in accordance with clause 21.3.

16. **RECORD OF CHANGES OF TRUSTEES**

16.1 **Record of changes of Trustees:** 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.

THIRD SCHEDULE

PROCEEDINGS OF TRUSTEE MEETINGS

1. TRUSTEES TO REGULATE MEETINGS

- 1.1 The Trustees shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Any three (3) Trustees may at any time by notice in writing to the Trust summon a meeting of the Trustees and the Trustees shall take such steps as are necessary to convene such meeting.

2. NOTICE OF MEETING

- 2.1 **Notice to Trustees:** Written notice of every meeting shall be hand-delivered, posted or sent by facsimile or by electronic form to each Trustee at least seven (7) days before the date of the meeting. 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 of 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.
- 2.2 **Content of notice:** Every notice of a meeting shall state the place, day and time of the meeting, and the agenda of the meeting.
- 2.3 **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 the meeting give their written consent to such a waiver prior to or at the meeting.
- 2.4 **Meeting limited to notified business:** Subject to rule 2.3, no business shall be transacted at any meeting of Trustees other than the business expressly referred to in the notice calling the meeting.
- 2.5 **Deficiency of notice:** Subject to rule 2.4 of this Schedule, no deficiency in the giving of notice for any meeting of Trustees shall otherwise invalidate such meeting or the proceedings at such meeting.

3. QUORUM

- 3.1 Four Trustees shall constitute a quorum at meetings of the Trustees.

4. CHAIRPERSON AND DEPUTY CHAIRPERSON

- 4.1 **Trustees to appoint:** At the first meeting of the Trustees following an election the Trustees shall appoint one (1) of their number to be Chairperson, and (at their discretion) one to be Deputy Chairperson. Except in the case of the Initial Trustees, the Chairperson and Deputy Chairperson must have served at least one (1) term.
- 4.2 **Voting on appointment:** Where there is more than one candidate for Chairperson (or as the case may be Deputy Chairperson) then a vote will be taken and the person receiving the most votes in favour of his or her appointment will become Chairperson (or Deputy Chairperson).
- 4.3 **Termination of office:** The Chairperson (or Deputy Chairperson) will cease to hold office after an election of Trustees, in the event that he or she resigns from that office, ceases to be a Trustee or is removed from 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 appointment in accordance with rule 4.1 shall be held for the position.

5. PROCEEDINGS AT MEETINGS

- 5.1 **Decisions by majority vote:** Unless stated otherwise in this Deed, questions arising at any meeting of Trustees shall be decided by a majority of votes of Trustees present at a validly called meeting. In the case of an equality of votes, the Chairperson shall have a second or casting vote.
- 5.2 **Chairperson:** The Chairperson shall take the chair at all the 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 (1) of their number to be chairperson of the meeting.
- 5.3 **Vacancies:** The Trustees may act notwithstanding any vacancy or vacancies in their body, but if and so long as their number is reduced below the quorum fixed by these rules, 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 any vacancy or vacancies, and for no other purpose.
- 5.4 **Defects of appointment:** All acts done by any meeting of the Trustees or of any committee appointed under rule 6.1 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.
- 5.5 **Unruly meetings:** If any meeting of Trustees 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 or 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 without discussion.

6. DELEGATION TO COMMITTEES BY TRUSTEES

- 6.1 **Trustees may appoint committees:** The Trustees may from time to time as they think expedient appoint one (1) or more Trustees to be a committee for making any inquiry on such terms as the Trustees may by resolution direct and any committee so appointed may co-opt, for the purposes of consultation and advice, persons who are not Trustees, provided that a Trustee shall chair any such committee.
- 6.2 **Committees to report to Trustees:** All committees appointed under rule 6.1 of this Schedule shall report to the Trustees in respect of their activities and such reports shall, unless a direction is made to the contrary by the Trustees:
- (a) be provided on a monthly basis; and
 - (b) contain details of the activities of the committee since the last such report.
- 6.3 **Regulation of procedure by committees:** Subject to these rules and the provisions of this Deed, any committee established by the Trustees may co-opt any person to be a member of that committee and otherwise regulate its procedure as it sees fit provided that the committee must notify the Trustees of all persons co-opted to the committee.

7. WRITTEN RESOLUTIONS

- 7.1 A written resolution signed by all the Trustees shall be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees. Such

a resolution may comprise several duplicated documents, each signed by one (1) or more of the Trustees.

8. MINUTES

8.1 **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.

8.2 **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.

8.3 **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.

9. TELECONFERENCE MEETINGS

9.1 For the purposes of these rules a teleconference meeting between a number of Trustees or committee members who constitute a quorum shall be deemed to constitute a meeting of the Trustees or the committee members (as the case may be). All the provisions in these rules relating to meetings shall apply to teleconference meetings 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 a teleconference meeting and to be linked for the purposes of such a meeting. Notice of a teleconference meeting may be given on the telephone;
- (b) throughout the teleconference meeting each participant must be able to hear each of the other participants taking part;
- (c) at the beginning of the teleconference meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part;
- (d) a participant may not leave the teleconference meeting by disconnecting his or her telephone or other means of communication without first obtaining the chairperson's express consent;
- (e) a participant shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the teleconference meeting unless he or she leaves the meeting with the chairperson's express consent;
- (f) a minute of the proceedings at a teleconference 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.

10. FORMS OF CONTRACTS

10.1 **Contracts by deed:** Any contract which, if made between private persons, must be by deed, shall, if made by the Trustees, be in writing signed under the name of the Trust by any two Trustees, on behalf of or by direction of the Trust.

10.2 **Contracts in writing:** Any contract which, if made between private persons, must be in writing signed by the parties to be bound by the contract shall, if made by the Trustees,

be in writing signed under the name of the Trust by a person acting with the express or implied authority of the Trustees.

- 10.3 **Oral contracts:** Any contract which, if made between private persons, may be made orally may be made in the same manner by or on behalf of the Trust by any Trustee or the I Manager, in either case acting by direction of the Trustees.
- 10.4 **Contracts pursuant to resolution:** Notwithstanding anything to the contrary in this rule, no contract made by or on behalf of the Trustees shall be invalid by reason only that it was not made in the manner provided by this rule if it was made pursuant to a resolution of the Trustees.

FOURTH SCHEDULE

PROCEDURE FOR PASSING SPECIAL RESOLUTION

1. **THIS SCHEDULE TO APPLY**
- 1.1 A Special Resolution to:
 - (a) approve a Major Transaction in accordance with clause 2.5; or
 - (b) amend this Deed in accordance with clause 25; or
 - (c) approve a resettlement in accordance with clause 26; or
 - (c) terminate the Trust in accordance with clause 27; and
 - (d) approve the disposal of Fisheries Settlement Assets in accordance with clause 30.
 - (e) shall only be passed as set out in this Schedule.
2. **POSTAL VOTING AND SPECIAL GENERAL MEETING**
- 2.1 Voting on a Special Resolution shall occur either by placing voting forms into a ballot box in person at the special general meeting held for the purposes of considering the Special Resolution, or by post.
3. **VOTING**
- 3.1 In order for a Special Resolution to be passed it must receive the approval of not less than 75% of those Adult Registered Members of Ngāti Tara Tokanui who validly cast a vote in favour of the proposed Special Resolution in accordance with this Schedule.
4. **SPECIAL GENERAL MEETING REQUIRED**
- 4.1 A special general meeting of the Trustees must be called for the purposes of considering one or more Special Resolutions. No other business may be transacted at such special general meeting.
5. **NOTICE**
- 5.1 **Notice of special general meeting:** The Trustees shall give not less than twenty-one (21) days' notice of the date, time and place of the special general meeting called for the purposes of considering any Special Resolution (to the intent that notice of the postal vote and the special general meeting shall be given in the same notice).
- 5.2 **Method of giving notice:** Notice of a special general meeting called for the purposes of considering a Special Resolution shall be given by:
 - (a) post (including by electronic form where available) to all Adult Registered Members of Ngāti Tara Tokanui at the last address shown for each such Adult Registered Member of Ngāti Tara Tokanui on the Ngāti Tara Tokanui Register and to any other Member of Ngāti Tara Tokanui 18 years of age or over who has made a written request for notice. If notice sent to an electronic address fails, and the Trustees are aware of the failure, then the notice must be sent to the last known physical address; and

- (b) inserting a prominent advertisement on at least two (2) separate days in appropriate major metropolitan newspapers and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Tara Tokanui reside;
- (c) such other means as the Trustees may determine.

5.3 **Content of notice to members:** All notices given in accordance with rule 5.2 of this Schedule shall contain:

- (a) the date, time and place of the special general meeting called for the purposes of considering the Special Resolution;
- (b) details of the proposed Special Resolution;
- (c) details of the reasons for the proposed Special Resolution and the effect that the Special Resolution will have;
- (d) details of the procedure to be followed in making a postal vote or a vote by electronic means where available, including the date voting closes;
- (e) a statement that postal votes may either be delivered to the Chief Returning Officer at the special general meeting, or posted or by electronic means (and if e-voting is being used for the Special Resolution that members can vote by way of e-voting); and
- (f) a voting form (or if voting can be done by way of e-voting sufficient details setting out how members can vote using e-voting). The voting form can be sent via postal voting and electronic means. If the voting form is sent via electronic means the voting form must also contain sufficient information to verify the voter and the voting documents issued to that voter pursuant to rule 6.1 of this Schedule.

5.4 **Content of advertisement:** All advertisements published in accordance with rule 5.2 shall contain the matters referred in rule 5.3(a) and 5.3(b) together with details of how and where any further information can be obtained.

6. VOTING

6.1 **Other details to accompany vote:** Each voting form must contain sufficient information to identify the voter and the voting documents issued to that voter.

6.2 **Timing of Votes:** Votes must be cast no later than the closing date for voting. Votes otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than three (3) days after the closing date, but only if the envelope containing the voting form is date stamped on or before the date for voting closes.

6.3 **Postal Votes may be received at the special general meeting:** Voting forms may be delivered to the Chief Returning Officer at the special general meeting, rather than being posted or sent by electronic means.

7. APPOINTMENT OF CHIEF RETURNING OFFICER

7.1 **Appointment of Chief Returning Officer:** For the purposes of the Special Resolution, the Trustees shall appoint a Chief Returning Officer who shall not be a Trustee or employee of the Trust. The Trustees shall ensure that the Chief Returning Officer is appointed on terms requiring the Chief Returning Officer to act in accordance with the

powers and duties of the Chief Returning Officer as set out in this Deed, including, to avoid doubt, rules 7.2 to 8.3 of this Schedule.

- 7.2 **Chief Returning Officer to receive voting forms:** Voting forms must be addressed to the Chief Returning Officer.
- 7.3 **Chief Returning Officer to be present at special general meeting:** The Chief Returning Officer must be present at the special general meeting. The Chief Returning Officer will be available to collect any completed voting forms at the special general meeting. The Chief Returning Officer shall also ensure that additional voting forms are available at the special general meeting.
- 7.4 **Eligibility to Vote:** Those eligible to vote on a special resolution are:
- (a) those Adult Members of Ngāti Tara Tokanui recorded in the Ngāti Tara Tokanui Membership Register as an Adult Registered Member of Ngāti Tara Tokanui on the closing day for voting; and
 - (b) subject to rule 7.5(b) of this Schedule, any other Adult Member of Ngāti Tara Tokanui who has on or before the closing date for voting provided to the Chief Returning Officer an application form for registration which complies with rule 3.1 of the First Schedule.
- 7.5 **Only one vote to be cast:** The Chief Returning Officer must:
- (a) ensure that appropriate measures are in place to ensure that only one (1) vote is cast by each Adult Registered Member of Ngāti Tara Tokanui; and
 - (b) where any Provisional Vote is cast pursuant to rule 7.4(b) of this Schedule, before counting that Provisional Vote, consult with the Membership Validation Committee to ensure that the person casting the vote is eligible to be registered on the Ngāti Tara Tokanui Membership Register as an Adult Registered Member.
- 7.6 **Recording of votes:** A record shall be kept by the Chief Returning Officer of all votes received.

8. COUNTING OF VOTES

- 8.1 **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.
- 8.2 **Certification and notifying result:** Once all votes have been counted and the result of the Special Resolution determined by the Chief Returning Officer, the Chief Returning Officer shall certify the result of the Special Resolution and communicate the result to the Trustees.
- 8.3 **Provisional Votes:** Where, in respect of any Special Resolution, one or more Provisional Votes has been cast:
- (a) if the validity or otherwise of the Provisional Votes may affect the outcome of the Special Resolution, the Chief Returning Officer may not certify the result of the Special Resolution until the validity of the Provisional Votes has been confirmed pursuant to rule 7.5(b) 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 of the Special Resolution, the Chief Returning Officer may certify the result

notwithstanding that the validity of the Provisional votes has not been confirmed pursuant to rule 7.5(b) of this Schedule and the Provisional Votes have not been counted.

9. PROCEEDINGS AT SPECIAL GENERAL MEETING

- 9.1 Except as otherwise set out in this Schedule the provisions of clause 14 of the Deed shall apply to the holding of any special general meeting called for the purposes of considering a Special Resolution and the meeting shall be conducted accordingly.