

DATED *19th April* 2009

DEED OF TRUST

for

TE KOMITI NUI O NGATI WHAKAUE

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Te Komiti Nui o Ngati Whakaue

THIS DEED is made on the 19th day of April 2009

BETWEEN HAMUERA WALKER MITCHELL

(hereinafter "the Settlor") of the first part

AND

HOKI MATEMAI KAHUKIWA;

ANARU TE AMO;

TE KIRI WHERO EWA MAKARETA MITCHELL;

PETER STAITE;

PAULINE TANGOHAU;

TUPARA MORRISON;

EDDIE MUTU;

RAYMOND POUPOASA;

MARU TAPSELL; and

PAUL TAPSELL.

(hereinafter referred to as "the First Trustees") of the second part

BACKGROUND

- A. The Settlor is the Chair of Te Kotahitanga O Ngati Whakaue, an unincorporated association formed in about 2001 to advance the outstanding Treaty claims of Ngati Whakaue.
- B. On the 17th January 2009 at a duly convened hui a iwi of Ngati Whakaue called by the Chair of Te Kotahitanga o Ngati Whakaue and others held at Te Papaouru marae in the meeting house of Tamatekapua it was unanimously resolved (without objection) to adopt and implement the Proposed Ngati Whakaue Mandate Strategies as formally presented, and subject to any further agreed amendments with the Crown.

- C. By letter dated the 30th January 2009 the Crown, under the hands of the Minister of Maori Affairs and the Minister for Treaty of Waitangi Negotiations, advised Ngati Whakaue of the Crown's willingness to enter into negotiations for the comprehensive settlement of their historical Treaty claims.
- D. In pursuance of the Ngati Whakaue Mandate Strategy, and the engagement with the Crown now initiated:
- (i) The First Trustees:
 - (a) Were nominated and elected by Ngati Whakaue in accordance with the Mandate Election hui set out in the Ngati Whakaue Mandate Strategy; and
 - (b) Have agreed to act as trustees of the trust referred to in the Ngati Whakaue Mandate Strategy on the terms and the trusts set out in this deed; and
 - (ii) The Settlor wishes to declare and constitute the trust referred to in the Ngati Whakaue Mandate Strategy, that is the trust for the benefit of Ngati Whakaue the specific purpose of which is to establish a representative and mandated group which Ngati Whakaue may treat and engage with the Crown through in the negotiation, resolution and settlement of their outstanding Treaty claims.
- E. The Settlor has therefore paid to the Trustees the sum of \$10.00 (the receipt of which is hereby acknowledged) being the initial property to comprise the property of the said trust on the terms and the trusts set out in this deed.

NOW THEREFORE THIS DEED RECORDS:

1. Definitions and Interpretation

1.1 Unless it is provided or the context requires otherwise the following words and phrases used in this deed shall have the meanings as set out below:

- (a) "annual general meeting of the Trust" means the Ordinary General Meeting of the Trust held once in every year at which the business as set out in Clause 14.6 is conducted;

- (b) “**Appendix 1**” refers to the map attached to this deed following the Schedule and entitled “Te Rohe Mana o Ngati Whakaue”;
- (c) “**Appendix 2**” refers to the document attached to this deed following the Schedule entitled “Ngati Whakaue Mandate Strategy 2009”;
- (d) “**Appendix 3**” refers to the document attached to this deed following the Schedule entitled “Nga Hapu o Ngati Whakaue”;
- (e) “**Company**” means CNI Iwi Holdings Limited;
- (f) “**First Trustees**” means the persons who:
- (i) Were nominated or elected at the Ngati Whakaue Registered Voting Hui; and
 - (ii) Have agreed to be the initial trustees of the Trust and who have each signed this deed in their capacity as trustees;
- (g) “**Hui Attendance Register**” means the register taken at a General Meeting of the Trust by the Trustees comprising a list of the Ngati Whakaue Members in attendance;
- (h) “**Ordinary General Meeting of the Trust**” means a public meeting of the Trust called and convened in the manner set out in this deed;
- (i) “**Hapu of Ngati Whakaue**” means the kinship groups traditionally belonging to Ngati Whakaue and listed in Appendix 4;
- (j) “**meeting of the Trustees**” means a meeting of the Trustees as set out in Part II of the Schedule;
- (k) “**Ngati Whakaue**” means in general terms the Iwi collectivisation and composition of kin-folk whanau and individuals, hapu, together with their places, territories and authorities all coming under that which is traditionally derived from the identity and related mana of the eponymous ancestors Whakaue Kaipapa and Tutanekai as a distinct and autonomous indigenous nation state and therefore more particularly inclusive of the following constituent parts:
- (i) Te Hope o Tutanekai or Te Aitanga a Tutanekai or Te Roopu o Tutanekai, that is to say: “Kei raro iho te whakapapa o Tutanekai ratau ko ona uri, araa, nga tupuna o nga hapu koromatua o Ngati Whakaue e mohiotia ana inaianei”, and that is to say further as is depicted by the following:

Tutanekai

Te Whatumairangi

Hurungaterangi

Ariariterangi

Taiwere

Te Rorooterangi

Tunohopu

Te Kata

Pukaki

Panuiomarama

Te Rangiiwaho

Taeotu

- (ii) Those individuals who are descended from and belong to one or more of the Koromatua Hapu of Ngati Whakaue namely:
- (A) Ngati Hurungaoterangi;
 - (B) Ngati Taeotu;
 - (C) Ngati Tunohopu;
 - (D) Ngati Pukaki;
 - (E) Ngati Te Rorooterangi; and
 - (F) Ngati Rangiiwaho;
- (iii) Nga Hapu o Ngati Whakaue listed in Appendix 3;
- (iv) Every individual descended from Tutanekai;
- (v) The individuals who are members of the Hapu referred to in paragraphs (ii) and (iii) herein;
- (vi) Those individuals who are descended from one or more of the 295 original listed persons awarded ownership and title to the Pukeroa Oruawhata Block in 1881;
- (vii) Their territories as described by the following: "Ko te rohe o Ngati Whakaue mai i Waimihia ki Waikawan i te taha tonga o Rotorua. Ko Ngati Ngararanui i te takiwa ki Waiteti i Waimihia, ko Ngati Tuteaiti i Parawai i Ngongotaha, a, ko etahi atu hapu matua ko Hurungaterangi, ko Ngati Pukaki, ko Tunohopu, ko Te Rorooterangi, ko Rangiiwaho, ko Taeotu, i nga whenua mai i Ngongotaha ki Parawai, i Waikuta, i Kawaha, i Te Koutu, i Ohinemutu, i Pukeroa, i Ngapuna

me Owhatiura, tae noa ki Waikawau, ara no tera ki Maketu" and pictorially described by the map attached to this deed as Appendix 1 and entitled "Te Rohe Mana o Ngati Whakaue";

- (viii) Their principal pa as described by the following: "Ko nga pa matua o Ngati Whakaue i tu ki Weriweri, ki Parawai, ki Kawaha, ki Te Koutu, ki Ohinemutu, ki Tihiotonga, ki Ngapuna, ki Owhatiura, ki Maketu";
- (ix) Their principal villages as described by the following: "Ko nga kainga matua o Ngati Whakaue i tu ki Weriweri, ki Parawai, ki Waikuta, ki Waiohewa, ki Kawaha, ki Te Koutu, ki Utuhina, ki Ohinemutu, ki Tihiotonga, ki Ngapuna, ki Owhatiura, ki Maketu".
- (x) Their active marae including:
 - (A) Waiteti marae at Waiteti, the meeting house Ngararanui and belonging to Ngati Ngararanui;
 - (B) Parawai marae at Ngongotaha, the meeting house, Te Whatumairangi and belonging to Ngati Tuteaiti and other hapu;
 - (C) Tarukenga marae at Tarukenga which has affiliations to the Ngongotaha people but is also a marae of Ngati Te Ngakau among others;
 - (D) Waikuta marae at Waikuta, the meeting house, Rangitunaeke and belonging to Ngati Rangitunaeke hapu of Ngati Tunohopu;
 - (E) Koutu marae at Koutu, the meeting house, Tumahaurangi and belonging to Ngati Karenga of Ngati Pukaki;
 - (F) Tarewa marae at Tarewa, the meeting house, Taharangi and belonging to Ngati Taharangi, Ngati Kea and Ngati Tuara;
 - (G) Te Kuirau marae at Utuhina, Ohinemutu, the meeting house, Te Rorooterangi and belonging to the Te Kowhai Timihou whanau of Ngati Te Rorooterangi;
 - (H) Paratehoata-Te Kohea marae in Ohinemutu, the meeting house, Tunohopu, and belonging to Ngati Tunohopu;
 - (I) Te Papaiouru marae at Ohinemutu is the marae tapu of Te Arawa and is the main marae of the six koro matua of Ngati Whakaue. The meeting house is called, Tamatekapua;

- (J) Te Hurungaterangi marae at Ngapuna, the meeting house, Hurungaterangi and belonging to Ngati Hurungaterangi and Ngati Taeotu among others;
- (K) Owhata marae at Owhata, the meeting house, Tutanekai and belonging to Ngati Te Rorooterangi; and
- (L) Maketu marae, the meeting house Whakaue, and which belongs to Ngati Whakaue ki Maketu.
- (l) **“Ngati Whakaue Claims”** means all historical claims of Ngati Whakaue against the Crown extant as at the date of this deed and that generally:
- (i) are, or are founded on, a right arising from the Treaty or its principles, legislation, common law or otherwise; and
 - (ii) arise from or relate to acts or omissions by or on behalf of the Crown or by or under legislation, and
 - (iii) includes those claims submitted, registered, or to be heard, or being heard, by the Waitangi Tribunal, whether or not the claim is so registered before or after the date of this deed and therefore including the following registered claims: Wai 94 residue; Wai 268; Wai 316; Wai 317; Wai 335; Wai 384; Wai 410; Wai 533; Wai 1101; Wai 1204; and Wai 1357;
- (m) **“Ngati Whakaue Claimants”** means the named claimants, their successors or the working parties of the Ngati Whakaue Claims;
- (n) **“Ngati Whakaue Member”** means a person who is of Ngati Whakaue;
- (o) **“Ngati Whakaue Mandate Strategy”** means the process agreed by Ngati Whakaue on the 17th January 2009 at Te Papaiouru marae Tamatekapua meeting house by which Ngati Whakaue have agreed to come together to engage in the Settlement Negotiations and being set out in the document attached to this deed as Appendix 2 and entitled **“Ngati Whakaue Mandate Strategy 2009”**;
- (p) **“Ngati Whakaue Post Settlement Governance Entity or Entities”** means the entity or entities determined by Ngati Whakaue by way of the Ngati Whakaue Registered Voting Hui to receive any settlement assets from the Crown by virtue of, or as agreed in, the Settlement Negotiations;
- (q) **“Ngati Whakaue Registered Voting Hui”** means a special general meeting of the Trust and being more specifically set out in Clause 14.7;

- (r) **“Ngati Whakaue Settlement Position”** means the compilation of the negotiating stances bounded by the top and bottom line agreements as determined by the relevant Ngati Whakaue Claimants and the particular grievant Ngati Whakaue parties and set out in the document attached to this deed as Appendix 3 and entitled “Ngati Whakaue Settlement Position”;
- (s) **“Ngati Whakaue Tikanga”** means *nga tikanga o Ngati Whakaue* and may include the customary values and practices of Ngati Whakaue;
- (t) **“Ngati Whakaue Voting Procedure”** means the procedure set out in Part IV of the Schedule;
- (u) **“Voting Member of Ngati Whakaue”** means a Ngati Whakaue Member who is 18 years of age as at the date of a Ngati Whakaue Registered Voting Hui;
- (v) **“registered Voting Ngati Whakaue Member”** means a Voting Member of Ngati Whakaue whose name and address appears on the Returning Officers register;
- (w) **“Property”** means all property (whether real or personal) and includes choses in action, rights, interests and money;
- (x) **“Returning Officers register”** means the register comprising a list of registered Voting Ngati Whakaue Members compiled by the Returning Officer at the times provided for and contemplated by this deed;
- (y) **“Settlement Negotiations”** means the negotiations conducted through the Trust for and on behalf of Ngati Whakaue with the Crown for the resolution and settlement of the Ngati Whakaue Claims and may include the implementation or completion of any Ngati Whakaue settlement with the crown;
- (z) **“the Trust”** means Te Komiti Nui o Ngati Whakaue being the trust settled by this deed;
- (aa) **“the Trustees”** means the members comprising the trustees for the time being of the Trust and “the Board” shall have a corresponding meaning, that is, the collective of the Trustees;
- (bb) **“this deed”** means this document inclusive of the background and any schedules and appendices and “the deed” shall have a corresponding meaning;
- (cc) **“Trust Fund”** means:
- (i) The initial sum of \$10.00 paid by the Settlor to the Trustees; and

- (ii) All moneys and other Property whether real or personal and of whatsoever nature which may from time to time be transferred or paid to or held under the control of or vested in the Trustees from any source whatsoever (whether by way of gift devise bequest purchase acquisition exchange or otherwise);
- (iii) All accretions and accumulations of income and assets attributable to such moneys and Property and all moneys investments Property and assets from time to time representing the same and thereof; and
- (iv) All or any interest for the time being held by the Trust in any real or personal property and part or parts thereof;

1.2 In this deed unless the context otherwise requires:

- (a) Reference to a clause is to a clause in this deed;
- (b) Reference to any party includes that party's executors, administrators, successors and/or permitted assigns (as the case may be);
- (c) Headings are for convenience only and shall not affect interpretation;
- (d) The singular includes the plural and vice versa;
- (e) Words importing one gender include both genders and words importing persons including all bodies and associations, corporate or unincorporated and vice versa;
- (f) References to a month or to a year are to a calendar month or year as the case may be;
- (g) Where a party includes more than one person, the covenants, agreements and warranties on the part of that party shall be deemed to be joint and several;
- (h) Any covenant not to do anything shall also constitute an obligation not to suffer, permit, cause or assist any other person to do that thing;
- (i) A right granted or received may be exercised from time to time and at all times.

2. Name of the Trust

2.1 The name of the trust declared and settled by this deed is Te Komiti Nui o Ngati Whakaue.

3. Principal Gathering Place of the Trust

- 3.1 The principal gathering place of the Trust shall be at Te Papaouru marae, Tamatekapua Meeting House, Ohinemutu or some such other place as the Trustees may from time to time resolve.

4. Declaration of trust

- 4.1 The Settlor hereby directs and declares and the Trustees hereby acknowledge that the Trustees stand possessed of the Trust Fund for Ngati Whakaue upon the trusts and with the powers and authorities set out in this deed.
- 4.2 The Trustees may pay or apply so much of the income and the capital of the Trust Fund as the Trustees from time to time think fit in furtherance of the objects and the purpose for which the Trust is established.

5. Purpose of the Trust

- 5.1 The general purpose and intent of the Trust is to constitute the representative and mandated body of responsible individuals through which Ngati Whakaue may treat and engage with the Crown in respect of the Settlement Negotiations principally for the resolution and settlement of the Ngati Whakaue Claims in accordance with the Ngati Whakaue Settlement Position.
- 5.2 Without limiting the general purpose, the Trust is constituted to undertake the following specific purposes:
- (a) To manage and be responsible for all such matters that are directly or indirectly relevant to the Settlement Negotiations including:
 - (i) Calling, arranging and holding of the Hui provided for in this deed;
 - (ii) Providing an appropriate administration and infra-structural support; and
 - (iii) Being the central point of contact.
 - (b) To implement and maintain the Ngati Whakaue Mandate Strategy;
 - (c) To file a Deed of Mandate with the Crown or to obtain from the Crown recognition that the Trust holds the mandate of Ngati Whakaue for the purposes of the Settlement Negotiations;

- (d) To facilitate the finalisation of the Ngati Whakaue Settlement Position prior to commencing the Settlement Negotiations, and in particular with the involvement of the Ngati Whakaue Claimants;
- (e) To procure in accordance with or substantially in accordance with the Ngati Whakaue Settlement Position by advocacy and negotiation the Crown's written expression of the resolution and settlement of the Claims in the form of an offer capable of acceptance by Ngati Whakaue or conditional on Ngati Whakaue's ratification by way of the Ngati Whakaue Registered Voting Hui;
- (f) To present the Crown's written expression of the resolution and settlement of the Claims to the Ngati Whakaue Registered Voting Hui;
- (g) To institute a cohesive and coordinated register of Ngati Whakaue and to work with others who hold registers to achieve that purpose;
- (h) To identify, analyse and recommend to Ngati Whakaue:
 - (i) The options for post settlement governance and administration with particular reference to any assets transferred or vested by the Crown (including the entity or entities to which those assets could be transferred) and present that entity or those entities to Ngati Whakaue for their consideration and ratification; and
 - (ii) The structural options for the better coordination, cohesion and unification of Ngati Whakaue te Iwi, including in relation to:
 - (A) the 1993 Rotorua Township Agreement;
 - (B) the CNI Forestry Settlement and including Te Kotahitanga o Ngati Whakaue Assets Trust;
 - (C) The deed of settlement in respect of Whakarewarewa and Te Puia;
- (i) To further advance the Ngati Whakaue Claims by way of prosecution, if necessary;
- (j) Any other ancillary or related purpose.

5.3 For the avoidance of any doubt in the carrying out of the purpose for which the Trust is established, the Trust may be a party to or participant in any Court or Tribunal proceedings

relating to the Ngati Whakaue Claims, the Settlement Negotiations or any other matter provided for or contemplated by this deed.

6. Composition of the Trustees of the Trust

6.1 In pursuance of the purpose to constitute a full and comprehensive representivity of Ngati Whakaue, the trusteeship shall be composed as follows:

- (a) Six (6) trustees who shall be representative of the Koromatua Hapu and the central interests of Ngati Whakaue;
- (b) Two (2) trustees who shall be representative of Ngapuna and the eastern and south eastern interests of Ngati Whakaue;
- (c) One (1) trustee who shall be representative of Maketu and the sea and coastal interests of Ngati Whakaue; and
- (d) One (1) trustee who shall be representative of Horohoro and the western and south western interests of Ngati Whakaue.

6.2 The First Trustees of the Trust are the signatories to this deed who have been nominated, elected and appointed in accordance with the Ngati Whakaue Mandate Strategy.

6.3 Any replacement trustees are to be appointed at Ngati Whakaue Registered Voting Hui.

7. Administration of the Trust

7.1 The Trust shall be administered by the Trustees who collectively shall constitute Te Komiti Nui o Ngati Whakaue.

8. Appointment, removal, replacement, retirement and proceedings of the Trustees

8.1 The Rules set forth in Parts I and II of the Schedule (together with such amendments, solutions and additions as may be made pursuant to this deed or at law) shall upon the execution of this deed govern the appointment, removal, replacement, retirement and proceedings of the Trustees and the ancillary matters as set out.

9. Duties of the Trustees

9.1 **Fiduciary obligations**

All the trustees must always act in accordance with their duties and obligations. The Trustees shall:

- (a) Carry out, effect and perform the purposes of the Trust;
- (b) Do all such other things, not being contrary to law and not prohibited by this deed, as shall or may be necessary or desirable in the opinion of the Trustees for the carrying out and performance of the purposes of the Trust; and
- (c) At all times in the performance of their duties act impartially and in a fair minded manner and shall observe and comply with the principles of natural justice.

9.2 Fundamental duty

In performing their duties and in exercising any powers or discretions each trustee will act in good faith and in a manner that is always consistent with:

- (a) Ngati Whakaue Tikanga;
- (b) The following principles:
 - (i) Principle of Whanaungatanga;
 - (ii) Principle of repatriating, retaining and protecting ancestral and customary hereditments including the reversioning of any Crown or other owned land in the rightful Hapu of Ngati Whakaue;
 - (iii) Principles of mana whenua, mana moana, mana tangata and mana Hapu/Iwi;
 - (iv) Principle of respect for the mana held by others;
 - (v) Principle of leaving decision making to those whom the decision is specifically about;
 - (vi) Principle of decision making by hui;
 - (vii) Principle of trust;
 - (viii) Principle of open communication;
 - (ix) Principle of co operation;
 - (x) Principle of accountability;

- (xi) Principle of reciprocity; and the
 - (xii) Principle of responsibility; and
- (c) The Ngati Whakaue Settlement Position.

9.3 **Collective interests of Ngati Whakaue**

Notwithstanding that the Trust is representative of the participating Hapu of Ngati Whakaue, in the performance of these trusts and the exercising of any powers or discretions the Trustees shall also have regard to the collective interests of Ngati Whakaue and the best interests of Ngati Whakaue and the responsibilities that pertain to that collectivity.

9.4 **Standard of care**

Every trustee, when exercising powers or performing duties, must exercise the care, diligence and skill to be reasonably expected of a person acting in like circumstances, taking into account any special skills or experience that the trustee has.

9.5 **Acceptance of liability by the trustees**

Each trustee accepts the duties, obligations and liabilities attaching to that office under this deed when he or she signs this deed or the deed recording his or her appointment.

9.6 **Remuneration**

The Trustees may, after seeking professional external advice about suitable remuneration, in their discretion, prescribe reasonable remuneration for the trustees and for the Chairperson and Deputy Chairperson and after satisfying themselves that sufficient funds are available arrange for the reimbursement of expenses properly incurred by all of those persons in the conduct of their duties.

10. **No Private Pecuniary Profit**

- 10.1 Nothing expressed or implied in this deed shall permit the activities of the Trustees or any business carried on by or on behalf of or for the benefit of the Trust to be carried on for the private pecuniary profit of any individual.

11. Trustees liability

- 11.1 No part of the Trust Property shall be paid or transferred directly or indirectly by way of profit to any Trustee **PROVIDED THAT** nothing contained herein shall preclude any payment to a Trustee member for services rendered to the Trust or for goods supplied to the Trust by a Trust or payment of interest on money borrowed from any Trustee or payment of rental for premises or chattels let or leased to the Trust at market rates by any Trustee.
- 11.2 In the execution of the trusts and powers hereof no Trustee shall be liable for any loss to the Trust Fund arising by reason of any improper act made in good faith or for the negligence or fraud or delay of any agent, officer or servant employed by the Trustees or by any member of it, notwithstanding that the employment of such agent, officer or servant was not strictly necessary or expedient notwithstanding any statutory provision or rule of law to the contrary nor shall any Trustee be liable for any matter related to the trusts of this deed not attributable to his own dishonesty or wilful breach of trust. In addition the Trustees, Secretary, Treasurer and other officers, if any, shall be indemnified out of the Trust Fund by the Trustees from or against all losses and expenses properly incurred by them in or about the discharge of their respective duties.

12. Disclosure of Interest

- 12.1 Any Trustee who is or may be in any other capacity whatever interested or concerned directly or indirectly in any property or undertaking in which the Trust is or may be in any way concerned or involved shall disclose the nature and extent of that Trustee's interest to the other Trustees, and shall not take part in any deliberations or decision of the Trustees concerning any matter in which that Trustee is or may be interested other than as a Trustee of the Trust, and shall be disregarded for the purpose of forming a quorum for any such deliberation or decision.
- 12.2 A Trustee will be interested in a matter if the Trustee (other than being a person belonging to Ngati Whakaue):
- (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 by the Trust or any Subsidiary of the Trust;
 - (d) Is the parent, child or spouse 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.

12.3 A disclosure of interest by a Trustee shall be recorded in the minute book of the Trust. Immediately following his or her appointment as a Trustee, each Trustee must enter into the minute book and must disclose to the next meeting of the trustees any interest of which that Trustee becomes aware.

13. Powers and Authorities of the Trust

13.1 In addition to all the powers, authorities and discretions vested in the Trustees by law or by this deed, the Trustees in fulfilling the functions and purposes of the Trust, may at all times and from time to time exercise the fullest possible powers and authorities as if they were the beneficial owners of the Trust Fund. For the avoidance of doubt, the Trustees shall have all the powers and privileges of a natural person, including, without limitation:

- (a) the power to invest the Trust Fund, purchase, accept, hold, transfer, lease, and grant leases, and sell Property, and to sue and be sued; and
- (b) the power to hold the Shares of Ngati Whakaue in the Company; and
- (c) the power to appoint 2 directors of the Company.

13.2 Extended administrative powers

Without prejudice to the generality of sub-clause 13.1, the Trustees may in their discretion exercise any one or more of the powers set out in Part III of the Schedule in pursuit of the general administration of the Trust.

13.3 Power to resettle

The Trustees have the power at any time or times by deeds to or resettle upon trust in any manner which in the opinion of the Trustees is for the advancement or for the benefit of Ngati Whakaue, the whole or portion or portions of the capital or income of the Trust Fund provided that such a proposition is put and passed by resolution of the Ngati Whakaue Registered Voting Hui.

13.4 Perpetuities

Unless stated otherwise in an Act of Parliament, the perpetuity period for the Trust is the period that commences on the date of this deed and ends eighty years less one day thereafter, that period being within the perpetuity period permitted to be specified in this deed by section

6 of the Perpetuities Act 1964 and the perpetuity period applicable to this deed and this Trust is hereby specified accordingly.

13.5 Winding up

The Trustees:

- (a) Will wind up the Trust on the establishment or affirmation of the Ngati Whakaue Post Settlement Governance Entity or Entities, and the name of the Trust together with any balance or surplus of the Trust Fund will be applied by the Trustees to the Post Settlement Governance Entity or Entities as the case may be; or
- (b) May wind up the Trust before the establishment of the Ngati Whakaue Post Settlement Governance Entity or Entities by way of the resolution of the Ngati Whakaue Registered Voting Hui, and the name of the Trust together with any balance or surplus of the Trust Fund will be applied (or not applied in the case of the name) or distributed to Ngati Whakaue as the resolution of the Ngati Whakaue Registered Voting Hui has determined to be appropriate.

14. GENERAL MEETINGS AND REPORTING

General Meetings of the Trust

14.1 There shall be two types of general meetings of the Trust, namely:

- (a) Ordinary General Meeting; and
- (b) Special General Meeting, otherwise known as the Ngati Whakaue Registered Voting Hui.

14.2 The Chairperson or, failing him or her, the Deputy-Chairperson, will preside over and have control of every General Meeting. If there is no Chairperson or deputy-Chairperson present at the time appointed for holding a General Meeting, or if either of those persons is unwilling to preside over the meeting, the Trustees present will choose any of their number to substitute as Chairperson for that meeting.

Ordinary General Meeting

14.3 Trustees may convene: An Ordinary General Meeting of the Trust may be convened by the Trustees at such place and at such time as the Trustees shall determine.

14.4 **Notice:** Notice of a Ordinary General Meeting shall be given by the Trust by way of an advertisement published in at least one newspaper circulating in Rotorua and/or other district in which it will take place including but without limitation in the districts of Auckland, Hamilton, Wellington. The advertisement shall be first published no less than 14 days prior to the proposed date of the meeting.

14.5 **Quorum:** A quorum for an Ordinary General Meeting shall be:

- (a) At least two (2) trustees of the Trust; and
- (b) At least five (5) Ngati Whakaue Members.

Trust to hold an Annual General Meeting

14.6 The annual general meeting of the Trust shall be held in the month of March in each year or such other month and at such place as the Trustees may from time to time determine. The business of the annual general meeting shall be to consider and adopt:

- (a) **Annual Report:** the annual report for the previous financial year, which should be made available not less than 5 Working Days before the meeting, that reports against the purposes of the Trust; and
- (b) **Appointment of an auditor:** The Trustees to appoint an auditor, if the Trustees so determine;
- (c) **Consider other business:** to consider any resolution of which not less than fourteen (14) days notice in writing before the date of the meeting has been given to the Secretary and which is not the business of a Ngati Whakaue Registered Voting Hui.

Ngati Whakaue Registered Voting Hui

14.7 A Ngati Whakaue Registered Voting Hui:

- (a) Is, depending on the business to be conducted, to be undertaken at all, or one of the following Ngati Whakaue marae:
 - (i) Te Papaiouru/Tamatekapua, being the venue representative of the Koromatua Hapu and the central interests of Ngati Whakaue ;
 - (ii) Hurungaterangi, being the venue representative of Ngapuna and the eastern and south eastern interests of Ngati Whakaue;
 - (iii) Maketu/Whakaue, being the venue representative of Maketu and the coastal interests of Ngati Whakaue;

- (iv) Paratehoata-Te Kohea/Tunohopu Te Papaouru/Tamatekapua, being the venue representative of Horohoro and the western and south western interests of Ngati Whakaue; and
- (b) Is held in respect of the matters that are the subject of the Ngati Whakaue Voting Procedure and as contemplated by this deed and therefore to conduct the following business by way of the Ngati Whakaue Voting Procedure:
- (i) Any appointment, removal, or replacement of a trustee position or positions;
 - (ii) To resolve on an item of redress offered by the Crown or otherwise available in the context of the Settlement Negotiations that specifically affects or relates to the Ngati Whakaue Claims or any part thereof and which all of the Trustees are not unanimous on;
 - (iii) To receive, consider and determine any Crown offer of resolution and settlement of the Ngati Whakaue Claims;
 - (iv) To receive, consider and determine any recommendations of the Trustees regarding the post settlement governance and administration of Ngati Whakaue including proposals in relation to a Ngati Whakaue Post Settlement Governance Entity or Entities;
 - (v) To resettle all or any part of the Trust Fund;
 - (vi) Any alteration or amendment to this deed;
 - (vii) Winding up the Trust under clause 13.5 (b); and/or
 - (viii) Any other matter provided for or contemplated by this deed or determined by the Trustees from time to time; and
- (c) Is convened by the Trustees as soon as is practicably possible after the Trust's receipt of:
- (i) A written requisition of the Chairperson and four (4) other of the Trustees; or
 - (ii) A written requisition of six (6) of the Trustees; or
 - (iii) A written requisition signed by at least (15) Voting Members of Ngati Whakaue whose names are recorded on the last Returning Officers register taken.

14.8 For the avoidance of any doubt, in respect of a matter described by clause 14.7(b)(i) a Ngati Whakaue Registered Voting Hui shall only be convened at the venue pertaining to the trustee

position or positions to which such matter relates and therefore always in relation to the principal purpose of the composition of the trustees as provided for by clause 6.

14.9 **Notice:** Notice of a Ngati Whakaue Registered Voting Hui shall:

- (a) Be given by the Trust by way of an advertisement published in at least one newspaper circulating in Rotorua and/or other district including but without limitation in the districts of Auckland, Hamilton, Wellington and be first published no less than 21 days prior to the proposed date of the meeting; and
- (b) Set out the business to be conducted, with particular reference to the matters described in Clause 14.7 (b) and sufficient particulars to inform Ngati Whakaue in advance of the matter to be voted on.

14.10 **Quorum:** A quorum for a Ngati Whakaue Registered Voting Hui shall be:

- (a) At least seven (7) trustees of the Trust; and
- (b) At least thirty five (35) registered Voting Ngati Whakaue Members.

14.11 **Adjourned meeting:** If a quorum is not present within one hour of the time appointed for the start of a Ngati Whakaue Registered Voting Hui:

- (a) The meeting is to stand adjourned until the same hour at the same place 7 days following the adjournment of that meeting unless the Trustees otherwise determine; and
- (b) Notwithstanding clause 14.10 the Trustees and registered Voting Ngati Whakaue Members present shall constitute a quorum.

14.12 **Resolution:** A resolution shall be passed at a Ngati Whakaue Registered Voting Hui, as follows:

- (a) Except in the case of the matter described in Clause 14.7 (b)(i), by more than 75% of the registered Voting Ngati Whakaue Members who actually cast a vote in accordance with the Ngati Whakaue Voting Procedure;
- (b) In the case of the matters described in Clause 14.7 (b)(i):
 - (i) As to the appointment of a trustee, by first past the post in accordance with the provisions of Part I of the Schedule and otherwise by the Ngati Whakaue Voting Procedure;

- (ii) As to the removal, or replacement of a trustee, by more than 75% of the registered Voting Ngati Whakaue Members who actually cast a vote in accordance with the Ngati Whakaue Voting Procedure.

Reporting by the Trust

14.13 Without derogating from their duties or obligations under any enactment or at law, the Trustees are responsible to report to Ngati Whakaue at regular intervals by way of General Meetings of the Trust. As a minimum, reporting responsibilities will include:

- (a) Information updating progress towards the fulfilment of the purposes of the Trust; and
- (b) Evaluation of the Trustees performance in fulfilment of the purposes of the Trust.

Information

14.14 Information referred to in clause 14.13 must be made available on request in writing by any Ngati Whakaue Member whose name appears on the last Hui Attendance Register taken.

15. Financial

15.1 The Trustees shall cause proper books of accounts to be kept in which shall be kept full and complete accounts of the affairs and transactions of the Trust. The books of accounts shall be kept at the Trust's office or at such other place or places as the Trustees shall determine and shall be open always to the inspection of the Trustees.

15.2 The accounts of the Trust shall be audited in the event the Trustees consider it desirable by a Chartered Accountant appointed by the Trustees at the Annual General Meeting. The Auditor shall not be a Trustee.

15.3 All moneys received shall be paid to the credit of the Trust at such trading bank or savings bank as the Trustees shall from time to time appoint and cheques on the bank account and other negotiable instruments shall be signed by two (2) Trustees or one (1) Trustee and the Secretary or the Treasurer. Endorsements of cheques and other negotiable instruments in favour of the Trustees shall be made by a Trustee or by the Secretary or the Treasurer or such other person as may be appointed by the Trustees.

15.4 The Treasurer may give receipts for all moneys received and every such receipt shall be an effective discharge for the money or other property therein stated to have been received.

15.5 The financial year of the Trust shall end on the 31st day of March in each year or on some such other date as the Trustees may from time to time determine.

16. Dispute Resolution

16.1 In the case of a genuine dispute between the Trustees or between a Ngati Whakaue Member and the Trustees a party may not commence any Court proceeding relating to the dispute until:

- (a) Firstly, the party raising the dispute (“the first party”) has given written notice to the other party (“the second party”) specifying the nature of the dispute (“Dispute Notice”) and the parties undertake in good faith to use all reasonable endeavours (including meeting at least on one occasion) to resolve the dispute within 60 days of the Dispute Notice; and
- (b) Secondly, if the genuine dispute has not been satisfactorily resolved by the date which is 60 days after the date of the Dispute Notice the first party may requisition the Trustees in writing to convene the Ngati Whakaue Registered Voting Hui in order to settle the genuine dispute by way of resolution in accordance with the Ngati Whakaue Voting Procedure provided that such request is supported and therefore initiated by one of the methods described by clause 14.7(c).

17. Alterations and amendments to this deed

17.1 The terms of the Trust may be altered or amended by the Ngati Whakaue Registered Voting Hui as provided for by clause 14.7(b)(vi).

17.2 Despite clause 17.1 the Trustees may themselves by unanimous resolution at any time alter or amend the terms of the Trust (together with any necessary consequential alterations or amendments) in respect of:

- (a) The cure of any administrative defect;
- (b) Any one or more of the following:
 - (i) Appendix 1;
 - (ii) Appendix 2;
 - (iii) Appendix 3;
 - (iv) the meaning of Ngati Whakaue;
 - (v) the meaning of Ngati Whakaue Claims; and
 - (vi) the meaning of Settlement Negotiations.

IN WITNESS WHEREOF this deed has been executed on the date specified above.

SIGNED by HAMUERA
WALKER MITCHELL
As Settlor)
)
)



SIGNED by
HOKI MATEMAI KAHUKIWA
As First Trustee)
)
)



SIGNED by
ANARU TE AMO
As First Trustee)
)
)



SIGNED by TE KIRI WHERO
EWA MAKARETA MITCHELL
As First Trustee)
)
)



SIGNED by
PETER STAITE
As First Trustee)
)
)



SIGNED by
PAULINE TANGOHAU
As First Trustee)
)
)




SIGNED by
TUPARA MORRISON
As First Trustee)
)
)



SIGNED by
EDDIE MUTU
As First Trustee
By

)
)
)
)



SIGNED by
RAYMOND POUPOASA
As First Trustee

)
)
)
)


SIGNED by
MARU TAPSELL
As First Trustee

)
)
)
)


SIGNED by
PAUL TAPSELL
As First Trustee

)
)
)
)


All in the presence of:



Witness signature

Witness name

John Pera Kahukiwa
Solicitor
AUCKLAND

Witness occupation

Witness address

TE KOMITI NUI O NGATI WHAKAUE

SCHEDULE

Part I

RULES GOVERNING THE APPOINTMENT, REMOVAL, REPLACEMENT RETIREMENT, AND PROCEEDINGS OF THE TRUSTEES

1. Interpretation

- 1.1 **Terms to have meanings ascribed:** Words and expressions used in these Rules which are defined in the deed shall have the meanings given to them therein, unless the context otherwise requires.
- 1.2 **Priority of deed overrules:** These Rules shall be construed subject to the provisions of the deed, and in the case of any conflict between the same, the provisions of the deed shall prevail.

Constitution of the Trustees

2. Appointment and Election of Trustees

- 2.1 **Number.** The Trustees shall be ten (10) in number comprising the positions described in clause 6 of the deed.
- 2.2 **Eligibility.** Only persons who are Voting Ngati Whakaue Members shall be eligible for election or appointment as trustees. The following persons shall not be eligible for election or appointment as a trustee:
- (a) A bankrupt who has not obtained a final order of discharge or whose order of discharge as been suspended for a term not yet expired; or
 - (b) A person who has been convicted of any offence punishable by a term of imprisonment of two or more years, unless that person has been pardoned or has served or otherwise suffered the sentence imposed; or

- (c) A person who has been sentenced to imprisonment for any offence, unless that person has been pardoned or has served the sentence imposed; or
- (d) A person in respect of whom an order has been made disqualifying that person as a director under the Companies Act 1993; or
- (e) A person who is the subject of a compulsory treatment order within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or any enactment in substitution; or
- (f) A person who has had a manager appointed in respect of his or her property pursuant to the Protection of Personal & Property Rights Act 1988; or
- (g) A person who is not a parliamentary elector for the purposes of the Electoral Act 1956; or
- (h) A person who is an employee of the Trust or who is an "associated person" (as such words are defined in the Income Tax Act 1994) with any employee of the Trust; or
- (i) A person who is not a Voting Member of Ngati Whakaue; or
- (j) A person who is already a Trustee of the Trust.

2.3 **Vacancies.** Where there shall occur any casual vacancy in the number of Trustees holding office, the continuing Trustees may appoint some other eligible person to be a Trustee until the next election date of the Ngati Whakaue Registered Voting Hui and for the balance of the term of office of the Trustee who has ceased to hold office. The Trustees may act notwithstanding any vacancy in their body and so long as their numbers is not reduced below the number fixed by or pursuant to this deed as the necessary quorum of the Trustees, and may, in any case where the number of Trustees is less than seven (7), continue to act for the purposes of increasing the number of Trustees members to the minimum number of seven (7) but in that case for no other purposes whatsoever.

2.4 **First Trustees.** Notwithstanding the provision for election of trustees herein, the first Trustees shall be those who shall have signed this deed as trustee. The First Trustees shall retire from office following the Declaration of Result made after the relevant election to be held on (or some other date closest to) the third anniversary of the date on which they were each nominated and elected.

2.5 **Election of Trustees.** Subject to Rules 2.3 and 2.4 of this Part and the duration of the Trust the Trustees shall be elected by the registered Voting Ngati Whakaue Members at elections held every three (3) years.

2.6 **Election procedure:** The election of trustees shall proceed in accordance with the following and otherwise by the Ngati Whakaue Voting Procedure as if the poll were an election of trustees:

(a) **Nominations.** Nominations may be given from the floor at the Ngati Whakaue Registered Voting Hui and prior to the election. The Returning Officer shall be entitled to declare any nomination invalid where on reasonable grounds, he or she has good cause to believe that the candidate is ineligible for election in terms of clause 2.2 herein.

(b) **Withdrawal.** The nomination of a candidate shall be disregarded, and treated as void, and the candidate shall be ineligible for election, if:

(i) The nominator withdraws the nomination by notice received by the Returning Officer before closing of nominations; or

(ii) The candidate withdraws by notice received by the Returning Officer before the result is declared; or

(iii) The candidate dies before the result is declared; or

(iv) A candidate becomes disqualified by virtue of Rule 2.2 before the result is declared; or

(v) A candidate is not present for the duration of the Ngati Whakaue Registered Voting Hui by which the election is held.

(c) **Election.** As soon as practicable on or before the election date the Returning Officer shall issue the instructions for voting.

(d) **Tied Poll.** Where, because two or more candidates have received the same number of valid votes, the Returning Officer shall decide which of them shall be elected, by lot drawn by the relevant candidates in front of the Returning Officer and such other person or persons (if any) as the Returning Officer may determine.

2.7 **Change of Trustees.** Notwithstanding any other provision in the deed or in these Rules retiring Trustees shall remain in office until the Returning Officer shall have made a declaration of result pursuant to Rule 11 of Part IV of the Schedule. Forthwith upon a declaration of result, the candidates declared elected shall assume office in place of the retiring Trustees.

2.8 **Calculation of Time.** If any day upon which any step is to be taken in terms of these Rules is not a working day then the date for performance shall be deemed to be the working day immediately following.

3. **Term of Office**

3.1 **Rights for Re-Election.** Subject to Rule 4 herein the Trustees (including the First Trustees) shall hold office from the date of their appointment or election until the declaration of result following the next election. Subject to Rule 2.2 herein, a Trustee may seek without any limitation re-election for a consecutive term at the expiration of that term.

4. **Cessation of Trusteeship**

4.1 **Trustees shall cease to hold Office in Certain Circumstances.** A Trustee shall cease to hold office and the position vacated if such Trustee:

- (a) Has not been re-elected as a trustee;
- (b) Has resigned as a trustee by notice in writing to the Secretary or, if there is no secretary to the Chairperson;
- (c) Has refused to act as a Trustee;
- (d) Has died; or
- (e) Has become disqualified from office as a Trustee in terms of Rule 2.2 herein;
- (f) Has been absent from New Zealand for a period of twelve (12) months without obtaining leave of absence from the other Trustees; or
- (g) Has failed to attend (and given reasonable explanation for not attending) three (3) consecutive Trustees meetings;
- (h) By majority vote of the Trustees he or she is believed to have failed to fulfil the duties of a trustee; or

- (i) Is removed or replaced by resolution of the Ngati Whakaue Registered Voting Hui.

5. **Recording of Change of Trustees**

5.1 **Entry in Minute Book.** Upon every appointment, reappointment, retirement, determination of appointment of any Trustee the Trustee shall cause the same to be recorded in the Minute Book of the Trust as referred to in Rule 13.1 of Part II of the Schedule and also by way of a properly prepared deed.

Part II

ADMINISTRATIVE PROVISIONS

6. Meetings of the Trustees

- 6.1 **Trustees may regulate their meetings.** Subject to these rules and the deed, the Trustees may adjourn and otherwise regulate their meetings as they think fit.
- 6.2 **Ordinary Meetings.** The Trustees shall hold such ordinary meetings at such intervals as they deem appropriate for the proper conduct of the affairs of the Trust, but not less once every three (3) months.
- 6.3 **Special Meetings.** A special meeting of the Trustees may at any time be summoned by at least three (3) Trustees for any reason which they may consider justifies the holding of such a special meeting.

7. Quorum

- 7.1 **Quorum.** The quorum for a meeting of the Trustees shall be seven (7) Trustees.

8. Notice of Meetings

- 8.1 **Notice Requirements.** Written notice of every meeting whether ordinary or special shall be delivered or sent by post, email, or by facsimile to each Trustee by the secretary or other person acting under the direction of the Trustees. In the case of a special meeting the Trustees summoning it whether the secretary or other person acting under the direction of the Trustees shall give at least three (3) day's notice of such special meeting. No notice of any adjourned meeting shall be required to be given other than to a Trustee who was not present when the meeting was adjourned. It shall not be necessary to give notice of a meeting of the Trustees to any Trustees member for the time being absent from New Zealand.
- 8.2 **Content of Notice.** Every notice of meeting shall state the place, day and hour of the meeting and every notice of a special meeting shall state the matters to be discussed at that meeting. Notice of any general or special meeting may be abridged or waived if all the Trustees were for the time being in New Zealand consent in writing to such abridgment or waiver.

9. **Adjournment**

9.1 **Adjournment.** If a quorum of Trustees shall not be present within 30 minutes after the time appointed for any meeting of the Trustees, the meeting shall be deemed dissolved. Any meeting may be adjourned by the Chairperson upon the adoption of a resolution for its adjournment, the resolution stating the time and place for resumption of the meeting.

10. **Proceedings at Meetings**

10.1 No business is to be transacted at any Meeting unless the quorum is present at the time when the Meeting proceeds to business.

10.2 The Chairperson or, failing him or her, the Deputy Chairperson will preside over and have control of every Meeting.

10.3 If there is no Chairperson or Deputy Chairperson present at the time appointed for holding a Meeting, or if either of those persons is unwilling to preside over the Meeting, the Trustees present will choose any of their number to substitute as Chairperson for that Meeting.

10.4 No resolution that relates to an item of redress offered by the Crown or otherwise available in the context of the Settlement Negotiations that specifically affects or relates to the Ngati Whakaue Claims in whole or in part is effective or valid unless all of the Trustees vote in favour of that resolution. If such a resolution is not unanimous then the Trustees shall put the matter to the Ngati Whakaue Registered Voting Hui for a resolution.

10.5 Each Trustee is entitled to cast one vote in his or her own capacity on any resolution put to a meeting of the Trustees.

11. **Chairperson, Vice Chairperson and officers of the Trust**

11.1 **Trustees to Elect Chairperson and Vice Chairperson.** The Trustees may from time to time elect a Chairperson and a Vice Chairperson and determine the period for which the Chairperson and Vice Chairperson are to hold office. The Chairperson (or in the absence of the Chairperson the Vice Chairperson or in the absence of both a Trustee elected by the meeting) shall take the chair at each meeting of the Trustees and shall have a casting vote.

11.2 **Officers of the Trust.** The Trustees may appoint from their members or in addition thereto a Secretary and/or Treasurer who need not be trustees, in which case they shall have the right to attend all Trustees meetings and receive all minutes and be entitled to peruse all records and shall have the right to take part in any discussions at Trustees meetings but shall have no voting rights or powers.

11.3 In appointing a Secretary and a Treasurer the Trustees may determine the term, remuneration and conditions of the appointment. Any person so appointed as Secretary or Treasurer may be removed by resolution supported by the majority of the Trustees.

11.4 **Delegation by Trustees.** The Trustees may delegate all or any of their administrative and management functions to a committee of the Trustees upon such terms and conditions as they shall think fit and in particular the Trustees may prescribe rules and regulations and a quorum for meetings of any such committee and may otherwise regulate and limit the powers, duties, and responsibilities of such committees. Other persons may from time to time be appointed by the Trustees or with its authority as officers or staff (including a General or Project Manager) on such terms and conditions as the Trustees may deem appropriate, and doing so the Trustees may delegate certain administrative and management functions to its staff or officers as necessary.

11.5 **Trustees able to make by-laws.** The Trustees may at any meeting by resolution passed by more than three quarters of the Trustees present make by-laws in addition hereto, provided that no such by-laws shall be valid:

- (a) If they in any way conflict or are inconsistent with the deed or the provisions of the Rules herein contained; and
- (b) Unless a copy of such proposed by-laws are forwarded to each Trustee not less than twenty-one (21) days prior to the meeting called to consider such proposals.

12. Committees

12.1 **Committees.** Any two or more trustees may be constituted a committee for the purposes of making any enquiry or of supervising or transacting any business of the Trust (excluding the investment or management of the Trust Fund or any part thereof), or of performing any duty or function which in the opinion of the Trustees will further the purposes and objects of the Trust. Subject to these Rules and to any directions from time to time given by the Trustees every such committee may regulate its own

procedure. The quorum at any meeting of a committee of Trustees shall be a majority of its members for the time being.

13. **Minutes**

13.1 **Minute Book.** The Minute Book shall be provided and kept by the Trustees and every proceeding of the Trustees shall be entered in the Minute Book.

13.2 **Evidence of Proceedings.** Minutes purporting to be signed by the Chairperson of the meeting at which proceedings were conducted or by the Chairperson of the next succeeding meeting shall be evidence of the proceedings concerned.

13.3 **Meetings Deemed to be regular.** Where minutes of any meeting have been made in accordance with the provisions of these Rules, then until the contrary is proved the meeting shall be deemed to have been duly held and all proceedings at that meeting to have been properly conducted.

14. **Resolution**

14.1 **Written Resolution.** Notwithstanding any other provision of the deed or of these rules a resolution in writing signed by all of the Trustees or (as the case may be) by all of the Trustees at the committee of the Trustees shall be effective for all purposes as a resolution passed at a meeting of the Trustees or of such committee (as the case may be) duly convened held and constituted such resolution. Such resolution may consist of several documents in the same form each signed by one or more of the Trustees or by one or more members of the committee (as the case may be).

15. **Telephone and video conference link**

15.1 The contemporaneous linking together by telephone, video conference or other means of communication of a number of the Trustees representing not less than a quorum, whether or not any one or more of them is out of New Zealand will be deemed to constitute a Meeting of the Trustees provided that:

- (a) all the Trustees for the time being entitled to receive notice of a Meeting will be entitled to notice of such meeting and to be linked by telephone, video conference or such other means of communication for the purposes of such meeting;

- (b) each of the Trustees taking part in such a meeting must be able to hear each of the other trustees taking part at the commencement of the meeting; and
- (c) At the commencement of such meeting each of the Trustees must acknowledge his or her presence to all the other the Trustees taking part in any such meeting.

15.2 A Trustee may not leave such meeting by disconnecting his or her telephone, video conferencing connection or other means of communication, unless he has previously obtained the express consent of the Chairperson, Deputy Chairperson or other person chairing the Meeting. A Trustee will be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he or she has previously obtained the express consent of the chairperson of the meeting to leave the meeting or has been disconnected and failed to reconnect with the meeting.

15.3 A minute of the proceedings at such meeting will be sufficient evidence of such proceedings and of the observance of all necessary formalities if the minute has been certified as a correct minute by the chairperson of that meeting

16. Execution of Documents

16.1 **Method of Execution.** All documents requiring to be executed by the Trustees shall be deemed to be validly executed and binding on the Trust if such documents have been entered into and executed by the authority of the Trustees previously given and signed by at least two Trustees or by another Trustee and by any other person expressly approved by the Trustees for such purpose.

Part III of the Schedule

CONTINUATION OF THE TRUSTEES POWERS

1. In pursuit of the general administration of the Trust the Trustees may in their discretion exercise one or more of the following:
 - 1.1 To grant leases of Property;
 - 1.2 To accumulate the income of the Trust Fund;
 - 1.3 To apply or set aside any part of the Trust Fund towards the payment of any liabilities or obligations incurred or suffered by the Trust or falling due in future;
 - 1.4 In relation to any company or other body (whether incorporated or unincorporated) or chose in action or fund:
 - 1.4.1 to appoint directors, or decision-makers or controllers or officers or employees of it;
 - 1.4.2 to consent to any reorganisation or reconstruction of it or dealing with it and any increase or reduction of the capital of it; and
 - 1.4.3 to provide out of the Trust Fund further capital for it whether by advances, loans, deposits, grants, contributions or otherwise (with or without security) or by taking further securities in it;
 - 1.5 To enter into contracts for the provision of services to fulfil the functions and purposes of the Trust;
 - 1.6 To open and maintain a bank account and to decide who will be the signatories to that account;
 - 1.7 In relation to any share or other security that is part of the Trust Fund:
 - 1.7.1 to exercise any voting or controlling or decision-making rights or powers attaching to it; and

- 1.7.2 to concur in any reconstruction or amalgamation of It or in any modification of the rights of the holders of it or of others interested in it and generally to act in respect of it;
- 1.8 To obtain incorporation or registration of the Trust;
- 1.9 To appoint or engage or employ any person or company for any period:
- 1.9.1 as an expert or professional person or entity to advise on or carry out any of the trusts and powers authorised by this deed, including but without limitation a negotiator or negotiators to conduct the Settlement Negotiations; or
- 1.9.2 as a manager or agent for or on the Trust in all or any matters relating to the management and the control of the Trust; or
- 1.9.3 as Secretary.
- 1.10 To act upon any opinion or advice or information obtained from a person or entity referred to in paragraph 1.9 of this clause;
- 1.11 To determine all questions and matters of doubt that may arise in the course of the management, administration, investment, realisation, distribution, liquidation, partition resettlement or winding up of the Trust Fund or the Trust or to apply for directions under section 66 of the Trustee Act 1956;
- 1.12 Generally to do all such other lawful acts and things that are incidental or conducive to fulfilling the functions and purposes of the Trust; and/or
- 1.13 To pay from the Trust Fund any reasonable costs or expenses incurred in the course of the Trustees discharging, carrying out or exercising any of their duties and powers, provided that they have satisfied themselves that there are sufficient funds available.

Part IV of the Schedule

NGATI WHAKAUE VOTING PROCEDURE

The following sets out the Ngati Whakaue Voting Procedure:

Returning Officer

1. **Returning Officer.** A Returning Officer shall be appointed by the Trustees for the purposes of conducting the Ngati Whakaue Voting Procedure, such appointment to be made not less than thirty five (35) days before the date of the Ngati Whakaue Registered Voting Hui. Neither a Trustee, the secretary of the Trust nor an employee of the Trust shall be appointed as the Returning Officer.
2. **Substitute Returning Officer.** In the event of the death, incapacity or resignation of the Returning Officer, a substitute Returning Officer shall be appointed in the stead of the previous Returning Officer.
3. **Functions of Returning Officer.** The Returning Officer shall be responsible for conducting the voting by registered Voting Ngati Whakaue Members in respect of matters arising for the Ngati Whakaue Registered Voting Hui. To the extent these Rules do not prescribe as to a particular matter in connection with such an election, the Returning Officer shall be entitled to determine the procedure and act accordingly. The Returning Officer shall be entitled to utilize the services of such persons as the Returning Officer may deem appropriate, and to require that the cost of such services be met out of the Trust Fund. In the event of doubt or dispute as to any matter affecting such an election, the Returning Officer shall be entitled to resolve such doubt or dispute, and the decision of the Returning Officer shall be final and conclusive.
4. **Payment of Returning Officer.** The Returning Officer shall be entitled to receive such reasonable remuneration and reimbursement of expenses as the Trustees shall determine after consultation with the Returning Officer.

Creation of register

5. **Register of eligible voters.** On the polling day, (being the day of a Ngati Whakaue Registered Voting Hui) the Returning Officer shall establish a register of eligible voters by:

- 5.1 Creating the Returning Officers register;
- 5.2 Compiling the register by adding the names and addresses of each of the Voting Ngati Whakaue Members who wish to vote and who attend in person to register. The Returning Officer may at any time remove from the register the name of any person if, the Returning Officer considers that person is ineligible to be a voter. The decision of the Returning Officer as to the addition or deletion of any name or address from the register shall be final and conclusive.

6. **Eligibility to vote.** The following provisions shall govern eligibility to vote:

- 6.1 Only registered Voting Ngati Whakaue Members are eligible to vote; and
- 6.2 Each individual shall be entitled to one (1) vote.

Conducting the vote

7. **Poll.** As soon as practicable on or before the polling date the Returning Officer shall distribute to each Voting Ngati Whakaue Member as registered the following:

7.1 A printed voting paper containing:

- 7.1.1 The resolution or matter to be voted on; and
- 7.1.2 Instructions for voting.

8. **Closure of Poll.** The poll shall close and no vote received after that time shall be counted on the Returning Officer's announcement that the poll is closed.

9. **Invalid Votes.** A vote shall be invalid and shall not be counted if:

- 9.1 The voter votes or purports to vote more than once;
- 9.2 The voter shall have voted for more candidates than there are Trustees to be elected; or
- 9.3 In the opinion of the Returning Officer the voting paper does not indicate sufficiently clearly the voter's intended vote or does not sufficiently follow his or her instruction;
- 9.4 The Returning Officer believes on reasonable grounds that the voting paper is not a genuine voting paper issued by the Returning Officer.

10. **Counting of Votes.** The Returning Officer shall as soon as practicable after the polling date, but in any event not later than 14 days thereafter, count the valid votes cast and ascertain

whether under clause 14.7(b) of the deed a matter is passed or resolved on or a trustee is appointed, removed or replaced.

11. **Declaration of Result.** Forthwith after ascertaining the result of the poll taken the Returning Officer shall declare the result and shall publish the same in one newspaper circulating in Rotorua.
12. **Destruction of Voting Papers.** After a declaration of result the Returning Officer shall destroy all voting papers.
13. **Duties of Returning Officer:** The Returning Officer and every person assisting the Returning Officer shall faithfully and impartially perform their respective duties and shall not, directly or indirectly:
 - 13.1 Before the declaration of result, make known the state of the poll, or give out or purport to give any information by which the state of the poll might be known;
 - 13.2 Give to any person any information likely to defeat the secrecy of the poll.
14. **Poll not Invalidated by Irregularity.** A poll shall not be invalidated by virtue of any irregularity having occurred prior to the voting or by reason of any failure to comply with these rules as to the conduct of the election or as to the counting of the votes if it appears to the Returning Officer that the poll was conducted generally in accordance with the principles laid down in these Rules if the irregularity, failure or mistake did not affect the result of the vote.