

# **Te Rūnanga o Ngāi Takoto**

## **Restated Trust Deed**



## Table of contents

### Contents

Parties .....	5
Background .....	5
Deed .....	6
1 Interpretation .....	6
2 Establishment and objects of the Trust .....	9
3 Election, powers, and meetings of the Trustees .....	10
4 Register of Adult Members of NgāiTakoto .....	11
5 General Meetings .....	11
6 Major Transactions .....	14
7 Application of income .....	15
8 Policies and plans .....	15
9 Annual reports, accounts, and audit .....	16
10 Investments .....	16
11 Trust Entities .....	17
12 Liability of Trustees .....	17
13 Indemnity and insurance .....	17
14 Special Trust Advisor and Custodian Trustee .....	18
15 Advice to Trustees .....	19
16 Conflicts of interest .....	19
17 Dispute Resolution Procedure .....	21
18 Removal of a Trustee .....	22
19 Termination of office of Trustees .....	24
20 Amendments to the Deed .....	25
21 Access to the Documents .....	25
22 Review .....	26
23 Resettlement .....	26

24	Perpetuities .....	26
25	Winding up of the Rūnanga .....	26
26	Governing law .....	26
27	Counterparts .....	27
Schedule 1	Powers of the Trustees .....	30
Schedule 2	Registration of Members .....	32
1	NgāiTakoto Members Register .....	32
2	Applications for registration .....	32
3	Decisions as to membership .....	33
4	Changes to NgāiTakoto Members Register .....	34
Schedule 3	Elections of Trustees .....	36
1	Eligibility for appointment .....	36
2	Elections .....	37
3	Term of office .....	37
4	Corporate trustee .....	39
5	Making of nominations for the election of Trustees .....	39
6	Holding of elections .....	41
7	Record of changes of Trustees .....	42
Schedule 4	Proceedings of Trustees meetings .....	43
1	Trust to regulate meetings .....	43
2	Code of Conduct .....	43
3	Notice of meeting .....	43
4	Quorum .....	44
5	Chairperson and Deputy Chairperson .....	44
6	Proceedings at meetings .....	44
7	Delegation by Trustees .....	45
8	Written resolutions in lieu of meeting .....	46
9	Minutes .....	46
10	Holding of meetings via electronic conferencing .....	47

11	Form of contracts.....	47
	Schedule 5     Postal or Electronic Voting.....	48
1	Voting .....	48
2	Special General Meeting required .....	49
3	Notice .....	49
4	Method of giving notice .....	49
5	Contents of notice to members .....	49
6	Contents of notice.....	49
7	Appointment of Chief Returning Officer.....	50
8	Counting of votes.....	50
	Schedule 6     Establishment of Trust Entities.....	51
1	Requirements for constitutional documents .....	51
2	Other considerations .....	53
	Schedule 7     Requirements for Plans and Reports.....	54
1	Requirements for five-year strategic plan.....	54
2	Requirements for Annual Plan.....	54
3	Requirements for Annual Report.....	54
	Schedule 8     Kaumatua Taumata.....	56
1.	Appointment of Kaumatua Taumata.....	56
2.	Composition of Kaumatua Taumata .....	56
3.	Role and function of Kaumatua Taumata .....	56

**Deed** dated

2025

## **Parties**

The Parties to this Trust Deed are the trustees, being:

- 1 Wallace Rivers
- 2 Kaio Malcolm Karipa
- 3 Carol Berghan
- 4 Jasmine Marino
- 5 Trudy Brown-Patuwairua
- 6 Craig Hobson
- 7 Warren Cook

together the 'Trustees'.

## **Background**

- A The Rūnanga was originally constituted under a deed of trust in 2013 (the '**Original Trust Deed**').
- B The Rūnanga was established to act as the post-settlement governance entity for the iwi of NgāiTakoto to receive, hold and manage the Treaty of Waitangi Settlement received pursuant to the Deed of Settlement and the NgāiTakoto Claims Settlement Act 2015.
- C The Trustees wish to revise the Original Trust Deed by replacing it with this Deed, with the intention that this Deed, upon being executed, will replace the Original Trust Deed and the entire Trust Fund is to be thereafter held by the Trustees upon the trusts and with and subject to the powers and discretions set out in this Deed.
- D This Deed sets out the functions and purposes, and provides for the control, governance, management and operation of the Rūnanga.

# Deed

## 1 Interpretation

### 1.1 Definitions

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

**'Adult Member'** means a Member of NgāiTakoto who has attained the age of 18 years old, whether they are registered or not.

**'Adult Registered Members'** means Adult Members who are registered on the Members Register and who can vote at General Meetings.

**'Annual General Meeting'** means the meeting held in accordance with clause 5.1.

**'Annual Plan'** means the plan prepared in accordance with clause 8.2.

**'Annual Report'** means the report prepared in accordance with clause 9.2.

**'Balance Date'** means 31 March or any other date that the Trustees adopt by resolution as the date up to which the Trust's Financial Statements are to be made in each year.

**'Chairperson'** means the chairperson or co-chairperson from time to time of the Trust elected by the Trustees in accordance with paragraph 5 of Schedule 4 (Proceedings of Trustees meetings).

**'Chief Returning Officer'** means the person, or persons appointed from time to time as chief returning officer.

**'Code of Conduct'** means a code of conduct agreed to by Trustees, from time to time.

**'Corporate Trustee'** means an entity incorporated to act as corporate trustee of the Trust from time to time, in which case any other Trustees appointed in accordance with this Deed will be appointed as directors of the Corporate Trustee and all provisions which would otherwise apply to those individuals as Trustees will apply to those individuals as directors of the Corporate Trustee.

**'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.

**'Custodian Trustee'** means the company incorporated in accordance with clause 14.2.

**‘Deed’** means this Deed and includes any amendments to this Deed made in accordance with this Deed.

**‘Deed of Settlement’** means the deed entered into between representatives of NgāiTakoto and the Crown recording the settlement of the NgāiTakoto Claims.

**‘Deputy Chairperson’** means the deputy chairperson from time to time of the Trust, if one (1) is elected in accordance 5.1 of Schedule 4 (Proceedings of Trustees meetings).

**‘Financial Statements’** means the financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) for the purposes of clause 8.2 (Annual reports to be provided).

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

**‘First Election’** means the election occurring at the 2026 Annual General Meeting.

**‘General Meeting’** means an Annual General Meeting or Special General Meeting convened and conducted in accordance with clause 5 (General Meetings).

**‘General Trustees’** means the persons elected or appointed as trustee in accordance with Schedule 3 (Elections of Trustees).

**‘Iwi’** means the iwi of NgāiTakoto.

**‘Kaumatua Taumata’** means the committee established in accordance with Schedule 8 (Kaumatua Taumata).

**‘Major Transaction’** means:

- a the acquisition of, or an agreement to acquire, whether contingent or not, Property by the Trust, the value of which is more than 30% of the value of the Trust Fund before the acquisition;
- b the disposition of, or an agreement to dispose of, whether contingent or not, Property by the Trust, the value of which is more than 30% of the value of the Trust Fund before the disposition; and
- c a transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities, the value of which is more than 30% of the value of the Trust Fund before the transaction;

but does not include:

- d any transaction entered into by a receiver appointed pursuant to an instrument creating a charge overall, or substantially all, of the Trust Fund; or
- e any disposition of Property by the Trust to any Trust Entity; or
- f any agreement for a grant or funding.

**‘Marae Trustees’** means the persons elected or appointed from the Marae of NgāiTakoto in accordance with Schedule 3 (Elections of Trustees).

**'Marae of NgāiTakoto' and 'Marae'** means any one of the following marae: Waimanoni, Wharemaru, Mahimaru or Te Pa a Parore marae.

**'Members of NgāiTakoto'** means every individual who is descended from Kauri and Tumoana, the tupuna from the eponymous ancestor of Tuwhakare.

**'Membership Committee'** means the committee appointed under clause 3.1 (Establishment of Membership Committee) of Schedule 2 (Registration of Members).

**'Members Register'** means the register of Adult Registered Members of NgāiTakoto held and maintained by the Trust in accordance with clause 4.1 (Trust to maintain register).

**'NgāiTakoto'** means the iwi, or collective group, composed of Members of NgāiTakoto, and includes:

- a every Member of NgāiTakoto;
- b any family, whānau or group of individuals, composed of individuals referred to in (a) of this definition

**'NgāiTakoto Ancestor'** means an individual or individuals who, at any time after 6 February 1840, exercised Customary Rights within the NgāiTakoto Area of Interest by virtue of his or her being descended from NgāiTakoto;

**'NgāiTakoto Area of Interest'** means the Area of Interest of NgāiTakoto as identified and defined in the Deed of Settlement.

**'NgāiTakoto Claims'** means NgāiTakoto historical claims against the Crown in respect of the Crown's breaches of its obligations to NgāiTakoto under the Treaty of Waitangi.

**'Perpetuity Period'** means for the purposes of clause 24 (Perpetuities), the period that commences on the date of this Deed and ends at the last day permissible under the Trusts Act 2019, or if another period is specified in legislation, that period.

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

**'Purposes'** means the objects and purposes set out in clause 2.4 (Objects of the Rūnanga).

**'Rūnanga'** means Te Rūnanga o NgāiTakoto.

**'Settlement Act'** means NgāiTakoto Claims Settlement Act 2015.

**'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 properly notified and passed by 75% of those Adult Registered Members who cast a valid vote at a General Meeting or in accordance with the procedures set out in Schedule 5 (Postal or Electronic Voting).



**'Trust Entity'** means any company or other entity including but not limited to society, trust, or limited liability partnership that is established by the Trust in accordance with Schedule 6 (Establishment of Trust Entities).

**'Trust Fund'** means all the assets and liabilities, including income, that are from time to time held by the Trustees on the trusts of this Deed.

**'Trustees'** means all persons acting as trustees including Marae Trustees and General Trustees.

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

## 1.2 **General construction**

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

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

## **2 Establishment and objects of the Trust**

### 2.1 **Declaration of Trust**

The Trustees declare and acknowledge that they hold and will continue to hold the Trust Fund upon the trusts and with the powers set out in this Deed. The Trust is to be known as **'Te Rūnanga o Ngāi Takoto'** or such other name as the Trustees decide from time to time.

### 2.2 **Trustees' representative**

The Trustees shall represent the Iwi in all matters relating to this Deed.

### 2.3 **Administration of the Rūnanga**

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

#### **2.4 Objects of the Rūnanga**

The purposes for which the Rūnanga is established are to receive, hold, manage and administer the Trust Fund on behalf of and for the benefit of the present and future Members of NgāiTakoto in accordance with this Deed, including, without limitation:

- a The promotion amongst NgāiTakoto of the educational, spiritual, economic, health, social and cultural advancement or well-being of NgāiTakoto;
- b The ongoing maintenance and establishment of places of cultural or spiritual significance to NgāiTakoto;
- c The undertaking of commercial activities to support the other objects and purposes of the Trust; and
- d For any other purpose that is considered by the Trustees from time to time to be beneficial to NgāiTakoto.

### **3 Election, powers, and meetings of the Trustees**

#### **3.1 Election of Trustees**

The Trustee will either be a corporate trustee, with directors of the corporate trustee appointed in the same way as Trustees are appointed in accordance with Schedule 3 (Elections of Trustees), or be those individual persons elected as Trustees from time to time in accordance with the Schedule 3 (Elections of Trustees).

#### **3.2 Powers of a natural person**

When acting in their capacity as Trustee, the Trustees will have the powers of a natural person and all other powers that New Zealand law permits subject to clause 3.3 (Restriction on Major Transactions).

Without limitation, the powers of the Trust include by way of example the powers set out in Schedule 1 (Powers of the Trustees).

#### **3.3 Restriction on Major Transactions**

Notwithstanding clause 3.2 (Powers of a natural person), the Trust must not enter into or approve a Major Transaction unless that Major Transaction:

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

#### **3.4 Trustees' expenses**

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

### **3.5 Trustees' remuneration**

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

- a at least every five (5) years, obtain independent advice to properly benchmark the level of remuneration paid, and ensure that remuneration is set at a level consistent with that advice; and
- b at each Annual General Meeting, provide the details of the level of remuneration to Trustees represented as a single combined amount.

## **4 Register of Adult Members of NgāiTakoto**

### **4.1 Rūnanga to maintain register**

The Rūnanga shall administer and maintain a register of Adult Registered Members in accordance with Schedule 2 (Registration of Members).

### **4.2 Application for registration**

All applications for registration as an Adult Registered Member must be made in writing in accordance with the provisions of Schedule 2 (Registration of Members).

## **5 General Meetings**

### **5.1 Rūnanga to hold Annual General Meeting**

The Rūnanga shall endeavour to hold, no later than six (6) calendar months after the end of each Financial Year, and in any event no more than 18 months after the date of the last Annual General Meeting, a General Meeting to be called its Annual General Meeting and shall at that meeting:

- a present the Annual Report for the previous Financial Year and financial statements, made available to Adult Registered Members not less than 5 Working Days before the Annual General Meeting;
- b present the Annual Report of any Trust Entities (if any); and
- c other business to be conducted at the Annual General Meeting shall include:
  - i ratification of the appointment of the auditor for the next Financial Year;
  - ii the presentation of details relating to Trustees' remuneration pursuant to clause 3.5 (Trustees' remuneration);
  - iii any other notified business; and

- iv any general business raised at that meeting and accepted for discussion by the Chairperson pursuant to clause 5.5 (Annual General Meeting not limited to notified business).

## **5.2 Notice of Annual General Meeting**

The Trustees shall give not less than 20 Working Days' notice of the holding of the Annual General Meeting. All such notices shall contain:

- a the date, time, and place of the Annual General Meeting;
- b an agenda of matters to be discussed, and a summary of resolutions to be put at the meeting (if any);
- c details of where copies of any information to be laid before the meeting, including full resolutions to be put (if any), may be inspected or obtained; and
- d whether attendance by audio visual technology is allowable, and if so, the provision of information to allow the Adult Registered Member to attend the meeting.

## **5.3 Method of notice**

Notice of meetings shall be by means as the Trustees may determine, including, by way of example, by private notice to each of the Adult Registered Members, and/or by electronic means or by the Trust's website and or social media platforms if any.

## **5.4 Special General Meetings**

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

- a the Chairperson (or the Deputy Chairperson if the Chairperson is indisposed); or
- b not less than 40 percent (40%) of the Trustees; or
- c not less than 10 percent (10%) of all Adult Registered Members.

However, the Trustees are under no obligation to call a Special General Meeting unless those requesting the meeting have signed the request and provided a statement to the Trustees setting out the purposes for which the meeting has been requested and the specific agenda items proposed for such a meeting.

For the avoidance of doubt, the Trustees shall not be required to give notice calling the meeting until such a statement with agenda items has been received.

## **5.5 Annual General Meeting not limited to notified business**

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

## **5.6 Special General Meeting limited to notified business**

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

#### **5.7 Invalidation**

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

#### **5.8 Deficiency of notice**

A deficiency or irregularity in a notice of any General Meeting will not invalidate anything done at the meeting if:

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

#### **5.9 Quorum**

The quorum required for any General Meeting shall be at no less than 20 Adult Registered Members present in attendance and 50% of Trustees present in attendance (in person, or by electronic conferencing if allowable). In the case of a Special General Meeting convened in accordance with clause 5.3 (Special General Meetings), the quorum must include 50% of those who made the written request. Subject to clause 5.12 (Adjourned meetings), no business may be transacted at a General Meeting unless the quorum is present.

#### **5.10 Chairing of meetings**

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

- a if the Chairperson is not present at the time appointed for holding a meeting, then the Deputy Chairperson shall be the chairperson;
- b if neither the Chairperson nor Deputy Chairperson are present at the time appointed for holding a meeting, then the Trustees present shall elect one (1) of their number to substitute as the chairperson for that meeting; and
- c if a Special General Meeting has been convened in accordance with clause 5.4b or 5.4c (Special General Meetings), the Trustees will appoint an independent Chairperson for that meeting.

#### **5.11 Voting**

To the extent that a vote is sought or required at any General Meeting, every Adult Registered Member present shall have one (1) vote, with the exception of elections of Trustees which shall be voted for in accordance with Schedule 3 (Elections of Trustees).

Except as required by clause 1.1 (Voting process required) of Schedule 5 (Postal or Electronic Voting), voting at General Meetings may be by voice or a show of hands, and shall be passed by the majority of those present and entitled to vote. The

chairperson of the meeting may also demand a poll on a resolution either before or after any vote.

While Trustees are not bound by resolutions passed at any Annual or Special General Meeting, they must consider any advice and respond appropriately.

#### **5.12 Adjourned meetings**

If within one (1) hour of the time appointed for a General Meeting, a quorum is not present, the meeting will stand adjourned to be reconvened 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 within one (1) hour from the time appointed for that adjourned meeting, the Adult Registered Members present will constitute a quorum.

#### **5.13 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.

#### **5.14 Minutes**

The Trust shall keep a proper record in a minute book of all decisions taken and business transacted at every General Meeting. The minute book may be kept in an electronic format.

#### **5.15 Minutes to be evidence of proceedings**

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

#### **5.16 Minutes to be evidence of proper conduct**

Where minutes of a General Meeting have been made in accordance with this clause 5.16 then, until the contrary is proven, the meeting shall be deemed to have been properly convened and its proceedings to have been conducted properly.

### **6 Major Transactions**

#### **6.1 Requirements**

The Rūnanga must not enter into a Major Transaction unless that Major Transaction:

- a has been approved by a majority of 75% at an Annual General Meeting or Special General Meeting; or

- b is contingent upon approval by a majority of 75% at an Annual General Meeting or Special General Meeting, and the Major Transaction is subsequently approved at an Annual General Meeting or Special Meeting.

## **7 Application of income**

### **7.1 Application of income**

The Rūnanga may at any time, after payment of or provision for all reasonable costs, charges, and expenses of the Trustees in respect of the establishment and management of the Rūnanga and Trust Entities, pay or apply all or any of the income of the Trust for the objects of the Rūnanga, as provided for in clause 2.4 (Objects of the Trust).

### **7.2 Accumulation in six months without payment of application of income**

Any income of any Financial Year not paid or applied in accordance with clause 7.1 (Application of income) during or within six (6) months from the end of that Financial Year shall be accumulated and any income so accumulated shall be added to and form part of the capital of the Trust Fund, and shall be subject to the trusts and powers herein declared in respect of the capital of the Trust Fund.

### **7.3 Application of capital**

The Trustees may at any time pay or apply any of the capital of the Trust Fund for the objects of the Trust, as provided for in clause 2.4 (Objects of the Trust).

### **7.4 Trustees have absolute discretion**

Subject to the restrictions and obligations outlined in this Deed, all powers and discretions that the Trustees have may be exercised by the Trustees in their absolute discretion and from time to time and on such terms and conditions and in such manner and by such means as the Trustees think fit.

## **8 Policies and plans**

### **8.1 Trustees to prepare five-year strategic plan**

The Trustees shall, having consulted with Registered Adult Members of NgāiTakoto and with all Marae, produce and maintain a current five-year strategic plan.

### **8.2 Trustees to prepare annual plan**

The Trustees shall prepare, no later than one (1) month before the commencement of each Financial Year, an Annual Plan which sets out the matters prescribed in paragraph 2 (Requirements for Annual Plan) of Schedule 7 (Requirements for Plans and Reports). In developing the Annual Plan, the Trustees shall have regard to the vision and policies set out in the current five-year strategic plan prepared in accordance with clause 8.1 (Trustees to prepare five-year strategic plan). The Trustees must make the Annual Plan available to the Registered Adult Members of NgāiTakoto.

## **9 Annual reports, accounts, and audit**

### **9.1 Reporting Responsibilities**

Without derogating from its duties under any enactment or at law, the Rūnanga has the reporting responsibilities in relation to:

- a its own performance; and
- b the performance of any Trust Entities.

### **9.2 Preparation of Annual Report**

The Trustees must, within six (6) months after the end of each Financial Year, cause to be prepared an Annual Report on the affairs of the entities listed above in clause 9.1 (Reporting Responsibilities), covering the accounting period to the end of that Financial Year. Such a report shall include the matters prescribed in paragraph 3 of Schedule 7 (Requirements for Plans and Reports).

### **9.3 Audit of Financial Statements**

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

### **9.4 Appointment of auditor**

The auditor shall be appointed by the Trustees prior to the end of the Financial Year to which the audit relates, and, where possible, the fee of the auditor shall also be fixed at that time. No Trustee or employee of the Trust (including any firm of which such a person is a member or employee) may be appointed as the auditor. For the avoidance of doubt, the Trust's accountant shall not be appointed as auditor.

## **10 Investments**

The proportion of the Trust Fund that the Trustees determine to invest during such time as it is held by the Trustees must be invested in accordance with the provisions of the Trusts Act 2019.

Where a Trustee is engaged in a profession, employment or business which includes acting as a Trustee or investing money on behalf of others, then in exercising any power of investment, that Trustee will not be required to exercise the care, diligence, and skill that a prudent person engaged in that profession, employment or business would exercise in managing the affairs of others. Rather, that Trustee will be required only to exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others. This clause 10 (Investments) will constitute a contrary intention for the purposes of section 30 of the Trusts Act 2019. For the purposes of this clause 10 (Investments), "Trustee" includes a director of a Corporate Trustee.



## **11 Trust Entities**

### **11.1 Establishment of Trust Entities**

The Rūnanga may establish Trust Entities in order to receive, hold, or manage the Trust Fund or any Property forming part of the Trust Fund, provided that any Trust Entity must be established in accordance with the requirements set out in Schedule 6 (Establishment of Trust Entities).

### **11.2 Disestablishment of Trust Entities**

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

### **11.3 Establishment of other entities**

For the avoidance of doubt, the ability for the Rūnanga to establish Trust Entities does not limit the powers of the Rūnanga under this Deed to enter into any other arrangement, including the establishment, or acquisition of an interest in, other entities which do not meet the requirements of Schedule 6 (Establishment of Trust Entities) and are not Trust Entities.

## **12 Liability of Trustees**

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.

For the purposes of this clause 12 (Liability of Trustees), "Trustee" includes a director of a Corporate Trustee.

## **13 Indemnity and insurance**

### **13.1 Indemnity and insurance for Trustees**

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

For the purposes of this clause 13.1 (Indemnity and insurance for Trustees), "Trustee" includes a director of a Corporate Trustee.

### **13.2 Indemnity and insurance costs to be just and equitable**

All indemnities and insurance costs may only be paid or reimbursed to the extent that those costs are just and equitable. If a question arises as to the extent of

indemnity and insurance cost, the Trustees shall seek independent advice as to a just and equitable level of costs.

### **13.3 Indemnity and insurance re specific trusts**

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

### **13.4 Record of decisions**

All decisions made under this clause 13.4 (Record of decisions) 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.

## **14 Special Trust Advisor and Custodian Trustee**

### **14.1 Special Trust Advisor**

The Trustees may, by resolution in writing, appoint any person as a Special Trust Adviser of the Rūnanga. The Special Trust Adviser shall have the status and powers conferred on Special Trust Advisors by the Trusts Act 2019.

### **14.2 Custodian Trustee and nominee**

The Trustees may, by resolution in writing, appoint any person as a Custodian Trustee or nominee of the Trust Fund. The provisions of the Trusts Act 2019 shall apply as if references in it to a Custodian Trustee were references to Custodian Trustee or nominee, except as modified or extended as follows:

- a all or any of the Trust Fund may be vested in the Custodian Trustee or nominee as if the Custodian Trustee or nominee were the sole Trustee;
- b the portion of the Trust Fund that is from time to time vested in the Custodian Trustee or nominee is the Custodial Trust Fund, and the provisions of the Trusts Act 2019 shall apply as if references in it to the Trust Property were references to the Custodial Trust Fund;
- c the Custodian Trustee or nominee must:
  - i hold the part of the Trust Fund that is transferred to the Custodial Trustee or Nominee by the Trust (the 'Custodial Trust Fund');
  - ii invest the Custodial Trust Fund and dispose of it in accordance with any direction in writing by the Trust; and
  - iii execute all documents and perform all acts that the Trust in writing directs.

### **14.3 Removal of Special Trust Adviser, Custodian Trustee or nominee**

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

#### **14.4 Trustees may pay fee**

The Trust may pay a fee to the Special Trust Adviser, Custodian Trustee or nominee.

### **15 Advice to Trustees**

#### **15.1 Trustees may rely on advice**

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

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

#### **15.2 Trustees may obtain opinion**

If the Trustees are in doubt over any matter relating to the management and administration of the Trust Fund, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a Barrister and Solicitor of the High Court of New Zealand of at least seven (7) years' standing. In respect of any such opinion, and subject to clause 12 (Liability of Trustees), the Trust may act without being liable to any person who may claim to be beneficially entitled in respect of anything done in accordance with that opinion. This right to obtain and act upon an opinion, however, will not restrict any right on the part of the Trust to apply to the High Court of New Zealand for directions.

### **16 Conflicts of interest**

#### **16.1 Definition of interested Trustee**

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

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

16.2 For the purposes of clause 16.1 (Definition of interested Trustee) above, a party will be controlled by the Trust or a Trust Entity if the composition of the Trust of that party (whether a company, trust, or other entity) is controlled by the Trust or Trust Entity. However, no Trustee will be interested in a matter:

- a where that Trustee is a member of an iwi where his or her interest is not different in kind from the interests of other members of that iwi;
- b where the Trustee's interest is so remote or insignificant that it cannot reasonably be regarded as being likely to influence the Trustee in carrying out the Trustee's responsibilities under this Deed; or
- c solely by virtue of the fact that he or she holds office as a Trustee or employee of the Settlor.

#### 16.3 **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 to his or her co-Trustees at a meeting of the Trust:

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

#### 16.4 **Disclosure of interest of another Trustee**

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

#### 16.5 **Recording of interest**

The Trust shall establish and maintain an interests register for the purpose of recording the details of interested representatives. Immediately following his or her appointment, a Trustee must enter any interests he or she may have into the interests register. A Trustee must also enter into the interests register the details of any interest disclosed to other Trustees in accordance with clause 16.4 (Disclosure of interest to other Trustees).

## **16.6 Dealings with interested Trustees**

An interested Trustee shall not 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.

## **16.7 Continuing material conflict of interest**

A Trustee who is regarded as having a continuing material conflict of interest that cannot be resolved to the satisfaction of a majority of the Trustees must resign as a Trustee, particularly where the continuing material conflict of interest prejudices the Trustee's ability to contribute fully to the deliberations and decisions of the Trust.

# **17 Dispute Resolution Procedure**

## **17.1 Disputes**

If in the event that a dispute arises in relation to any aspect of the Trust, or the Trust Entities, including, but not limited to, disputes on matters of, te reo me ona tikanga, whakapapa, and kōrero, trustee conduct and governance and/or operational concerns, then that dispute shall be referred in the first instance to the Trust.

## **17.2 Notice of dispute**

All disputes referred to the Trustees in accordance with clause 17.1 (Disputes) shall be submitted to the Trustees by notice in writing, and the Trustees shall acknowledge receipt in writing within 20 Working Days of the date of receipt of the notice. In the first instance, the Trustees shall appoint one (1) or more of their number to act as mediator(s) to attempt to facilitate, mediate and effect a settlement of such dispute.

## **17.3 Reference of dispute**

If a dispute is not settled within 40 Working Days of the receipt by the Trustees of written notice of the dispute in accordance with clause 17.2 (Notice of dispute) then it may be, at the discretion of Trustees, be referred to the Disputes Committee constituted in accordance with clauses 17.4 (Dispute Committee to be appointed as required) and 17.5 (Appointment and composition of Disputes Committee).

## **17.4 Dispute Committee to be appointed as required**

There shall not be a permanent Disputes Committee. The Disputes Committee shall be appointed by the Trustees on a case-by-case basis, having regard to the precise subject matter of the dispute in question and only after the expiry of the 20 Working Day period referred to in clause 17.3 (Reference of dispute).

## **17.5 Appointment and composition of Disputes Committee**

A Disputes Committee shall comprise three (3) persons, of whom at least: one (1) shall be an independent member, one (1) shall be a member of the Kaumatua Taumata (if established), and one (1) shall be a Trustee. All members of the

Disputes Committee shall be appointed for their skills and expertise in dealing with the issues that are the subject of the relevant dispute. Trustee appointments shall not include Trustees if they are the subject of the dispute. If all Trustees are the subject of the dispute, then all Dispute Committee members must be independent.

#### **17.6 Role of the Disputes Committee**

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

In the case of a review of an election under paragraph 7 (Record of changes of Trustees) of Schedule 3 (Elections of Trustees), the Dispute Committee shall determine whether the successful candidate was duly elected or whether the election was void and should be conducted again.

#### **17.7 Deliberations of the Disputes Committee**

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

#### **17.8 Notification of outcome**

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

The Trustees shall ensure the person concerned is notified of the Dispute Committee's decision, and the principal reasons for that decision.

### **18 Removal of a Trustee**

#### **18.1 Suspension of a Trustee**

A Trustee may be suspended from office, and no longer be eligible to continue to exercise any powers under this Deed as a Trustee, should 75% of the remaining Trustees pass a resolution that they are concerned, on reasonable grounds, that the actions of the Trustee have breached the Code of Conduct, or brought the Rūnanga into disrepute, and in doing so have resulted in a material detriment to the Trust.

Any such resolution, together with the reasons for the Trustees' concerns, must be set out in writing and signed by the Trustees passing the resolution. The resolution must be provided to the relevant Trustee, and also to the relevant Marae, if the person is a Marae Trustee.

#### **18.2 Review of suspension**

Following the suspension of a Trustee in accordance with clause 18.1 (Suspension of Trustee), the remaining Trustees shall, pursuant to clause 15.2 (Trustees may obtain opinion), promptly seek independent legal advice regarding the decision to suspend the Trustee. In doing so, both the suspended Trustee, the relevant Marae,

if the person is a Marae Trustee, and the remaining Trustees shall have the right to make a written submission setting out their views.

### **18.3 Removal of Trustee**

Should the review carried out in accordance with clause 18.2 (Review of suspension) of the decision to suspend a Trustee, conclude that:

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

### **18.4 Lifting of suspension**

At any point during the suspension of a Trustee, the remaining Trustees may resolve, by a 75% majority, to remove the suspension and re-instate a suspended Trustee. Should a suspended Trustee be re-instated under this clause 18.4 (Lifting of suspension), or as a result of clause 18.3b (Removal of Trustee), there shall be no right of recourse or challenge in relation to the decision to suspend the Trustee, and any decisions taken by the remaining Trustees during the period of the suspension shall not be invalidated as a result.

### **18.5 Removal by Marae**

Should the Rūnanga receive notice from the relevant Marae, that a Marae Trustee should be removed, that Marae Trustee will be removed, provided that:

- a written reasons have been provided by the relevant Marae
- b the relevant Marae can demonstrate that the removal is broadly supported by the Adult Registered Members who have listed the Marae as their Primary Marae;
- c the relevant Marae can demonstrate that the principles of natural justice have been adhered to, including providing the relevant Marae Trustee with a right to respond to any allegations or reasons for removal; and
- d the costs associated with any removal, by Marae is met by the relevant Marae.

### **18.6 Effect of removal**

A Trustee removed from office in accordance with clause 18.1 (Suspension of Trustee) or clause 18.5 (Removal by Marae) 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.

Each Trustee grants a power of attorney in favour of the other Trustees to convey the Trust Fund to the other Trustees and any replacement trustee in the event that the Trustee is removed from office under clause 18.1 (Suspension of Trustee).

#### **18.7 Replacement of Trustee**

The removal of a Trustee in accordance with clause 18.1 (Suspension of Trustee) or clause 18.5 (Removal by Marae) shall give rise to a casual vacancy which shall be filled in accordance with Schedule 3 (Elections of Trustees).

### **19 Termination of office of Trustees**

19.1 Any person shall cease to be a Trustee if he or she:

- a at any time ceases to fulfil the requirements set out in paragraph 1 (Eligibility for appointment) of Schedule 3 (Elections of Trustees);
- b resigns as a Trustee by giving notice in writing to the Trust;
- c completes his or her term of office and is not re-elected;
- d is removed from office in accordance with clause 18.3 (Removal of Trustee);
- e is removed from office in accordance with clause 18.5 (Removal by Marae);
- f fails or neglects to attend three consecutive meetings of the Trustees without leave of absence, unless there is a proper reason for such non-attendance;
- g becomes of unsound mind, becomes a person in respect of whose affairs an order under the Protection of Personal and Property Rights Act 1988 is made, or otherwise becomes unfit or unable to act as a Trustee;
- h is an undischarged bankrupt;
- i 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; or
- j dies.

19.2 Any person shall cease to be a Trustee if he or she:

- a in the case where subparagraph 19.1a applies from the date the notice of resignation shall have been delivered to the Trust;
- b in the case where subparagraph 19.1b applies from the date of the first meeting of Trustees after that Trustee's third consecutive absence without leave; and
- c in cases where subparagraphs 19.1c to 19.1j applies, from the date on which the Trust was notified in writing of the relevant fact, together with such evidence as the Trustees may reasonably require. Should a vacancy reduce the number of Trustees below four (4) trustees, the vacancy shall be filled



as soon as practicable by election in accordance with the terms of this Deed, and the remaining Trustees (which shall include any Trustee who shall cease to be a Trustee under subparagraph (a)) shall continue to act until the vacancy has been filled.

## **20 Amendments to the Deed**

### **20.1 Special Resolution required**

Subject to clauses 20.2 (Limitations on amendment) all amendments to the Deed shall only be made with the approval of a Special Resolution.

### **20.2 Limitations on amendment**

No amendment shall be made to the Deed that:

- a changes the purpose of the Rūnanga so that the Trustees are no longer required to act for the collective benefit of the present and future Members of NgāiTakoto;
- b changes the definition of Member of NgāiTakoto, NgāiTakoto Ancestor, NgāiTakoto Area of Interest or NgāiTakoto Claims after the Settlement Act has been passed;
- c changes clause 25 (Winding up of the Rūnanga);
- d changes the membership and beneficiary of the Trust;
- e changes this clause 20 (Amendments to the Deed); or
- f changes the definition of Special Resolution.

### **20.3 Proposal to amend the Deed**

Any Adult Registered Member may submit to the Trustees a written proposal to amend the Deed, and the Trustees shall consider such proposal where they are satisfied that the person is an Adult Registered Member.

### **20.4 Definition of NgāiTakoto to be consistent**

Notwithstanding any other provision in the Deed to the contrary, the Deed must be amended by the Trustees to make the definition of Member of NgāiTakoto, NgāiTakoto, NgāiTakoto Ancestor, NgāiTakoto Area of Interest or NgāiTakoto Claims the same as that set out in the final Deed of Settlement and the Settlement Act. If the Deed is amended due to operation of this sub-clause a Special Resolution passed in accordance with the Fifth Schedule is not required.

## **21 Access to the Documents**

The Trustees shall ensure that the following documents are available for viewing by Adult Registered Members:

- a a copy of this Deed;

- b any current Annual Plan prepared in accordance with clause 8.2 (Trustees to prepare annual plan) and any five-year strategic plan prepared in accordance with clause 8.1 (Trustees to prepare five-year strategic plan);
- c Annual Reports, Financial Statements presented for the purposes of the last three (3) Annual General Meetings in accordance with clause 5.1 (Trust to hold Annual General Meeting).

The Trustees may comply with this requirement by ensuring that such documents are available electronically, through being available on the Rūnanga's website, and by maintaining a physical copy of such documents at a specified location.

## **22 Review**

The Trustees shall ensure that this Deed is reviewed at least every five (5) years, to ensure it remains fit for purpose. Such a review may be undertaken internally, or by an independent person, at the discretion of the Trustees.

## **23 Resettlement**

The Trustees have the power in their discretion to settle or resettle any or all of the Trust Fund upon trust in any manner which in the opinion of the Trustee is for the advancement or benefit of the Iwi and is consistent with the objects of the Rūnanga, provided that:

- a it complies with clause 3.3 (Restriction on Major Transactions); and
- b a resolution supporting the resettlement is put and passed at a General Meeting in accordance with clause 5 (General Meetings).

## **24 Perpetuities**

If the rule against perpetuities applies to the Rūnanga, the Trustees shall proceed to wind up the Rūnanga in accordance with clause 25 (Winding up of the Trust) by the last day of the Perpetuity Period.

## **25 Winding up of the Rūnanga**

If at any time the Trustees decide that for any reason it is no longer practicable or desirable to carry out the purposes of the Rūnanga the Trustees may decide to wind up the Trust and to vest the assets of the Rūnanga in another trust or entity that has been established for the benefit of the present and future Members of NgāiTakoto provided a Special Resolution has been passed approving the wind up.

## **26 Governing law**

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

## **27 Counterparts**

This Deed may be executed in two (2) or more counterpart copies, each of which will be deemed an original and all of which together will constitute one (1) and the same instrument. A party may enter into this Deed by signing a counterpart copy and sending it to the other parties (including by email).

**Execution**

**Signed** by \_\_\_\_\_  
in the presence of: \_\_\_\_\_

Witness signature \_\_\_\_\_  
Full name \_\_\_\_\_  
Occupation \_\_\_\_\_  
Town/city \_\_\_\_\_

**Signed** by \_\_\_\_\_  
in the presence of: \_\_\_\_\_

Witness signature \_\_\_\_\_  
Full name \_\_\_\_\_  
Occupation \_\_\_\_\_  
Town/city \_\_\_\_\_

**Signed** by \_\_\_\_\_  
in the presence of: \_\_\_\_\_

Witness signature \_\_\_\_\_  
Full name \_\_\_\_\_  
Occupation \_\_\_\_\_  
Town/city \_\_\_\_\_

**Signed by**  
in the presence of: \_\_\_\_\_

Witness signature \_\_\_\_\_

Full name \_\_\_\_\_

Occupation \_\_\_\_\_

Town/city \_\_\_\_\_

**Signed by**  
in the presence of: \_\_\_\_\_

Witness signature \_\_\_\_\_

Full name \_\_\_\_\_

Occupation \_\_\_\_\_

Town/city \_\_\_\_\_

**Signed by**  
in the presence of: \_\_\_\_\_

Witness signature \_\_\_\_\_

Full name \_\_\_\_\_

Occupation \_\_\_\_\_

Town/city \_\_\_\_\_

**Signed by**  
in the presence of: \_\_\_\_\_

Witness signature \_\_\_\_\_

Full name \_\_\_\_\_

Occupation \_\_\_\_\_

Town/city \_\_\_\_\_

## **Schedule 1 Powers of the Trustees**

### **1 Powers of the Trustees**

- 1.1 Without limiting clause 3.2 (Powers of a natural person) of this Deed, and subject to clause 3.3 (Major Transactions), and any legal obligations, restrictions, or encumbrances upon the assets of the Rūnanga, the Trustees shall have the power:
- a to purchase and hold Property;
  - b to pay from the Trust Fund all reasonable costs or expenses incurred in the course of the Trustees discharging, carrying out, or exercising any of their duties or powers;
  - c to grant leases of Property;
  - d to make any grants, scholarships or koha which are consistent with the objects of the Rūnanga;
  - e to make distributions to Marae of NgāiTakoto and any taurahere entity (that trustees are satisfied) are established for the benefit of NgāiTakoto members living outside of the traditional rohe of NgāiTakoto;
  - f to borrow, obtain credit, or to otherwise raise funds to further the objects of the Rūnanga;
  - g to carry on any business or venture, and:
    - i to use for the business or venture any Property that is part of the Trust Fund;
    - ii to form (whether by itself or with others) a company, partnership, or venture to carry on the business; and
    - iii to be a director or partner or party of or to that company or partnership or venture and to retain for themselves any reasonable remuneration paid;
  - h to accumulate the income of the Trust Fund;
  - i to apply or set aside any part of the Trust Fund towards the payment of any liabilities or obligations incurred or suffered by the Trustees or falling due in the future;
  - j in relation to any company or other body (whether incorporated or unincorporated) or chose in action or fund:
    - i appoint directors, Trustees, decision-makers, controllers, officers, or employees of it;
    - ii consent to any reorganisation or reconstruction of it, or dealing with it, and any increase or reductions of the capital of it; and

- iii provide out of the Trust Fund capital for it, whether by advances, loans, deposits, grants, contributions or otherwise (with or without security) or by taking further securities in it;
- k to enter into contracts for the provision of services to fulfil the functions and objects of the Rūnanga;
- l to open and maintain a bank account or bank accounts and to decide who will be the signatories to that account or accounts;
- m in relation to any share or other security that is part of the Trust Fund:
  - i exercise any voting, controlling or decision-making rights or powers attaching to it; and
  - ii concur in any reconstruction or amalgamation of it or in any modification of the rights of the holders of it or of others interested in it and generally to act in respect of it;
- n to appoint, engage or employ any person or company for any period:
  - i as an expert or professional person or entity to advise on or carry out any of the trusts and powers authorised by this Deed;
  - ii as manager or agent for or on behalf of the Trustees in all or any matters relating to the management and the control of the Rūnanga, and any business owned by the Trustees or in which it is concerned; or
  - iii as an employee of the Rūnanga in all or any matters relating to the Rūnanga;
- o to act upon any opinion or advice, or information obtained from a person or entity referred to in paragraph 1.1n (Powers of the Trustees) of this Schedule;
- p 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 Rūnanga, or to apply for directions under the Trusts Act 2019, or any other relevant legislation.
- q to commence and carry on or defend, and to abandon or compromise any legal proceedings whatsoever by or against the Rūnanga or its officers and otherwise concerning the affairs of the Rūnanga;
- r generally, to do all such other lawful acts and things that are incidental or conducive to fulfilling the functions and objects of the Rūnanga; and
- s to pay from the Trust Fund all reasonable costs or expenses incurred in the course of the Trustees discharging, carrying out, or exercising any of their duties or powers.

## **Schedule 2 Registration of Members**

### **1 NgāiTakoto Members Register**

#### **1.1 Contents of Register**

The NgāiTakoto Members Register shall record:

- a the full name, date of birth and contact details, including email addresses where possible of each Member of NgāiTakoto who applies for registration and the date when such Member of NgāiTakoto became an Adult Registered Member;
- b the primary Marae for each Adult Registered Member. For the avoidance of doubt, any person may list more than one (1) marae, but must nominate one (1) primary Marae for voting purposes ('Primary Marae'); and
- c the allocated registration number, or other identifier, of each Member of NgāiTakoto entered into that register; and
- d confirm where an Adult Registered Member has elected for notices to be sent to a physical address.

#### **1.2 Availability for inspection**

The NgāiTakoto Members Register will be available for inspection by any Adult Registered Member to view their own registration details in a manner consistent with the Privacy Act 1993.

#### **1.3 Identifying membership**

The Trustees shall make ongoing efforts to register all Adult Members that are eligible to be registered on the NgāiTakoto Members Register and ensure that the NgāiTakoto Members Register is maintained and kept in a current state.

### **2 Applications for registration**

#### **2.1 Eligibility**

An application for registration in the NgāiTakoto Members Register may be made by any person who is descended from Kauri and Tumoana, the tupuna from the eponymous ancestor of Tuwhakarete, or be a whangai of NgāiTakoto in accordance with the tikanga of NgāiTakoto.

#### **2.2 Form of application**

An application for registration as an Adult Registered Member must be made in writing to the Trustees in the application form approved from time to time by the Rūnanga. The application must contain:

- a the full name, date of birth and contact details of the applicant;
- b the Primary Marae details;



- c such evidence as the Trustees may from time to time require as to that applicant's status as an Iwi Member, including details of the whakapapa connection of the applicant to NgāiTakoto; and
- d such further information as the Trustees may specify on the application form, which may include seeking the consent to share information with other entities; and
- e the ability for an Adult Registered Member to elect for notices to be sent to a physical address.

If the Trustees consider an application form to be incomplete, they may request an applicant to provide further information or supporting evidence prior to consideration of that application.

### **3 Decisions as to membership**

#### **3.1 Establishment of Membership Committee**

The Trustees may establish a Membership Committee to make decisions on applications made in accordance with paragraph 2 (Applications for registration) of this Schedule.

#### **3.2 Composition of Membership Committee**

If a Membership Committee is utilised, it shall comprise up to six (6) Adult Registered Members. The Membership Committee may include Trustees.

In appointing persons to the Membership Committee, the Trustees shall ensure the persons have the expertise and knowledge of NgāiTakoto whakapapa necessary to make determinations regarding membership applications.

#### **3.3 Consideration of applications**

Each application completed in accordance with paragraph 2 (Applications for registration) of this Schedule shall be forwarded by the Trustees to the Membership Committee, if one exists.

#### **3.4 Decisions to be made on applications**

Upon receipt of an application for registration made in accordance with paragraph 2 (Applications for registration) of this Schedule, the Membership Committee or the Trustees as the case may be shall consider the application and within a reasonable period of time given the circumstances, make a decision as to whether or not the applicant should be registered as a Member of NgāiTakoto. Subject to paragraph 3.8 (Applicants may re-apply) of this Schedule, the decision of the Membership Committee, or Trustees, as the case will be final.

The Membership Committee, or Trustees as the case may be, may, before making a decision, require an applicant to provide further evidence verifying that he or she is:

- a affiliated to NgāiTakoto through descent from Kauri and Tumoana, the tupuna from the eponymous ancestor of Tuwhakarete;
- b be a whangai of NgāiTakoto in accordance with the tikanga of NgāiTakoto; or
- c such other information as the Membership Committee or Trustees may reasonably request,

The Membership Committee, or Trustees, must consider the application and, within a reasonable period of time, decide as to whether or not the applicant should be registered as an Adult Registered Member.

### **3.5 Successful applications to be notified and registered**

In the event that the Membership Committee decides that the application should be accepted, then such decision shall be notified in writing to the Trustees within 15 Working Days of the decision being made. The Trustees shall in turn, notify the applicant and enter the applicant's name and other relevant details in the NgāiTakoto Members Register.

### **3.6 Notification of unsuccessful applicants**

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

### **3.7 Dispute resolution**

Where an application for registration is declined, the person concerned may dispute that decision in accordance with the process set out in clause 17 (Dispute Resolution Procedure).

### **3.8 Applicants may re-apply**

Any decision to decline an application for registration under paragraph 3.6 (Notification of unsuccessful applicants) of this Schedule, does not prevent an applicant from submitting a new application for registration, provided that such application may only be made on the basis of new evidence (being evidence that was not submitted or considered as part of the initial application) as to the applicant's status as an Iwi member.

## **4 Changes to NgāiTakoto Members Register**

### **4.1 Changes to Adult Registered Member's information**

Adult Registered Members must notify the Rūnanga in writing of a requested change to the NgāiTakoto Members Register regarding their personal details or information.

The Trustees shall ensure such changes are made.

#### 4.2 **Removal of registration**

An Adult Registered Member may, at any time, choose to terminate their registration by notifying the Trustees in writing. His or her registration will be effective on the date referred to in the request, or if no such date is given, then on the date the request is received by the Trustees.

## **Schedule 3 Elections of Trustees**

### **1 Eligibility for appointment**

#### **1.1 Trustee eligibility**

To be elected, a nominee for appointment must:

- a as at the closing date for nominations, be an Adult Registered Member;
- b before the closing date of nominations, indicate on the nomination form that he or she consents to undergoing a Police vet in order to satisfy the relevant matters set out in paragraph 1.1d below; and
- c before the closing date of nominations, indicate on the nomination form that, if elected, he or she agrees at all times to:
  - i be bound by the terms of this Trust Deed;
  - ii comply with any decisions and policies of the Rūnanga;
  - iii commit to regular governance training;
  - iv commit to and pursue the fulfilment of the objectives of the Rūnanga;
  - v be bound by the Code of Conduct, as amended from time to time; and
  - vi not act adversely to the interests of NgāiTakoto.
- d not:
  - i be bankrupt, or have within five (5) years been adjudged bankrupt;
  - ii have ever been convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961, conspiring to defeat justice under section 116 of the Crimes Act 1961, or an offence under section 373(4) of the Companies Act 1993 (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004);
  - iii be or have been disqualified from being a director of a company registered under the Companies Act 1955 or the Companies Act 1993;
  - iv be or ever have been removed as a Trustee of a trust by order of the Court on the grounds of breach of trust, lack of competence or failure to carry out the duties of a Trustee satisfactorily;
  - v be physically or mentally incapacitated to the extent that he or she is unable to perform the duties of a Trustee;
  - vi be subject to a Property order made under section 30 or 31 of the Protection of Personal Property Rights Act 1988;
  - vii have been convicted in the last 10 years of an offence punishable by more than three (3) years imprisonment (unless that person is an eligible

individual for the purposes of the Criminal Records (Clean Slate) Act 2004);  
and

viii have been removed as a Trustee of this Trust under paragraph 18 (Removal of Trustee) of this Schedule within the past three (3) years.

- e for any Marae Trustee nominee, the person must demonstrate active participation for the relevant Marae which may be confirmed by the Rūnanga with the relevant Marae, as required. Active participation includes but is not limited to attendance at marae hui.

## **2 Elections**

### **2.1 Elections**

The Trustees must ensure that elections are held in accordance with this Schedule.

If there are no nominations for any of the positions, or if there is an equal number of nominations, for each relevant position, no further nominations or elections are required, unless the number of trustees falls below four (4) being the minimum number of trustees.

### **2.2 Trustees**

The persons elected to office at each Election shall become Trustees (in the case of the General Trustees and Marae Trustees) in accordance with paragraph 3.1 (Term of office).

## **3 Term of office**

### **3.1 Term of trustees**

The term for each of the Trustees at the date of this Deed will end on the First Election. Subject to clause 3.2 below, ordinary Trustee terms thereafter will be three (3) years from the date of their election.

To avoid doubt, the date of election is the day on which the result of a voting process is certified by the Chief Returning Officer in accordance with paragraph 8.3 (Certifying and notifying result) of Schedule 5 (Postal or Electronic Voting).

### **3.2 Implementing a rotational system**

For all Trustees appointed at the First Election:

- a the term of two (2) of those Marae Trustees and one (1) of those General Trustees appointed will end after two (2) years, at which point elections will occur in accordance with this Deed; and
- b the remaining Trustees, being two (2) Marae Trustees and two (2) General Trustees will end after three (3) years at which point elections will occur in accordance with this Deed.

The Trustees will decide between themselves at the first meeting after this Deed is adopted which Trustees will retire when, and if agreement cannot be reached, the retirement of trustees will be determined by the drawing of lots.

### **3.3 Eligibility of retiring Trustees**

Trustees retiring from office shall be eligible for re-election, provided that the person has not served more than three (3) consecutive terms, or a continuous period of nine (9) years, at any time, prior to being re-elected.

### **3.4 Casual vacancies**

Should any casual vacancy arises prior to the expiry of any Trustee's term of office then the Rūnanga must appoint the person who received the next number of votes for the relevant Trustee position (whether that be a Marae Trustee or a General Trustee) with that person to be recorded as the new Trustee in accordance for the balance of that Trustees' term, provided that person remains eligible pursuant to paragraph 1.1 (Trustee eligibility) of this Schedule 3 (Election of Trustees) and the terms of this Deed are complied with.

If there are not sufficient persons to act as trustees, in accordance with the above, the Trustees may co-opt (i.e.) appoint a person as a replacement Trustee, provided that the person:

- a must be must only hold office until the next General Meeting or election, at which time the person must either be elected (if there is an election), or be ratified and approved by the Adult Registered Members at the General Meeting, if there is no election; and
- b must be eligible to be a Trustee in accordance with this Deed; and
- c before appointment Trustees must consider what skills and expertise is required to complement the other skills and expertise of the existing Trustees.

### **3.5 Term of casual appointments**

In the case of an appointment pursuant to paragraph 3.4 (Casual vacancies) of this Schedule, the Trustee thereby elected shall, as the case may be, hold office:

- a in the case of a Trustee elected pursuant to paragraph 3.4 (Casual vacancies) of this Schedule, for the same term as that Trustee would have been elected had he or she been elected immediately following the retirement of the previous Trustee, under paragraph 3.1 (Term of office) of this Schedule; or

- b in the case of a Trustee elected pursuant to paragraph 3.4 (Casual vacancies) of this Schedule, for the balance of the term of office of the Trustee that he or she has replaced.

## **4 Corporate trustee**

### **4.1 Adopting a Corporate Trustee**

A sole Corporate Trustee may be appointed in the place of the natural person Trustees, provided that:

- a the directors of the sole Corporate Trustee are elected by the Adult Registered Members in the same provided for in Schedule 3 (Elections of Trustees); and
- b the adoption of a corporate trustee is approved by Adult Registered Members.

Any such sole Corporate Trustee will have the power to appoint a replacement Corporate Trustee and in the case of the appointment of a sole Corporate Trustee, Schedule 3 (Elections of Trustees) will apply to the nomination and appointment of directors of that Corporate Trustee, and the words 'Director of the Corporate Trustee' will be substituted for the word 'Trustee' in each place where it appears in those clauses, except where a personal obligation or benefit applies.

### **4.2 References to Trustees**

Should a corporate trustee be appointed, any reference in the following sections of this Deed, to a 'Trustee' shall be deemed to be a reference to a director of the corporate trustee:

- a Clause 10– Investments
- b Clause 12 – Liability of Trustees
- c Clause 13 - Indemnity and insurance for Trustees
- d Clause 16– Conflicts of Interest
- e Schedule 3 – Elections of Trustees
- f Schedule 4 – Proceedings of Trustee Meetings

## **5 Making of nominations for the election of Trustees**

### **5.1 Calling for nominations**

The Trustees, or the Chief Returning Officer acting on their behalf, shall give notice calling for nominations for Trustee positions at least 40 Working Days prior to the date of the vote for the election of Trustees. Such notice shall specify:

- a the method of making nominations; and

- b the latest date by which nominations must be made and lodged with the Rūnanga or such other person as the notice directs;
- c the eligibility requirements for nominations set out in paragraph 1.1 (Trustee eligibility) of this Schedule; and
- d the date, time, and place where the election will be held.

## **5.2 Single nominations only**

A candidate may only be nominated for election as a Marae Trustee for their Primary Marae. In any one election, a candidate may only be nominated for one trustee position, either as a Marae Trustee or a General Trustee. Any nomination for a second position will be deemed invalid.

## **5.3 Form and method of notice**

Notice of a call for nominations shall be by means as the Trust may determine but must be undertaken in a way that will ensure Adult Registered Members are aware of the vacancies. Notice could be, by way of example, by private notice to each of the Adult Registered Members, and/or by electronic means or by the Trust's website and or social media platforms if it has one.

## **5.4 Nominations to be in writing**

The nomination of a candidate for election as a Trustee shall be in writing on the form approved by the Rūnanga from time to time and signed by not less than five (5) Adult Registered Members from the relevant Marae, if the nomination is for a Marae Trustee, or by not less than five (5) Adult Registered Members generally if the nomination is for a General Trustee. Any nomination for Marae Trustee must demonstrate the requirement in clause 1.1(e) of this Schedule.

## **5.5 Consent of nominee**

The consent of each candidate to his or her nomination, and their agreement or consent to:

- a undergo a Police vet in accordance with paragraph 1.1b (Trustee eligibility) of this Schedule; and
- b if elected, the matters set out in paragraph 1.1c (Trustee eligibility) of this Schedule

shall be endorsed on the nomination form, provided that a candidate may at any time, by notice to the Rūnanga, withdraw his or her nomination.

## **5.6 Statement of skills and experience**

Each candidate may provide, at the time of submitting the nomination, a brief summary of the skills and experience the candidate believes are relevant to support their election as a Trustee. The Rūnanga shall make such information available to Adult Registered Members during the course of the election process.

## **5.7 Nominations of existing Trustees**



For the avoidance of doubt, all Trustees seeking re-election must be nominated in accordance with paragraph 5 (Making of nominations for the election of Trustees) of this Schedule.

#### **5.8 No election in certain circumstances**

In the event that there is only one nominee for the relevant Trustee position (including where candidates withdraw resulting in one nominee), then that person is deemed to have been elected.

### **6 Holding of elections**

#### **6.1 Mode of voting at elections**

Voting at Elections shall be by way of vote by attendance at a General Meeting, together with electronic or postal voting in accordance with Schedule 5 (Postal or Electronic Voting) for General Trustees. The Chief Returning Officer appointed by the Trustees, will be responsible for ensuring voting procedures are available on the day to all Adult Registered Members.

#### **6.2 Voting**

Each Adult Registered Member may vote for:

- a up to one (1) candidate nominated as a Marae Trustee from their Primary Marae (should the position for their Primary Marae have a vacancy); and
- b up to one (1) candidate nominated as a General Trustee.

#### **6.3 Candidates with the most votes elected**

For Marae Trustees, the successful candidate shall be the candidate who receives the most validly cast votes from the Adult Registered Members of the relevant Marae.

For General Trustees, the successful candidates shall be the top three (3) candidates who receives the most validly cast votes from all of the Adult Registered Members.

#### **6.4 Insufficient nominations**

If there are insufficient nominations for Marae Trustees that would result in less than the minimum number of trustees (being four (4) Trustees) being elected, a further General Trustee may be appointed in lieu of the Marae Trustee. For the avoidance of doubt, the relevant trustee is only appointed for a single term, and further Marae Nominations must be sought at the next election.

If there are insufficient nominations for Marae Trustees and General Trustee, the Rūnanga must continue to seek nominations, until such time as the minimum

number of trustees is met.

#### **6.5 Duty to act in the interests of members**

All Trustees, including Marae Trustees, whilst elected on a Marae basis, are elected as trustees and shall work collaboratively in the interests of all NgāiTakoto Members irrespective of where those Members reside, and are subject to all trustee obligations that arise at law.

### **7 Record of changes of Trustees**

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

## **Schedule 4 Proceedings of Trustees meetings**

### **1 Trust to regulate meetings**

- 1.1 The Trustees shall meet together for the dispatch of business and may adjourn and otherwise regulate their meetings as they think fit.
- 1.2 Trustees may confirm a regular schedule of meetings, but meetings may also be called outside of the regular schedule by any two (2) trustees.

### **2 Code of Conduct**

- 2.1 The trustees have adopted an initial Code of Conduct on or about the date of this Deed.
- 2.2 The Trustees may from time to time modify the Code of Conduct by way of ordinary resolution at a meeting of the Trustees.

### **3 Notice of meeting**

#### **3.1 Notice to Trustees**

With the exception of meetings that are subject to the regular schedule of meetings, written notice of every meeting shall be either hand-delivered, or sent by postal or electronic means to each Trustee at least seven (7) days before the date of the meeting unless all Trustees agree otherwise. Trustees may determine a schedule of hui, and provided that is agreed by trustees, notification is deemed to be given for each scheduled hui. It shall not be necessary to give notice of a meeting of the Rūnanga to any Trustees for the time being absent from New Zealand unless that Trustee has provided details for where he or she may be contacted while overseas. No notice shall be required for adjourned meetings except to those Trustees who were not present when the meeting was adjourned.

#### **3.2 Content of notice**

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

#### **3.3 Waiver of notice**

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

#### **3.4 Meeting limited to notified business**

No business shall be transacted at any meeting of Trustees other than the business expressly referred to in the notice calling the meeting, unless all Trustees present at the meeting agree otherwise.

## **4 Quorum**

### **4.1 Quorum**

A quorum at meetings of the Trustees will be more than half of the total number of Trustees, regardless of whether those are Marae Trustees or the General Trustee.

### **4.2 Failure to meet quorum**

In the event that quorum is not met at a Trustee meeting, the remaining Trustees may proceed with the meeting, except that any resolutions shall not be binding until ratified at a subsequent, validly constituted Trustee meeting.

## **5 Chairperson and Deputy Chairperson**

### **5.1 Trustees to elect**

At the first meeting of Trustees after the date of this Deed, and at each subsequent election, including the First Election, the Trustees shall elect one of their number to be Chairperson, or two of their number to act as co-Chairperson, and (at their discretion) one of their number to be Deputy Chairperson. For the avoidance of doubt, the Trustees may, at their discretion, elect co-Chairpersons, provided that the arrangement for co-Chairpersons is clearly documented, and it is clear to all Trustees the role and responsibility of each co-Chairperson.

### **5.2 Termination of office**

The Chairperson and Deputy Chairperson will each cease to hold office in the event that he or she:

- a resigns from that office; or
- b ceases to be a Trustee; or
- c is removed from that office by 75% of the Trustees passing a resolution of no confidence in him or her as the Chairperson or Deputy Chairperson.

In the event that the Chairperson or Deputy Chairperson ceases to hold that office, then a further election shall be held for such position.

For the avoidance of doubt, if the Chairperson or Deputy Chairperson is removed from that office under paragraph 5.2c (Termination of office) of this Schedule, this does not affect their office as a Trustee.

## **6 Proceedings at meetings**

### **6.1 Decision-making process**

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

## **6.2 Chairperson**

The Chairperson shall take the chair at all meetings of the Trustees unless the chairperson should be an independent person appointed in accordance with 5.10c. If the Chairperson is not present, then the Deputy Chairperson shall take the chair. If the Deputy Chairperson is also not present, then the Trustees present shall elect one (1) of their number to be the Chairperson of the meeting.

## **6.3 Vacancies**

The Trustees may act notwithstanding any vacancy in their body, but if and so long as their number is not reduced below four (4) Trustees (either Marae Trustees or General Trustees), the continuing Trustees may act only for the purpose of:

- a advising of the vacancy or vacancies and taking the steps necessary to procure the election of new Trustees to fill the vacancy or vacancies; and
- b to act as caretaker trustees on an interim basis.

## **6.4 Contractual obligations to remain binding**

Notwithstanding paragraph 6.3 (Vacancies) of this Schedule, the Rūnanga shall continue to be bound by and required to fulfil any pre-existing contractual and legal obligations.

## **6.5 Defects in appointment**

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

# **7 Delegation by Trustees**

## **7.1 Trustees may delegate**

The Trustees may, from time to time as they think expedient for carrying out any of the objects of the Rūnanga delegate any one or more of their powers under this Deed to a sub-committee, Trustee, employee, or other person.

Any sub-committee established to exercise powers under this Deed, other than the Membership Committee, must include at least one Trustee.

Unless expressly provided for within the delegation by the Trustees, any sub-committee established under this paragraph 7.1 shall not have decision-making powers and may only make recommendations to the Trustees for approval.

## **7.2 Trustees to remain responsible**

Notwithstanding the delegation by the Trustees of any of their powers under paragraph 7.1 (Trustees may delegate) of this Schedule, the Trustees shall remain responsible for the exercise of that power by the delegate as if the Trustees had

exercised the power themselves, unless the Trustees:

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

### **7.3 Regulation of procedure by sub-committees**

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

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

## **8 Written resolutions in lieu of meeting**

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

## **9 Minutes**

### **9.1 Minutes to be kept**

The Trust shall keep a proper record in a minute book of all decisions taken and business transacted at every meeting of the Trust. The minute book can be kept by way of an electronic record.

### **9.2 Minutes to be evidence of proceedings**

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

### **9.3 Minutes to be evidence of proper conduct**

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

## **10 Holding of meetings via electronic conferencing**

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

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

## **11 Form of contracts**

### **11.1 Contracts by deed**

Any contract which, if made between private persons, must be by deed and shall, if made by the Trust, be in writing signed under the name of the Trust by any three (3) Trustees, provided one is the Chairperson or Deputy Chairperson.

### **11.2 Other contracts**

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

### **11.3 Contracts pursuant to resolution**

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

## **Schedule 5 Postal or Electronic Voting**

### **1 Voting**

#### **1.1 Voting process required**

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

- a the election of Trustees in accordance with Schedule 3 (Elections of Trustees);
- b the approval of amendments to this Deed in accordance with clause 20 (Amendments to the Deed) of this Deed; and
- c the winding up of the Trust in accordance with clause 25 (Winding up of the Trust) of this Deed;
- d any other matter as determined by the Trust from time to time.

#### **1.2 Method of voting**

A voting process conducted in accordance with this Schedule may be conducted in the following manner, as decided by trustees from time to time:

- a by the sending of electronic voting forms to an electronic, or digital address to Adult Registered Members; or
- b through an electronic voting system whereby Adult Registered Members can cast votes; together with
  - i either a postal vote, for those who have opted into receiving a voting form, by post to a physical address; and/or
  - ii a General Meeting, where votes can be cast by Adult Registered Members in person.

#### **1.3 Eligibility to vote**

Those eligible to vote in accordance with this Schedule are:

- a those Adult Registered Members identified on NgāiTakoto Members Register on the closing date for voting; and
- b subject to paragraph 8.2 (Provisional votes) of this Schedule, any other Adult Member who has on or before the closing date for voting, provided to the Chief Returning Officer an application for registration as an Adult Registered Member that complies with paragraph 2 (Applications for registration) of Schedule 3 (Elections of Trustees) of this Deed, and has been accepted.

#### **1.4 Members limited to one vote**

Subject to elections held in accordance with Schedule 3 (Elections of Trustees) where Adult Registered Members may vote both for their Primary Marae for Marae



Trustees, and separately for the General Trustees, each Adult Registered Member will only be eligible to cast one vote per resolution in any given voting process.

**1.5 Timing of postal/electronic votes**

Votes must be cast no later than the closing date for voting. Postal votes sent to a physical address and otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than three (3) Working Days after the closing date, but only if the envelope containing the voting form is date stamped by the Post Office on or before the date that voting closes.

**2 Special General Meeting required**

A Special General Meeting shall be called for the purposes of considering matters in accordance with this Schedule, so that Adult Registered Members may vote in person.

**3 Notice**

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

**4 Method of giving notice**

Notice of a vote shall be by such other means as the Trust may determine, including, by way of example, by electronic means or by the Trust's website and or social media platforms if it has one.

**5 Contents of notice to members**

All notices given in accordance with paragraph 4 (Method of giving notice) of this Schedule shall contain:

- a the date, time, and place of any General Meeting, if required, called for the purposes of considering the matters subject to the voting process;
- b details of the matters subject to the voting process;
- c the date voting closes;
- d details of how and where any further information may be obtained;
- e details of the procedure to be followed in casting a vote.

**6 Contents of notice**

All notices published in accordance with paragraph 4 (Method of giving notice) shall contain at least the matters referred to in paragraphs 5a to 5e (Contents of notice to members) of this Schedule. Such notices may also contain other details as determined by the Trustees from time to time.

## **7 Appointment of Chief Returning Officer**

### **7.1 Appointment of Chief Returning Officer**

The Rūnanga shall appoint a Chief Returning Officer who shall not be a Trustee. The Chief Returning Officer shall be responsible for co-ordinating the voting process and may appoint such other persons as he or she considers necessary to assist with that task provided.

### **7.2 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 per resolution, with the exception if elections in accordance with this Deed, where two (2) votes may be required for General and Marae Trustees.

### **7.3 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 Provisional votes**

Where any vote is cast in accordance with paragraph 1.3b (Eligibility to vote) of this Schedule, such vote is provisional until such time as the application for registration as an Adult Registered Member is accepted by the Membership Committee.

Where the application for registration is declined by the Membership Committee, the provisional vote will be invalidated.

### **8.3 Certifying and notifying the result**

Once all votes have been counted:

- a if the validity or otherwise of the provisional votes may affect the outcome of the voting process, the Chief Returning Officer must not certify the result until the validity of the provisional votes has been confirmed pursuant to paragraph 8.2 (Provisional votes) of this Schedule and any valid provisional vote has been counted; or
- b if the validity or otherwise of the provisional votes will not affect the result, the Chief Returning Officer may certify the result notwithstanding that the validity of the provisional votes has not been confirmed pursuant to paragraph 8.2 (Provisional votes) of this Schedule, and the provisional votes have not been counted.

## **Schedule 6 Establishment of Trust Entities**

### **1 Requirements for constitutional documents**

1.1 In establishing a Trust Entity, the Trustees shall ensure that the constitutional documents of a Trust Entity provides that:

- a the Trust Entity shall be governed by its respective governing document, and the role of the Trustees in respect of each Trust Entity shall be limited to the exercise of the rights conferred on the Trust as shareholder or (as applicable) appointer;
- b the Trust shall have and retain the power to appoint and remove the directors, trustees, or Trustees (as the case may be) of any Trust Entity;
- c the Trust shall determine the remuneration payable to any directors, trustees, or Trustees of any Trust Entity;
- d the Trust Entity remit all net income, while also complying with their respective legal obligations, unless the Trust Entity has the approval from the Trust to retain income.
- e a Major Transaction clause which would require shareholder or (as applicable) appointer approval of:
  - i the acquisition of, or an agreement to acquire, whether contingent or not, Property by the Trust Entity, the value of which is more than half of the value of the Trust Entity's assets before the acquisition;
  - ii the disposition of, or an agreement to dispose of, whether contingent or not, Property by the Trust Entity, the value of which is more than half of the value of the Trust Entity's assets before the disposition;
  - iii a transaction that has or is likely to have the effect of the Trust Entity acquiring rights or interests or incurring obligations or liabilities the value of which is more than half of the value of the Trust Entity's assets before the transaction;
  - iv the disposition of, or an agreement to dispose of, whether contingent or not, any Property of Special Significance by the Trust Entity, or the removal of the status of Property of Special Significance from any Property of the Trust Entity; or
  - v in respect of the approval of a transaction by a subsidiary Trust Entity, where approval of that transaction is required by the constitutional documents of that Trust Entity and the value of that transaction is more than half of the value of the parent Trust Entity's assets before the transaction;

but would not apply to:

- vi any transaction entered into by a receiver appointed pursuant to an instrument creating a charge overall, or substantially all, of the Trust Entity assets;
  - vii any disposition of Property or Property of Special Significance by the Trust Entity, to any other Trust Entity;
- f the Trust Entity has the ability to recognise and protect Property of Special Significance which may be held by the Trust Entity, consistent with this Deed,
- g any directors, trustees or Trustees appointed by or at the direction of the Trust to any Trust Entity do not act in a manner which brings or is likely to bring the Iwi, the Trust, or any Trust Entity into disrepute.
- h the Trust Entity:
  - i maintains a statement of intent setting out its long-term objectives and the general principles by which it proposes to operate, which shall be updated as required by the Trust to consider changes in circumstances that may arise from time to time, including without limitation changes to the nature of its business and the business of any of its subsidiaries;
  - ii prepares and maintains a five-year strategic plan, which sets out its medium term vision and the specific steps that it proposes to take during that period to fulfil the objectives and principles;
  - iii prepares an annual plan setting out the steps to be taken in the relevant Financial Year to meet its five-year strategic planning objectives and fulfil the objectives and principles set out in the statement of intent;
  - iv within two (2) calendar months after the completion of the first, second and third quarter of each Financial Year sends to the Trust a report on its operations and financial position together with an unaudited summary of financial results as at the end of that period (such reports to be in such form as the Trust may require from time to time); and
  - v provides reports to the Trust each Financial Year in such form and with such detail as required by the Trust. Reports shall include a comparison of the performance of the Trust Entity against both the annual plan of the Trust and that Trust Entity for that Financial Year and any medium and longer term planning objectives (as set out in the five-year strategic plan); and
- i all statements of intent, five-year strategic plans and annual plans must be examined and approved by the Trust. For the avoidance of doubt, this includes any Trust Entity. However, this shall not extend the Trust to give directions beyond approving or not approving any plan or statement of intent or otherwise exercising their powers as shareholder or appointer, with the intention that directors, trustees, or Trustees shall otherwise retain full discretion in respect of the implementation of the plans and statements of intent.

## **2 Other considerations**

- 2.1 In establishing a Trust Entity, the Trust may also consider whether the constitutional documents of a Trust Entity should provide for:
- a a requirement as to the proportion or number of directors, trustees or Trustees who may also be Trustees; and
  - b a conflict of interest clause consistent with that included in this Deed.

## **Schedule 7 Requirements for Plans and Reports**

### **1 Requirements for five-year strategic plan**

A five-year strategic plan prepared in accordance with clause 8.1 (Trustees to prepare five-year strategic plans) shall include:

- a the medium and longer term vision of the Trust in respect of the matters referred to in clause 8.2 (Trustees to prepare annual plan); and
- b include an investment framework that provides guiding principles for the development of investment and distribution policies that the Trust intends to follow in respect of the Trust Fund and Trust Entities.

### **2 Requirements for Annual Plan**

An Annual Plan shall contain, in respect of that Financial Year, the following information:

- a the objectives of the annual plan;
- b the strategic vision of the Trust for NgāiTakoto;
- c the nature and scope of the activities proposed by the Trust for the Iwi in the performance of the objects of the Trust;
- d the ratio of capital to total assets;
- e the performance targets and measurements by which the performance of the Iwi may be judged, including an annual budget;
- f the manner in which it is proposed that projected income will be dealt with;
- g any proposals for the activities of NgāiTakoto;
- h any proposals for the ongoing management of the Trust Fund; and
- i any other information the Trustees consider appropriate.

In developing an annual plan, the Trust will ensure that the Trustees shall have regard to the vision and policies set out in the current five-year strategic plan.

### **3 Requirements for Annual Report**

An Annual Report prepared in accordance with clause 8.2 (Trustees to prepare annual plan) shall be made available not less than five Working Days before an Annual General Meeting and shall contain, in respect of that Financial Year, the following information:

- a a comparison of the Trust's performance against the annual plan;

- b a balance sheet and income and expenditure statements and notes so as to give a true and fair view of the financial affairs of the Trust for that Financial Year. The Financial Statements shall include as a separate item:
  - i details of any remuneration or fees paid to any Trustee or any Trustee's firm and details of any premiums paid in respect of Trustees' indemnity insurance;
  - ii changes in the value of the Trust Fund;
  - iii profit distribution;
- c the steps taken by the Trust to increase the number of registered Members;

## **Schedule 8 Kaumatua Taumata**

### **1. Appointment of Kaumatua Taumata**

The Trustees may establish a council of elders to be known as Kaumatua Taumata on such terms of appointment, and subject to such rules, regulations, meeting procedures and processes, as may be prescribed by the Trustees from time to time.

### **2. Composition of Kaumatua Taumata**

The Trustees will consider appointees to the Kaumatua Taumata that are Members of NgāiTakoto who are of good standing, and who are knowledgeable of NgāiTakoto tikanga, reo, kawa, korero and whakapapa.

### **3. Role and function of Kaumatua Taumata**

The Kaumatua Taumata will on request from the Trustees be responsible for advising the Trustees, relating to tikanga, reo, kawa, korero and whakapapa of NgāiTakoto. While Trustees are not bound by the advice of the Kaumatua Taumata, they must consider any advice and respond appropriately.