

Schedule
Deed of Trust
Otamataha Trust

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Dated this 8th day of November 2012

Parties

- 1 Morehu Ngatoko Rahipere, Albert Puhirake Ihaka, Desmond Matakokiri Tata, Joanne Ngapeeti Gear, Peri Reweti Kohu, Sylvia Hemoata Willison, Rena Uruhina Bennett, Raewyn Ngakumama Keith and William Charles Retireti McGuigan (“the Trustees”)

Background

- A The Otamataha Trust has been established by the hapū of Ngati Tapu and Ngaitamarawaho to own and manage land and other property acquired through the historical common interests of those hapū in Tauranga-Te Papa. That common interest extends from Tauranga Harbour to the Waikareao Estuary along the line of First Avenue and includes all of the land North of that line including reclaimed land at Sulphur Point and adjacent harbour bed whether or not it is dry at low water.
- B The hapu of Te Materawaho has historical connections to the land described in A in 1838.

Trust Terms

1 Interpretation

- 1.1 **Definitions:** In this Deed, unless the context indicates otherwise:
- “**Annual Accounts**” means the financial statements for the Financial Year;
- “**Annual General Meeting**” means an annual meeting of the Beneficiaries that is held in accordance with Schedule 3;
- “**Annual Plan**” means the plan prepared in accordance with Clause 10.2;

“**Annual Report**” means the report prepared in accordance with Clause 10.5;

“**Beneficiaries**” means a person who can trace their whakapapa to Tapukino in the case of Ngati Tapu, Tahuriwakanui in the case of Ngaitamarawaho, and Tanumiangarangi in the case of Te Materawaho;

“**Confidential Information**” means any information that a majority of the Trustees consider on reasonable ground:

- (a) to be of a commercially or sensitive nature and
- (b) the release of which could be detrimental to the interests of the Hapu or of the Trust or any Trust Entity;

“**Conflict**” has the meaning as set out in Clause 7.13;

“**Deed**” means this Deed and includes any amendments to this Deed made in accordance with this Deed;

“**Entity**” means any company, other body corporate, unincorporated group of persons (including a partnership or joint venture), trust or other entity, whether incorporated or established in New Zealand or otherwise;

“**Financial Year**” means the period ending on 31 March in each year following the date of inception of the Trust and includes any part of a calendar year up to such date;

“**Hapu**” means both the Hapu of Ngati Tapu and Ngai Tamarawaho;

“**Ordinary Resolution**” means:

- (a) in relation to an Annual General Meeting or Special General Meeting, a resolution that has been passed by a majority of Beneficiaries at that meeting;
- (b) in relation to a meeting of Trustees, a resolution that has been passed by a majority of Trustees entitled to vote at that meeting;

“**Perpetuity Period**” means the period that commences on the date of this Deed and ends eighty (80) years less one (1) day after the date of this Deed, that period being the period specified for the purposes of section 6 of the Perpetuities Act 1964, or (if another period is specified in legislation) that other period;

“**Property**” means all real and personal property (including choses in action, rights, interests and money) of the Trust and includes income;

“**Registered Office**” means the offices nominated by resolution of the Trustees as the registered office from time to time;

“**Secretary**” means the secretary from time to time of the Trust;

“**Special Resolution**” means:

- (a) in relation to an Annual General Meeting or Special General Meeting, a resolution that has been passed by not less than 75% of the Beneficiaries at that meeting;
- (b) in relation to a meeting of Trustees, a resolution that has been passed by not less than 75% of the Trustees entitled to vote at that meeting;

“**Trust**” means the Otamataha Trust constituted by this Deed;

“**Trust Asset**” means the Trust Fund including any assets owned by any Trust Entity;

“**Trust Entity**” means any company, other body corporate, unincorporated group of persons (including a partnership or joint venture), trust or other entity which is under the direction or control of the Trust;

“**Trust Fund**” means the total of any of the following:

Original Settlement: the sum of \$10.00 paid by the Trustees to establish the Trust;

Property Acquired: any property which the Trustees acquire after the date of this Deed from any source and by any means for the purposes of the Trust; and

Money and Investments: the income from any of the above property, and all money and investments at any time representing any of the above property;

“**Trustees**” means the persons who are signatories to this deed and those who are subsequently appointed as Trustees from time to time. It does not include Trustees who have resigned, retired or been replaced;

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

2 Establishment of the Trust

- 2.1 The Trustees shall hold the Trust Fund on trust on the terms of this Deed.
- 2.2 The Trustees declare that they accept the Trust Fund and will hold the Trust Fund upon the trusts and with powers set out in this Deed.
- 2.3 The name of the Trust established by this Deed is the Otamataha Trust.

3 Kaupapa

- 3.1 The kaupapa for which the Trust is established are to receive, hold, manage and administer the Trust Fund for purpose of benefiting the Hapu and the Beneficiaries including:
- (a) the protection and enhancement of the tikanga, mana and rangatiratanga of the Hapu, the Beneficiaries and their taonga;
 - (b) the promotion of the educational, health, spiritual, economic, social, cultural advancement and well-being of the Beneficiaries and the Hapu;
 - (c) the maintenance and establishment of places of cultural or spiritual significance to the Hapu;
 - (d) any other matters beneficial to the Beneficiaries and the Hapu.
- 3.2 The Trustees shall hold the Trust Fund on Trust for the Beneficiaries.

Strategic Governance

- 3.3 The Trust shall exercise strategic governance over:
- (a) The Trust Fund;
 - (b) Trust Entities; and
 - (c) the process to examine and approve annual plans that set out:
 - (i) the key strategies for the use and development of assets of the Trust;
 - (ii) the expected financial return on those assets;
 - (iii) any programme to transfer or reorganise the Trust Fund.

4 Appointment and Removal of Trustees

- 4.1 There shall be not less than four (4) Trustees and not more than ten (10) Trustees. The initial Trustees shall be the signatories to this Deed. Of the Initial Trustees Albert Puhirake Ihaka, Joanne Ngapeeti Gear, Rena Uruhina Bennett, Raewyn Ngakumama Keith have been appointed by Ngati Tapu and Morehu Ngatoko Rahipere, Peri Reweti Kohu, Sylvia Hemoata Willison and Desmond Matakokiri Tata have been appointed by Ngaitamarawaho.
- 4.2 Thereafter the Trustees shall consist of persons appointed by each of the hapū of Ngati Tapu and Ngaitamarawaho. Each of those hapū shall establish its own process for that appointment. Ngati Tapu shall include any person who has whakapapa links to Te Materawaho in its appointment process. The Trustees shall accept Trustees who appear to them to have been properly appointed by each hapū. The Trustees shall have no obligation to enquire into the validity of that appointment. It shall be desirable but not essential for there to be an equal number of Trustees appointed by each hapū. In the event of a dispute over the appointment of Trustees, the hapū having appointed the least number of Trustees shall have the right to appoint the next Trustee.
- 4.3 Every Trustee's appointment shall terminate if he or she dies (within the term of their appointment); or is declared bankrupt; or is found to be a mentally disordered person within the meaning of the Mental Health Act 1969; or indicates in writing that he or she wishes to resign from the Trust; or is replaced pursuant to these rules.
- 4.4 The Trustees may, by Special Resolution terminate a Trustee's appointment ("the Specified Trustee") if it believes that the Trustee has or will bring the Trust into disrepute and such action is in the best interest of the Trust. Before resolving such matters the Trustees shall follow the following procedure:
- (a) the Trustees must give the Specified Trustee not less than 30 days notice of the hearing of any complaint or complaints against the Specified Trustee.
 - (b) the Specified Trustee may answer the complaint in writing to or by appearance before the remaining Trustees. If the Specified Trustee wishes to appear in person to

answer to the complaint he or she must, not less than three days before the hearing, give written notice of his or her intention to do so together with brief details of the matters in issue.

- (c) any party at the hearing may be represented by counsel or agent but the proceedings may be conducted informally as the Trustees think fit but so as to give each party a fair opportunity to be heard.
- (d) the Trustees may receive and consider the complaint upon such information and submissions as it thinks fit and is not bound by the rules of evidence.
- (e) the hearing may be adjourned as the Trustees think fit.
- (f) neither the Trust nor the Trustees are liable to any Trustee or servant, agent or other representative of a Trustee or to any witness for travelling or other expenses relating to the hearing and attendance at the hearing.
- (g) the decision of the Trustees must (even if announced at the hearing), be recorded in writing and delivered to the Specified Trustee. The decision is final in all respects.
- (h) the Specified Trustee shall not be counted in calculating the quorum for any meeting to consider the matter or in the total to assess the majority required for a special resolution on the matter.

Trustees shall represent all Ngati Tapu and Ngai Tamarawaho

- 4.5 Any person appointed as a Trustee in accordance with the provisions of the Deed shall act in the best interests of the Hapu.
- 4.6 Where a Trustee deems that another Trustee has failed to act in accordance with clause 4.5, the remaining Trustees shall bring to the attention of the Trustee, in writing or by oral notice at a meeting of trustees, the details of the concern at hand and that Trustee may pursue a dispute resolution process pursuant to clause 15.

Sub-committees

- 4.7 The Trustees may by Ordinary Resolution appoint two or more Trustees to form a sub-committee to inquire into or progress any matter on behalf of the Trust.
- 4.8 Any sub-committee of Trustees appointed by the Trust shall:

- (a) co-opt, if necessary, other persons for consultation and advice;
- (b) elect a chairperson;
- (c) regulate its meeting according to established policies and procedures;
- (d) determine questions by consensus and where consensus is not reached, the question shall be passed by a majority of votes;
- (e) report to the Trust at time periods satisfactory to the Trust in respect of any income received or expenditure incurred;
- (f) not to incur any debts or liabilities that cumulatively exceeds the amount of five thousand (\$5,000) dollars without the prior written approval of the Trustees; and
- (g) not enter into any contract, agreement or other commitment that may be binding on the Trust without first having obtained the prior written approval of the Trustees; and
- (h) ensure its activities and actions are consistent with the kaupapa of the Trust and other provisions of this Deed; and
- (i) retain all records, correspondence and documents, and to provide some to the Trustees immediately when requested.

5 Powers of Trustees

- 5.1 To achieve the purposes of the Trust the Trustees shall have all the powers of a natural person and all other powers that New Zealand law permits trustees to have.
- 5.2 Without limiting any of the powers of the Trustees, the Trustees have the powers set out in Schedule 1 and may in their discretion exercise any one or more of those powers in pursuit of the general administration of the Trust.
- 5.3 The Trustees may invest all or any of the Trust Fund, in any Property that is permitted by the laws of New Zealand for the investment of the funds of trusts or as otherwise permitted by this Deed, including power to buy or acquire any Property and power to sell or dispose of any Property.

- 5.4 The Trustees shall have the fullest powers necessary to do all such things that they consider necessary in their sole discretion to perform or otherwise carry out the kaupapa of the Trust.

6 Duties of Trustees

- 6.1 The Trustees must always act, collectively and individually, in accordance with their fiduciary duties and obligations.
- 6.2 In performing their duties each Trustee will act in good faith and in a manner that the Trustees believe on reasonable grounds is in the interests of the Hapu.
- 6.3 The Trustees must not, collectively and individually, act or agree to act in a manner which contravenes this Deed.
- 6.4 Every Trustee, when exercising powers or performing duties as a Trustee, must exercise the care, diligence and skill to be reasonably expected of a person acting in like circumstances, taking into account any special skills or experience that the Trustee has.
- 6.5 Every Trustee, when exercising powers of performing duties as a Trustee, may accept as correct any reports, statements, financial data and other information prepared, and any professional or expert advice given, by any of the following persons, to the extent only that the Trustee acts in good faith, after reasonable enquiry when the need of enquiry is indicated by the circumstances, and without knowledge that would cause such acceptance to be unwarranted:
- (a) any Director, Trustee, Board member or Employee of any Trust Entity whom the Trustee believes on reasonable grounds to be reliable and competent in relation to the matter concerned;
 - (b) any professional or expert person in relation to matters which the Trustee believes on reasonable grounds to be within that person's professional or expert competence; and
 - (c) any other Trustee, or member of a committee upon which the Trustee did not serve at the relevant time, in relation to matters within that other Trustee's or committee member's designated authority.

6.6 Each Trustee accepts the duties and obligations attaching to the office of Trustee under this Deed when he or she accepts appointment as a Trustee.

7 Meetings and Management of Trustees

7.1 Meetings of the Trustees shall be governed by the rules contained in Schedule 2.

7.2 The Trustees shall meet to conduct business at such intervals as the Trustees may decide, but not less frequently than four (4) times each year.

7.3 The Trustees shall receive notification of a meeting from the Secretary, in writing no later than one week prior to a scheduled meeting.

7.4 All documents to be considered at any meeting shall be distributed no later than one week prior to a scheduled meeting.

7.5 The quorum for a meeting of Trustees shall be a majority of the Trustees who, for the time being, hold office under clause 4.

7.6 Minutes of the proceedings of all meetings of the Trustees shall be maintained and recorded in a book to be kept for that purpose by the secretary and shall be ratified at the next successive meeting of the trustees.

7.7 Attendance and apologies received at all meetings shall be recorded in the minute book.

7.8 Except where this Deed requires a Special Resolution, a resolution put to the vote of the meeting shall be decided by a majority vote of the Trustees present.

Structure of the Trust

7.9 Subject to the terms of this Deed, the Trust's business and affairs shall be managed, controlled, supervised and administered by and under the direction of the Trustees.

Power to Delegate

7.10 The Trustees may from time to time delegate in writing any of its powers and duties to any sub-committee (constituted in accordance with clause 4.7) or to any person, and the sub-committee or person as the case may be, may with confirmation by the Trustees exercise or perform the delegated powers or du-

ties in like manner and with the same effect as the Trustees could itself have exercised or performed them.

- 7.11 Any sub-committee or person to whom the Trustees has delegated powers or duties shall be bound by the terms of the Trust.
- 7.12 Every such delegation shall be revocable, and no such delegation shall prevent the exercise of a power or the performance of any duty by the Trustees.

Conflict of Interest

- 7.13 A Conflict of Interest shall exist when:
- (a) a Trustee is or may be or becomes associated (whether as director or otherwise in a private capacity or as trustee of another trust) with any entity with which the Trust is transacting or dealing; or
 - (b) a Trustee is a party to any transaction involving the Trust (or Trust Entity or any subsidiary of a Trust Entity) and the Trustee will derive a material financial benefit from a decision of the Trustees or any such transaction; or
 - (c) a Trustee has a material financial interest in an entity to a transaction involving the Trust or a Trust Entity or subsidiary of a Trust Entity; or
 - (d) a Trustee is a director, officer or trustee of another entity that will or may derive a material financial benefit from a transaction with the Trust, a Trust Entity or any subsidiary of a Trust Entity (with the exceptions of (i) any fees authorised by the Trustees or (ii) his or her interest as a Beneficiary); or
 - (e) a Trustee is the parent, child, spouse or de facto partner of another person who will or may derive a material financial benefit from a transaction involving the Trust (or Trust Entity or any subsidiary of a Trust Entity) or from a decision of the Trustees (except by virtue of his or her interest as a Beneficiary); or
 - (f) the interests or duty of the Trustee in any particular matter otherwise conflicts or might conflict with his or her duty to the Trust.

Disclosure of Interest

- 7.14 A Trustee who has a conflict of interest shall immediately disclose all details to the Secretary and the Chairperson. He or she

shall be excluded from any and all deliberations or meetings of the Trustees relating to the matter unless there is a Special Resolution of other non-conflicted Trustees approving of the participation of the Trustee in the matter. The Secretary shall record the full details of the disclosure in the register of the Trustees.

Remuneration and Other Benefits

- 7.15 Each Trustee may be paid suitable remuneration for the performance of their duties as Trustee. The Trust may prescribe reasonable remuneration for the Trustees and for the Chair to be paid out of the Trust Fund.
- 7.16 The following provisions shall apply to the payment of remuneration to the Trustees:
- (a) The Trustees may in their discretion, after seeking professional external advice about suitable remuneration, prescribe reasonable remuneration for the Trustees and for the Chair to be paid out of the Trust Fund.
 - (b) Such remuneration may be prescribed and approved in the form of a meeting fee or as a total amount payable per annum.
 - (c) In addition, any Trustee may receive full reimbursement of all expenses properly incurred by the Trustee in the conduct of his or her duties as a Trustee.
 - (d) This clause does not apply to any remuneration paid to any Trustees in his or her capacity as a Director, Trustee or Board member of any Trust Entity providing that the amount of all such remuneration is included in a report accompanying any resolution for the purposes of this Clause.

8 Accounts and Audit

- 8.1 The Trustees shall ensure that all financial records of the Trust are maintained in accordance with normal accounting practices.
- 8.2 The financial records shall present the Trust's receipts, credits, payments, assets, liabilities and all other matters necessary or appropriate in a way that shows the true state and condition of the financial affairs of the Trust.

- 8.3 The financial records and annual accounts shall be kept at the Trustees' office or at such other place as the Trustees think fit.
- 8.4 The financial records and annual accounts shall always be available to be inspected by the Trustees.
- 8.5 The Trustees shall prepare, or cause to be prepared, financial statements of the Trust for each financial year.
- 8.6 The Trustees shall ensure that the financial statements for each Financial Year are audited by a registered chartered accountant in public practice prior to the date for giving notice of the General Meeting.
- 8.7 The auditor shall be appointed by the Trust 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 of employee) shall be appointed as the auditor.
- 8.8 At least once in every calendar year, the Trustees shall present an Annual Report, including the Annual Accounts for the most recent Financial Year, to an Annual General Meeting of the Hapu.

9 Appointment of Custodian Trustee

- 9.1 The Trustees may, by resolution in writing, appoint any person as a custodian trustee of the Trust Fund. The provisions of the Trustee Act 1956 shall apply as if references in it to a custodian trustee were references to Custodian Trustee, except as modified or extended as follows:
- (a) any of the Trust Fund may be vested in the Custodian Trustee as if the Custodian Trustee were sole trustee;
 - (b) the portion of the Trust Fund that is from time to time vested in the Custodian Trustee is the Custodial Trust Fund, and the provisions shall of section 50 of the Trustee Act 1956 shall apply as if references in it to the trust property were references to the Custodial Trust Fund;
 - (c) the Custodian Trustee shall:

- (i) hold the part of the Trust Fund that is transferred to the Custodian Trustee by the Trustees (“the Custodial Trust Fund”);
 - (ii) invest the Custodial Trust Fund and dispose of it in accordance with any direction in writing by the Trustees;
 - (iii) execute all documents and perform all acts that the Trustees in writing direct.
- 9.2 The Trustees may, without needing to give any reason, remove any Custodian Trustee by Ordinary Resolution.
- 9.3 The Trustees may pay a fee to the Custodian Trustee.

10 Annual General Meetings of Trust, Plans and Reporting

- 10.1 The Trustees shall hold an Annual General Meeting in accordance with the provisions set out in Schedule 3.

Annual Plans

- 10.2 Without derogating from its duties under any enactment or at law, the Trustees shall have reporting responsibilities in relation to:
- (a) their own performance; and
 - (b) the performance of the Trust Entities.
- 10.3 The Trustees shall also produce, within 12 months following the execution of this Deed, a Five Year Plan which shall:
- (a) set out the longer term vision of the Trust in respect of the matters referred to in Clause 10.4;
 - (b) include a statement by the Trustees of the commercial, management and distribution policies that the Trustees intend to follow in respect of the Trust’s assets;
 - (c) to be made available to Beneficiaries on request;
 - (d) be updated not less than every two (2) years.
- 10.4 Within two (2) months prior to the date of the Annual General Meeting the Trust shall prepare and make available to the Beneficiaries an annual plan for the ensuing year and shall include the following information:
- (a) the objectives of the annual plan;
 - (b) the strategic vision for the Trust and any Trust Entities;

- (c) the nature and scope of the activities proposed by the Trustees for the Trust and any Trust Entities in the performance of the Kaupapa of the Trust;
 - (d) the ratio of capital to total assets;
 - (e) the performance targets and measurements by which performance of the Trustees and any Trust Entities may be judged;
 - (f) the manner in which it is proposed that projected income will be dealt with;
 - (g) any proposal to change the constitutional documents of any Trust Entity;
 - (h) any proposals for the ongoing management of the Trust's Assets having regard to the interests of all Beneficiaries;
 - (i) the annual general meetings.
- 10.5 The Trustees shall, within four (4) months after the end of each Financial Year, cause to be prepared an Annual Report on the affairs of the Trust and any Trust Entities covering the accounting period at the end of the Financial Year which includes:
- (a) a comparison of performance against the relevant Annual Plan; and
 - (b) the Annual Accounts;
- so as to give a true and fair view of the financial affairs of the Trust and any Trust Entities for that Financial Year.
- 10.6 The Annual Report shall also include:
- (a) an annual report in respect of each Trust Entity which reports on:
 - (i) the performance of each entity;
 - (ii) the investment of money of each Trust Entity;and
 - (b) any amendments made to this Deed or to the constitutional documents of any Trust Entity or its subsidiaries.
- 10.7 The Annual Report and the Annual Plan shall be made available to Beneficiaries on request.

11 Trust Entities

- 11.1 The Trustees 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 shall be es-

established for the benefit of the Trust or the Hapu and in furtherance of the kaupapa of the Trust.

- 11.2 The Trustees may, from time to time, disestablish any Trust Entity.
- 11.3 The Trustees shall take reasonable steps to monitor and supervise each Trust Entity in the following manner:
- (a) the Trustees shall be responsible for monitoring and otherwise overseeing the activities of any Trust Entity and shall exercise its ownership or other rights and interests in any Trust Entity in such a way as to promote the performance by that Trust Entity of its purposes.
 - (b) for the avoidance of doubt, and except as expressly provided by this Deed, each Trust Entity shall be governed by its own respective Board and the role of the Trustees in respect of each Trust Entity shall be limited to the exercise of the rights conferred on the Trustees as shareholders or (as applicable) appointor and as beneficiary of the Trust Entity.
 - (c) the Trustees shall have and retain the power to appoint and remove the Directors, trustees or Board members (as the case may be) of any Trust Entity.
 - (d) the Trustees shall determine the remuneration payable to any Director, trustee or Board members of any Trust Entity.
 - (e) the Trustees shall require that any Directors, trustees or Board members appointed by or at the direction of the Trust to any Trust Entity do not act in a manner which brings or is likely to bring the Hapu, the Trust or any Trust Entity into disrepute.
 - (f) a Director, trustee or Board member of any Trust Entity shall only be appointed if that person has the particular skills and expertise that are required of a Director, trustee or Board member of that Trust Entity to which the appointment relates and bearing in mind the activities that the relevant Trust Entity undertakes or is likely to undertake in the future and the mix of skills and expertise that is required on the relevant board of the Trust Entity. For the avoidance of doubt it is declared that the

Trustees may appoint people who are not Trustees as a Director, trustee or Board Member of any Trust Entity.

12 Administrative Procedures

- 12.1 The Trustees may appoint a General Manager to manage the day to day administration of the Trust including, but without limitation, the Trust's planning, reporting and monitoring obligations under the Deed. A General Manager shall not be a Trustee.
- 12.2 The Trustees shall appoint a Secretary to carry out the duties of the Secretary specified in the Deed and who may perform other administrative or management duties for the Trust in relation to its activities and those of any committees or sub-committees for such term and at such remuneration and upon such conditions as the Trustees may from time to time prescribe.
- 12.3 The Secretary shall not be a Trustee, but may be an existing employee of the Trust in which event any remuneration for the performance of the duties of Secretary shall be included within the remuneration of that employee.
- 12.4 Any Secretary may be removed or his or her employment terminated at any time if determined by the Trustees.
- 12.5 The books and records of the Trust shall be kept in the custody of the Secretary at the office of the Trust or at such other secure place determined by the Trustees.

Confidential Information

- 12.6 The following rules shall apply in relation to Confidential Information:
- (a) the Trustees will not at any time use or disclose to any person (other than as authorised by the Deed or the law) any Confidential Information;
 - (b) nothing in clause 12.6(a) prohibits the disclosure of the Confidential Information:
 - (i) which is or becomes part of the public domain through no act or omission of the Trustees;
 - (ii) by operation of law provided that the Trustees have taken all practicable steps to prevent such disclosure;

- (iii) by a Trustee with the prior approval in writing of the Trustees;
- (iv) by the Trustees to a Trust Entity provided that the Trust Entity protects the Confidential Information on the same terms as this clause 12.6.

Disclosure of Information

- 12.7 Any Beneficiary is entitled to be provided, no later than 10 Working Days after receipt by the Trust of a written request with:
- (a) a copy of any resolutions passed by the Trustees at an Annual General Meeting or Special General Meeting;
 - (b) a copy of any entries in the register of Trustees;
 - (c) a copy of this Deed
- upon payment of such reasonable charges as the Trustees may prescribe.

Execution of Documents

- 12.8 All formal documents, agreements and contracts executed on behalf of the Trust shall be signed by two or more Trustees. No document, agreement or contract shall be signed by the Trustees unless such execution has previously been approved at a meeting of Trustees, or where required, at an Annual General Meeting or Special General Meeting.

13 Trustee Liability

- 13.1 In carrying out the trusts and powers contained in this Deed, no Trustee or former Trustee will be personally liable for any loss to the Trust Fund unless that loss is attributable to:
- (a) that Trustee's own dishonestly or lack of good faith;
 - (b) the wilful commission or omission by that Trustee of an act by that Trustee which can be reasonably held to be a breach of trust;
 - (c) that Trustee acting beyond the scope of his or her powers as a trustee of the Trust.
- 13.2 No Trustee or former Trustee will be personally liable for the negligence, fraud or delay of any agent of the Trust (even if the employment of that agent was not strictly necessary or expedient and despite any statutory provision or rule of law to the contrary).

- 13.3 No Trustee shall be liable for any breach of trust or for any loss in relation to the Trustee's duties of investment merely because the investments of the Trust Fund were not diversified.
- 13.4 Subject to clause 13.1 each Trustee or former Trustee shall be indemnified out of the Trust Fund against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, costs (including legal costs) and expenses (together called "liabilities") suffered or incurred by that Trustee or former Trustee in the conduct of his or her duties to the Trust.
- 13.5 The Trustees are not liable for any loss or cost to the Trust by any breaches of trust or defaults of any attorney, delegate, manager, secretary, employee or any other person (including, without limitation, any expert or professional person) appointed or engaged or employed by them, despite any rule of law to the contrary.

14 Trustee Indemnification

- 14.1 Each Trustee is fully indemnified by an out of the Trust Fund (whether from capital or income) for any loss or liability that he or she incurs in the carrying out or omission of any function, duty, power or discretion of the Trustees under this Deed and in respect of any outlay or expenses incurred by him or her in the management and administration of the Trust unless the loss or liability is attributable to his or her dishonesty or to the wilful commission by him or her of a breach of trust.
- 14.2 The indemnity given by the Clause 13.4 extends to any loss or liability which a person incurs, after ceasing to be a Trustee, through the carrying out of any function, duty, power or discretion of the Trustees, whether the carrying out took place before, during or after the period in which the person was a Trustee.

15 Dispute Resolution

- 15.1 No person shall commence any court or arbitration proceedings relating to a dispute arising out of or related to this Deed, unless that party has first complied with the following:
- (a) any party alleging a dispute arising out of or related to this Deed (including but not limited to disputes between all or some of the Trustees as to the management of the

- Trust) shall request the Chairperson to direct the parties to the dispute to attend a facilitated hui.
- (b) upon receiving a request under subclause (a), the Chairperson shall notify all the parties to the dispute, including all Trustees, of the request.
 - (c) all parties receiving such notice from the Chairperson may attend a facilitated hui. The aim of that hui shall be to achieve a mutually agreed outcome. The matters raised at that hui shall be confidential to all participants. The outcome of the hui shall be binding on the parties.
 - (d) if no agreed outcome is reached in accordance with subclause (c), the chairperson shall refer the matter to mediation in accordance with the LEADR New Zealand Incorporated standard Mediation Agreement. The mediation shall be conducted by a mediator experienced in mediating matters within a Maori context and at a fee agreed by the parties. Failing agreement between the parties, the mediator shall be selected, and the mediator's fee shall be determined by the Chair for the time being of the LEADR New Zealand Incorporated.
- 15.2 If mediation is unsuccessful, the parties shall only then be entitled to request adjudication.

16 Governing Law

- 16.1 This Deed and the Trust are governed by and construed in accordance with New Zealand law and jurisdiction.

17 Termination of Trust

- 17.1 Other than by operation of law, the Trust shall only be terminated in accordance with this clause:
- (a) the Trust shall only be terminated or dissolved if the Beneficiaries have, by duly notified Special Resolution at an Annual General Meeting or Special General Meeting, resolved that it has become impossible, impracticable or inexpedient to carry out the kaupapa of the Trust and the Trustees have subsequent to that resolution also resolved by Special Resolution to terminate or dissolve the Trust; and

- (b) on the termination or dissolution of this Trust, the Trust Fund after the payment of costs, debts and liabilities shall be paid to one or more other trusts or entities in New Zealand nominated by the Beneficiaries and confirmed by the Trustees that have similar purposes to the Kaupapa of the Trust (being purposes beneficial to the Hapu) and its Beneficiaries; and
- (c) if no other trusts or entities are nominated pursuant to Clause 17.1(b) within 6 months of the termination or dissolution of the Trust, then the Trust fund shall be paid to an entity or entities that qualify pursuant to Clause 17.1 (b) that are selected by the High Court on the application of any interested party.

18 Amendments to Deed

- 18.1 The Trustees have power to amend this Deed by deed made after a Special Resolution of Trustees.
- 18.2 If the Trustees decide to propose an amendment to the Deed, they shall consider whether there is a need for, and the extent of, a consultation hui prior to the consideration of the Special Resolution at an Annual General Meeting or a Special General Meeting.

19 Power to Resettle

- 19.1 The Trustees shall have the discretionary power to settle or resettle any or all of the Trust Fund upon trust in any manner which in the opinion of the Trustees is consistent with the kaupapa of the Trust (including for the avoidance of doubt upon a charity that is for the advancement of education or the relief of poverty or for other charitable purposes beneficial to the Hapu) provided that:
 - (a) the resettlement is approved by a Special Resolution at an Annual General Meeting or a Special General Meeting;
 - (b) the resettlement does not transgress the rule against perpetuities (if applicable) as it applies to the Trust.

20 Registered Office

20.1 The registered office of the Trust shall be determined by the Trustees from time to time and by way of ordinary resolution.

Signed by **Morehu Ngatoko Rahipere** as Initial Trustee in the presence of:

Witness Signature:

Name:

Address:

Occupation:

Signed by **Albert Puhirake Ihaka** as Initial Trustee in the presence of:

Witness Signature:

Name:

Address:

Occupation:

Signed by **Desmond Matakokiri Tata** as Initial Trustee in the presence of:

Witness Signature:

Name:

Address:

Occupation:

Signed by **Joanne Ngapeeti Gear** as Initial Trustee in the presence of:

Witness Signature:

Name:

Address:

Occupation:

Signed by **Peri Reweti Kohu** as Initial Trustee in the presence of:

Witness Signature:

Name:

Address:

Occupation:

Signed by **Sylvia Hemoata Willison** as Initial Trustee in the Presence of:

Witness Signature:

Name:

Address:

Occupation:

Signed by **Rena Uruhina Bennett** as Initial Trustee in the presence of:

Witness Signature:

Name:

Address:

Occupation:

Signed by **Raewyn Ngakumama Keith** as Initial Trustee in the presence of:

Witness Signature:

Name:

Address:

Occupation:

Signed by **William Charles Retireti McGuigan** as Initial Trustee in the presence of:

Witness Signature:

Name:

Address:

Occupation:

Schedule 1—Trustees' Powers

- 1 The Trustees shall have power in accordance with Clause 5.1 of the Deed to do anything that a natural person could do, except where it is illegal, or a breach of the terms of this Deed. Without limiting those powers, the Trustees may by way of example:
 - (a) represent the collective interest of the Hapu and to be the representative of the Hapu in relation to that collective interest;

- (b) make claims and to pursue the settlement of claims on behalf of and for the benefit of the Hapu under the provisions of the Treaty of Waitangi Act 1975 or otherwise;
- (c) receive, hold, manage and invest property transferred from the Crown directly or indirectly to the Trust on behalf of the Hapu in settlement of any claims of the Hapu arising from actions and omissions of the Crown in breach of the Treaty of Waitangi/Te Tiriti o Waitangi;
- (d) receive, hold, manage and invest, and/or to establish Trust Entities that receive, hold and manage any other property received by or for the benefit of that Hapu;
- (e) carry on or form any business, whether or not in partnership or joint venture, in order to achieve the kaupapa of the Trust;
- (f) form or acquire any company to achieve the kaupapa of the Trust;
- (g) enter into contracts for the provision of services to achieve the kaupapa of the Trust and to enter into joint ventures with other entities in order to achieve the kaupapa of the Trust;
- (h) open and maintain a bank account and to determine who will be the signatories to that account;
- (i) acquire, hold and dispose of Property;
- (j) lease Property;
- (k) grant leases of Property;
- (l) borrow or obtain credit;
- (m) guarantee or act as a surety;
- (n) give security in respect of any obligation of the Trustees;
- (o) accumulate the income of the Trust Fund;
- (p) 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 future;
- (q) in relation to any share or other security that is part of the Trust Fund:
 - (i) exercise any voting or controlling or decision-making rights of powers attaching to it; and
 - (ii) concur with any reconstruction or amalgamation of it or any modification of the rights of the hold-

- ers of it or of others interested in it and generally to act in respect of it;
- (r) advertise the Trust and its kaupapa;
 - (s) appoint or engage any individual (including any of the Trustees) or company for any period:
 - (i) as an expert or professional person or entity to advise the Trust and to act upon their opinion or advice;
 - (ii) to implement decisions of the Trustees;
 - (iii) as an attorney for the Trustees in New Zealand or elsewhere for all or any of the purposes of the Trust;
 - (t) determine all questions and matters of doubt which may arise in the course of the management, administration, investment, realisation, distribution, liquidation, partition, resettlement or winding up of the Trust Fund or the Trust, or to apply for directions under Section 66 of the Trustee Act 1956;
 - (u) generally to do all such other lawful acts and things that are incidental or conducive to the attainment of the kaupapa; and
 - (v) to pay any costs or expenses incurred in the course of the Trustees discharging, carrying out or exercising any of their duties and powers.

Schedule 2—Meetings of Trustees

- 1 Subject to the clauses contained in the Deed, the Trustees shall meet and regulate their meetings as they think fit.
- 2 At the first meeting of Trustees after the date of this Deed and at the first meeting of Trustees after the Annual General Meeting in each subsequent Calendar Year, the Trustees will by Ordinary Resolution appoint:
 - (i) one of the Trustees to the office of Chairperson for a term ending at the conclusion of the next Annual General Meeting; and
 - (ii) another Trustee to the office of Deputy Chairperson for a term ending at the conclusion of the next Annual General Meeting.

- 3 The Trustees may at any time by Special Resolution remove any person from the office of Chairperson or Deputy Chairperson and appoint a new Chairperson or Deputy Chairperson for a term ending at the end of the next Annual General Meeting.
- 4 The Chairperson (or in the absence of the Chairperson, the Deputy Chairperson, or another Trustee elected by the meeting) shall take the chair at all meetings of the Trustees, and shall have the casting vote.
- 5 The Chairperson or any two Trustees may at any time summon a meeting. Seven days notice of any meeting (stating the place, day and time of the meeting) shall be communicated to each of the other Trustees unless all of the Trustees agree to reduce or waive the period of notice.
- 6 All questions and matters arising at the meetings of Trustees shall be decided by majority resolution of the Trustees present at the meeting except where the Deed requires a Special Resolution.
- 7 A resolution in writing, signed by all of the Trustees, shall be as effective as if it had been passed at a meeting. Such a resolution may consist of several like documents each signed by one or more of the Trustees and may be sent by facsimile or other electronic transmission.
- 8 Any resolution of the Trustees may be rescinded or varied from time to time by the Trustees.
- 9 The contemporaneous linking together by telephone or any other means of audible communication of sufficient Trustees to constitute a quorum shall be deemed to constitute a meeting of the Trustees provided as the following conditions are satisfied:
 - (i) each of the Trustees shall have received notice of the meeting (or have waived notice) under paragraph (f); and

- (ii) each of the Trustees taking part in the meeting shall be able to hear each of the other Trustees taking part at the commencement of the meeting and throughout the meeting; and
 - (iii) at the commencement of the meeting each of the Trustees shall acknowledge his or her presence to all the other Trustees taking part in the meeting.
- 10 Trustee shall not leave a meeting (whether by departing or by disconnecting his or her telephone or other means of communication) unless he or she has first obtained the express consent of the Chair of the meeting.
- 11 The Trustees shall record and retain all minutes of their meetings; all resolutions; and all decisions. All such records shall be kept in a minute book maintained by the Secretary.
- 12 Any minute of a meeting of the Trustees (including their decisions) purporting to be signed by the Chair of the meeting or of the next meeting shall be prima facie evidence of the matters referred to in such minute having been authorised as completed or passed by the Trustees. The decisions recorded in the minutes will be read in conjunction with the Deed and will be binding on all interested persons or parties in the Trust.
- 13 If a quorum is not present within twenty minutes after the time appointed for any meeting, the Chair of the meeting may adjourn the meeting to another time.
- 14 Any meeting may be adjourned if the Trustees present so resolve. No notice will be necessary for the resumption of adjourned meetings except to Trustees who were absent at the time that the meeting was adjourned.
- 15 If it is determined that a quorum is not present the meeting may continue if those present agree to continue with the business of the meeting. In this instance only recommendatory motions can be made.

Schedule 3—Procedures at Annual General Meetings and Special General Meetings

Timing

- 1 The Trust will, in each Calendar Year after the date of this Deed, hold an Annual General Meeting in addition to any other meetings held in that year.
- 2 The Annual General Meeting shall be held within nine (9) calendar months of the end of the Financial Year and in no event is more than 15 months to elapse between the date of one Annual General Meeting and the next.

Purpose

- 3 The purpose of the Annual General Meeting will be:
 - (a) to report on the operations of the Trust and all Trust Entities;
 - (b) to present and review with Beneficiaries the Annual Report and the audited Annual Accounts for the Financial Year most recently completed;
 - (c) to present and review with Beneficiaries the Annual Plan and, from time to time, the Five Year Plan and any update to that Five Year Plan;
 - (d) to undertake all other notified business;
 - (e) at the discretion of the Chairperson, to undertake any other general business or discuss any other issues raised by Beneficiaries at the meeting.

Notice of Annual General Meeting

- 4 At least 20 Working Days before the date of any Annual General Meeting the Trust will give Public Notice of:
 - (i) the date, time, venue and agenda of the Annual General Meeting; and
 - (ii) such other information that may be required by this Deed or any relevant legislation.

- 5 Subject to any other requirements in this Deed, the date, time, venue and agenda of the Annual General Meeting shall be determined by Ordinary Resolution at a meeting of Trustees.

Special General Meetings

Power to call Special General Meetings

- 6 A Special General Meeting shall be convened by the Trustees when required pursuant to any provision within this Deed or upon the written request of either:
- (i) not less than 40% of the Trustees; or
 - (ii) not less than 50 of the Beneficiaries.
- 7 Subject to any other requirements in this Deed, the date, time, venue and agenda of any Special General Meeting shall be determined by Ordinary Resolution at a meeting of Trustees.
- 8 A written request under paragraph 6 of this Schedule shall state the purposes for which the Special General Meeting is to be convened and the specific agenda items proposed for the meeting and shall be signed, as the case may be, by:
- (i) each of the Trustees requesting the meeting in accordance with paragraph 6(i) of this Schedule; or
 - (ii) each of the Beneficiaries requesting the meeting in accordance with paragraph 6(ii);
 - (iii) and be delivered to the Secretary at the Registered Office by facsimile, personal delivery or post, and may consist of several documents in the same form, each executed on behalf of one or more of the Trustees or Beneficiaries requesting the meeting. The request will be deemed to be given on the Working Day that it is received or, if received on a day that is not a Working Day, on the next Working Day.
- 9 If the Trustees do not, within 15 Working Days from the date on which a request is deemed to have been given effectively under paragraph 8 of this Schedule, give Public Notice of the date, time, venue and agenda of a Special General Meeting to

be held within 20 Working Days from the date of the Public Notice, the Trustees or Beneficiaries who requested the meeting may themselves convene a Special General Meeting, but any Special Meeting so convened shall be held within three calendar months of the date that the request was deemed to have been given under paragraph 8 of this Schedule.

Notice of Special General Meeting

- 10 Notice of a Special General Meeting convened under paragraph 6 of this Schedule shall be given in the same manner as for a notice of a General Meeting and shall include notice of the matter, resolution or issue proposed to be considered at the Special General Meeting in addition to any other matters required to be notified under this Deed.

- 11 For the avoidance of doubt, in the case of a Special General Meeting requested under paragraph 6(ii) of this Schedule, every person who signs a request pursuant to paragraph 6(ii) of this Schedule, is to receive not less than 20 Working Days' written notice of that Special General Meeting.

Cost of Special Meeting

- 12 Any reasonable expenses that are incurred by the Trustees or Beneficiaries, who convened a meeting under paragraph 9 of this Schedule as a result of the failure of the Trustees to convene a Special General Meeting which has been properly requested, are to be reimbursed by the Trust to the Trustees or Beneficiaries who requested the meeting.

Business at Special General Meeting

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

*Proceedings at Meetings***Quorum**

- 14 No business is to be transacted at any Annual General Meeting (or Special General Meeting) unless the required quorum is present at the time when the meeting proceeds to business.
- 15 The quorum for an Annual General Meeting, is:
- (i) a majority of the Trustees present in person; and
 - (ii) not less than 20 Beneficiaries, not being Trustees.
- 16 The quorum for a Special General Meeting, is:
- (i) a majority or more of the Trustees present in person; and
 - (ii) not less than 50 Beneficiaries, not being Trustees.
- 17 If, within one hour of time appointed for an Annual General Meeting or Special General Meeting or meeting of Trustees, a quorum is not present, the meeting is to stand adjourned until the twentieth Working Day, or such other date as the Trustees may determine, following that adjournment in the case of an Annual General Meeting or Special General Meeting.
- 18 On that later day to which any meeting is adjourned under paragraph 17 of this Schedule, the meeting will be held at the same time and in the same place as the adjourned meeting unless the Trustees determine that the meeting shall be held at another time and place. In the case of an Annual General Meeting or Special General Meeting the Trustees shall forthwith following the adjournment publish a Public Notice specifying the date, time and place of the adjourned meeting.
- 19 If a quorum is not present within one hour from the time appointed for any adjourned meeting:
- (i) the Trustees present in person or by telephone in the case of a meeting of Trustees shall constitute a quorum;
- or

(ii) the Trustees and Hapu Members present in person in the case of an Annual General Meeting or Special General Meeting shall constitute a quorum.

20 If the quorum at any adjourned meeting is determined by paragraph 19, then notwithstanding any other provision of the Deed, the majority required to pass any resolution shall be 90% of the Trustees present and 90% of the Beneficiaries present at that adjourned meeting.

Chairperson

21 The Chairperson or, failing him or her, the Deputy Chairperson, will preside over and have control of every Annual General Meeting or Special General Meeting.

22 If there is no Chairperson or Deputy Chairperson present at the time appointed for holding a Annual General Meeting or Special General Meeting, or if either of those persons is unwilling to preside over the meeting, the Trustees present will choose one of their number to substitute as Chairperson for the meeting.

Proceedings at General Meetings and Special General Meetings

23 Any Beneficiary or Trustee may speak at any General Meeting or Special General Meeting during the period fixed for general debates at such meeting or any other period at such meeting which the Trustees resolve to permit general debate.

24 With the exception of a Special Resolution to terminate or dissolve the Trust, Trustees shall not be bound by a resolution passed at an Annual General Meeting and a Special General Meeting but will only be required to give consideration to any such resolution in administering the Trust and the Trust Fund and carrying out the Kaupapa of the Trust.

Unruly Meetings

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

Legislative history

22 August 2013	Introduction (Bill 148–1)
25 September 2013	First reading and referral to Māori Affairs Committee
16 April 2014	Reported from Māori Affairs Committee
7 May 2014	Second reading
28 May 2014	Third reading
6 June 2014	Royal assent
