

Deed of Trust of Ngāti Hauā Iwi Trust



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AMENDED AND RESTATED DEED OF TRUST FOR NGĀTI HAUĀ IWI TRUST

Executed as a deed on the 16th day of September 2016

BACKGROUND

- A On 24 May 2013 Ngāti Hauā initialled a Deed of Settlement with the Crown to settle the Ngāti Hauā non-raupatu historical Treaty claims against the Crown.
- B In order to meet the requirements for settlement prescribed by the Crown, a post-settlement governance entity needs to be established to sign the Deed of Settlement and to receive and administer the settlement assets received as part of the Ngāti Hauā Treaty settlement.
- C This deed is signed by the Initial Trustees to record the terms on which Ngāti Hauā Iwi Trust is established as the post-settlement governance entity to receive the settlement assets for Ngāti Hauā.
- D It is the intention of the Initial Trustees to receive the settlement redress and facilitate the transfer of settlement redress in accordance with the Ratification Booklet and the resolutions in the Ratification Booklet that were confirmed by a majority of the Adult Registered Members of Ngāti Hauā who voted in the Ratification Process.

BY THIS DEED THE PARTIES AGREE as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Defined terms

In this Trust Deed unless the context otherwise requires:

Adult Member of Ngāti Hauā means a Member of Ngāti Hauā who is 18 years of age or older;

Adult Registered Member of Ngāti Hauā means a Member of Ngāti Hauā identified on the Ngāti Hauā Register as being 18 years of age or older;

Annual Plan means the annual plan of the Trustees which is prepared in accordance with clause 11.1;

Annual Report means the annual report of the Ngāti Hauā Group which is prepared by the Trustees in accordance with clause 12.2;

Balance Date means 30 June or any other date that the Trustees by resolution adopt as the date up to which the Trustees' financial statements are to be made in each year;

Business Day means any day on which registered banks are open for business in Matamata;



Co-Chairs means the inaugural Co-Chairs of the Trust as confirmed through the Ratification Process whose term and the position of Co-Chairs will end on the confirmation of the results of the first election of Trustees;

Chairperson means the Co-Chairs and Chairperson from time to time of the Trust appointed by the Trustees in accordance with rule 4 of the Third Schedule;

Chief Executive Officer means the Chief Executive Officer of the Trust appointed in accordance with clause 7.1;

Commercial Activities means any activity carried out in pursuit of the Trust's Purposes which has as its principal objective the maximising of financial or economic returns to the Ngāti Hauā Group and shall include without limitation the management and administration of commercial redress properties gifted and acquired in the settlement of the Ngāti Hauā Claims;

Community Development Activities means any activity carried out in pursuit of the Trust's Purposes which has as its principal objective the cultural and social development of:

- (a) the fostering and strengthening of all aspects of Ngāti Hauā tikanga, reo, kawa and kōrero, with particular acknowledgement of the Tumuakitanga and Kīngitanga;
- (b) the provision of support and assistance to Members of Ngāti Hauā in respect of education, housing, health care, age care and relief of those suffering from mental or physical sickness or disability;
- (c) the development and enhancement of community facilities for the benefit of Ngāti Hauā; and
- (d) the provision of funding to Members of Ngāti Hauā for the cultural and social development of Ngāti Hauā;

Community Development Trust means any trust or executive committee of the Trustees to be established by the Trustees pursuant to clause 10 to undertake Community Development Activities;

Commercial Entity means the entity that the Trustees may establish pursuant to clause 8 to undertake Commercial Activities;

Consolidated Financial Statements means the consolidated financial statements of the Ngāti Hauā Group prepared by the Trustees in accordance with clause 12.1;

Custodian Trustee means Ngāti Hauā Iwi Trust Trustee Limited and any subsequent Custodian Trustee that may be appointed or incorporated in accordance with clause 27;

Customary Rights means rights arising under customary law, including the following rights:



- (a) rights to occupy land; and
- (b) rights in relation to the use of:
 - (i) land; and/or
 - (ii) natural or physical resources;

Deed of Settlement means the deed dated 18 July 2013 between representatives of Ngāti Hauā and the Crown recording the settlement of the Ngāti Hauā Claims;

Election Year means the third Income Year following each of the First Election Year and the Second Election Year respectively;

First Election Year means the Income Year commencing on 1 July 2016;

Five Year Plan means the five year plan of the Trustees prepared in accordance with clause 11.2;

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

Initial Trustees means the initial Co-Chairs and trustees named in clause 3.1;

Kāhui Kaumātua means Te Kāhui Kaumātua o Hauā established in accordance with clause 6.1;

Major Transaction in relation to any member of the Ngāti Hauā Group means:

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

but does not include:

- (d) any transfer or resettlement of Settlement redress in accordance with the specific transfers and/or resettlements set out in the Ratification Booklet and the Ratification Process resolutions specifically supporting the transfer or resettlement of Settlement redress to a Recognised Recipient or the transfer or issue of shares or interests in the Commercial Entity to a Recognised



Recipient in accordance with the specific transfers or issue as set out in the Ratification Booklet and the Ratification process resolutions;

- (e) any acquisition or disposition of Property by that member from or to any other wholly owned member of the Ngāti Hauā Group;

Nothing in paragraph (c) of this definition applies by reason only of that member giving, or entering into an agreement to give, a charge secured over assets of the member the value of which is more than one half of the value of the Trust's Assets for the purpose of securing the repayment of money or the performance of an obligation.

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

Marae means a marae of Ngāti Hauā and specifically listed in the Fifth Schedule and any additional Marae added pursuant to clause 28.6;

Member of Ngāti Hauā means every individual referred to in paragraph (c) of the definition of Ngāti Hauā;

Ngāti Hauā means:

- (a) the collective group, composed of individuals who descend from one or more Ngāti Hauā Ancestors;
- (b) every whānau, hapū or group to the extent that it is comprised of individuals referred to in paragraph (a) of this definition, including the following groups:
 - (i) Ngāti Te Oro;
 - (ii) Ngāti Werewere;
 - (iii) Ngāti Waenganui;
 - (iv) Ngāti Te Rangitaupi;
 - (v) Ngāti Rangi Tawhaki;
- (c) every individual referred to in paragraph (a) of this definition;

For the purposes of this definition:

- (a) a person is descended from another person if the first person is descended from the other by:
 - (i) birth; or
 - (ii) legal adoption; or



- (iii) Māori customary adoption in accordance with Ngāti Hauā tikanga (customary values and practices);

Ngāti Hauā Ancestor means:

- (a) Hauā; and
- (b) any other ancestor of the hapu referred to in paragraph (b) of the definition of Ngāti Hauā who exercised customary rights within the Ngāti Hauā Area of Interest after 6 February 1840;

Ngāti Hauā Area of Interest means the Area of Interest of Ngāti Hauā as identified and defined in the Deed of Settlement;

Ngāti Hauā Claims means Ngāti Hauā non-raupatu historical claims against the Crown in respect of the Crown's breaches of its obligations to Ngāti Hauā under the Treaty of Waitangi and has the same meaning as the term "historical claims" as defined in the Deed of Settlement and the Settlement Act;

Ngāti Hauā Group means the Trustees, the Commercial Entity, the Community Development Trust, the Custodian Trustee, their subsidiaries (if any) and any trust(s) or other entities (whether incorporated or not) under their control;

Ngāti Hauā Register means the register of Members of Ngāti Hauā that is to be maintained by the Trustees in accordance with the First Schedule;

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

Ratification Booklet means the ratification booklet as approved by the Crown and used in the Ratification Process and annexed in the Sixth Schedule to the Deed;

Ratification Process means the ratification process approved by the Crown by which the Deed of Settlement, this Trust Deed and the resolutions specifically supporting the transfer or resettlement of settlement redress to Recognised Recipients were ratified;

Recognised Recipient means any entity or trust that the Trustees resolve is, in their view, representative of a Marae, or specifically with regard to the Tawhara Kai Atua – representative of the Kīngi Māori, and appropriate to receive any of the Trust's Assets as specified in the Ratification Booklet and in accordance with the ratified Ratification Process resolutions specifically supporting the transfer or resettlement of Settlement redress to certain persons, entities or trusts;

Registered Office means the office of the Trust as determined from time to time by the Trustees;

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



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

Roopu Rongomau means any Te Roopu Rongomau for the time being appointed in accordance with clause 33.4;

Second Election Year means the Income Year commencing on 1 July 2017;

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

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

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

Special Resolution of Trustees means a resolution that has been passed with the approval of not less than 75% of the Trustees present at a duly convened meeting of the Trustees held in accordance with the rules in the Third Schedule;

Statements of Intent means the statements of intent prepared by the Commercial Entity in accordance with clause 13.1;

Trustees means the trustees appointed from time to time in accordance with clause 3.1 and the Second Schedule to represent Ngāti Hauā and to act as the trustees for the time being of the Trust; and

Trustee shall mean any one of those persons;

Trust means the trust created by this Trust Deed which is to be called the Ngāti Hauā Iwi Trust;

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

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

Trust's Purposes means the objects and purposes set out in clause 2.4;

Tumuaki means the person who fulfils the role of Tumuaki of the Kīngitanga;

Tumuaki Endowment means the sum of \$3,000,000.00 that the Crown will pay to the Ngāti Hauā Iwi Trust for the purpose of sustaining the role of the Tumuaki as recorded in clause 5.4 of the Ngāti Hauā Agreement in Principle;



Wider Ngāti Hauā Group means the Ngāti Hauā Group and any Recognised Recipient;

Whakapapa Committee means the committee appointed in accordance with rule 4 of the First Schedule.

Vesting Day has the meaning set out in clause 31.

1.2 **Interpretation**

In this Trust Deed, unless the context otherwise requires:

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

2 **CONSTITUTION, STATUS AND OBJECTS OF THE TRUST**

2.1 **Trust Established**

The Trustees acknowledge that they hold the Trust's Assets upon the trusts and with the powers set out in this Trust Deed. The Trustees further acknowledge that the trust hereby created shall be known as the Ngāti Hauā Iwi Trust.

2.2 **Trust Administration**

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

2.3 **Powers of Trust**

The Trustees, on behalf of the Trust, shall be capable of holding real and personal property, of suing and being sued, and shall have all of the rights, powers and



privileges of a natural person with the intention that they shall, in their capacity as Trustees, have the fullest powers necessary to do all such things that they consider necessary in their sole discretion to perform or otherwise carry out the Trust's Purposes.

2.4 **Objects and purposes of the Trust**

The purposes for which the Trust is established are to receive, manage, administer and apply the Trust's Assets on behalf of and for the benefit of the present and future Members of Ngāti Hauā in accordance with this Trust Deed including, without limitation:

- (a) to uphold the historical role of the Tumuaki of the Kīngitanga;
- (b) the promotion amongst Ngāti Hauā of the educational, spiritual, economic, social and cultural advancement or well-being of Ngāti Hauā;
- (c) the maintenance and establishment of places of cultural or spiritual significance to Ngāti Hauā;
- (d) the promotion amongst Ngāti Hauā of health and well-being generally, including of the aged or those suffering from mental or physical sickness or disability;
- (e) a transfer or resettlement of Trust Assets in accordance with the Ratification Booklet and in accordance with the ratified Ratification Process resolutions specifically supporting the transfer or resettlement of Settlement redress to a Recognised Recipients or certain persons, entities or trusts; and
- (f) any other purpose that is considered by the Trustees from time to time to be beneficial to Ngāti Hauā.

2.5 **Restriction on Major Transactions**

Notwithstanding clause 2.3, the Trustees and any entity which is a member of the Ngāti Hauā Group must not enter into a Major Transaction unless that Major Transaction:

- (a) is approved by way of Special Resolution in accordance with the Fourth Schedule; or
- (b) is contingent upon approval by way of Special Resolution.

3 **APPOINTMENT, POWERS AND MEETINGS OF TRUSTEES**

3.1 **Initial Trustees**

Pending election and appointment of Trustees in accordance with the Second Schedule, the initial Trustees shall be:

- (a) Mokoro Gillett (Co-Chair);
- (b) Lance Rapana (Co-Chair);



- (c) Bob Penetito;
- (d) Te Ao Marama Maaka;
- (e) Te Ihingarangi Rakatau;
- (f) Adam Whauwhau;
- (g) Linda Raupita;
- (h) Rangitonga Kaukau.

3.2 Appointment in accordance with Second Schedule

Subject to clause 3.1 the Trustees from time to time of the Trust shall be appointed to office in accordance with the rules set out in the Second Schedule.

3.3 Trustees to control Trust affairs

Subject to any requirements imposed by this Trust Deed, the Deed of Settlement, the Settlement Act, and in accordance with law the Trustees shall control and supervise the business and affairs of the Trust in such a manner as they, in their sole discretion, see fit.

3.4 Proceedings of Trustees

Except as otherwise provided in the Trust Deed the proceedings and other affairs of the Trustees shall be conducted in accordance with the rules set out in the Third Schedule.

3.5 Trustees' Remuneration

Trustees' remuneration must:

- (a) be authorised by a resolution of Adult Registered Members of Ngāti Hauā in accordance with clause 16.2. In recommending trustee remuneration levels the Trustees must first seek professional advice as to the arms-length fair market value for similar trustee services for Maori organisations of a size and nature similar to the Trust in that regard; but
- (b) in respect of the Initial Trustees, who will be appointed before the first annual general meeting, be set by them for the period they hold office as Initial Trustees, on the basis of professional advice that they must seek as to the arms-length fair market value for similar trustee services for Maori organisations of a size and nature similar to the Trust.

3.6 Trustee Expenses:

Trustees will be entitled to be reimbursed reasonable expenses incurred in relation to their acting as Trustees.

4 TUMUAKI POWERS

- 4.1** In accordance with the tikanga of Ngāti Hauā, the Tumuaki has an inherent right to have input into the business and affairs of the Trust and the Ngāti Hauā Group. For



the purposes of this Trust and any of its subsidiaries, the Tumuaki shall have the ability to:

- (a) attend and participate in all meetings but shall not have the right to vote;
- (b) add items to the agenda for any meetings; and
- (c) provide advice to the Trustees and its employees/directors in relation to matters of tikanga, membership to Ngāti Hauā, and the business being undertaken by the Trust or its subsidiary.

4.2 In respect of entities within the Ngāti Hauā Group, the Trustees shall ensure that the Tumuaki has the rights in clause 4.1 and procure that the constitutional documents of members of the Ngāti Hauā Group provide for the rights in clause 4.1.

4.3 Written notice of every meeting shall be either hand-delivered, posted or sent by facsimile or by electronic form by the Trustees to the Tumuaki at least seven (7) days before the date of the meeting.

4.4 Every notice of a meeting shall state the place, day, time and agenda of the meeting.

5 TUMUAKI ENDOWMENT

5.1 The Trustees agree to accept the Tumuaki Endowment and to hold the same once received on separate specific trust on the terms set out in this clause 5 together with clause 25.

5.2 The Trustees agree to receive, hold and manage the Tumuaki Endowment, together with the income thereon, on separate specific trust (but otherwise in accordance with the terms of the trust deed) for the purpose of sustaining the role of the Tumuaki.

5.3 In managing the Tumuaki Endowment, the Trustees must:

- (a) only make payments on terms, and in amounts, set by an annual budget approved by the Tumuaki;
- (b) prepare a Statement of Investment Policy and Objectives (SIPO) within three (3) months of receipt of the Tumuaki Endowment which shall be updated not less than every two (2) years. Prior to being implemented, the SIPO must be approved by the Tumuaki. Any investments or transactions, the value which is more than a third of the value of the Tumuaki Endowment, shall only be made with the approval of the Tumuaki;
- (c) to apply all such income derived from the investment of the Tumuaki Endowment towards the purpose of the Tumuaki Endowment;
- (d) to provide quarterly financial reports to the Tumuaki.



- 5.4 All financial statements and/or business relating to the Tumuaki Endowment will form part of the annual reports of the Trust prepared in accordance with clause 12.
- 5.5 On the winding up of the Trust, any funds which comprise Tumuaki Endowment funds and any income derived from the Tumuaki Endowment (after the payments of all costs, debts and liabilities properly attributable to the Tumuaki Endowment) shall be paid to further the interests of Ngāti Hauā for such other purposes as the specific trusts on which the Tumuaki Endowment is held under this Trust Deed.
- 5.6 The Trustees may settle the Tumuaki Endowment on a separate charitable trust. The terms of any such trust will not differ in any material way from the terms already provided in this clause 5 and clause 25, other than to ensure compliance with the law relating to charities.

6 TE KĀHUI KAUMĀTUA O HAUĀ

6.1 Appointment of Te Kāhui Kaumātua o Hauā

The Trustees shall establish a council of elders of Ngāti Hauā to be known as Te Kāhui Kaumātua o Hauā, to which each Marae shall be entitled to appoint one koroua and one kuia provided that such koroua and kuia must be registered as a member of that Marae and the maximum number of members of Te Kāhui Kaumātua o Hauā shall be ten (10). A Trustee may not be a member of Te Kāhui Kaumātua o Hauā.

6.2 Appointment of Chair and Deputy

At the first meeting of Te Kāhui Kaumātua o Hauā following the appointment of its members Te Kāhui Kaumātua o Hauā shall appoint one (1) of their number to be chairperson and (at their discretion) one (1) to be deputy chairperson.

6.3 Considerations in appointing Te Kāhui Kaumātua o Hauā

Appointees to Te Kāhui Kaumātua o Hauā shall be Members of Ngāti Hauā who are of good standing and who are knowledgeable of Ngāti Hauā tikanga, reo, kawa and kōrero.

6.4 Te Kāhui Kaumātua o Hauā to protect mauri

Te Kāhui Kaumātua o Hauā shall be responsible for protecting the Mauri of Ngāti Hauā and facilitating the resolution of any disputes that may arise in connection with the Trust or any part of the Ngāti Hauā Group regarding the tikanga, reo, kawa and kōrero of Ngāti Hauā.

6.5 Te Kāhui Kaumātua o Hauā to advise on tikanga etc

In addition to protecting the Mauri of Ngāti Hauā, Te Kāhui Kaumātua o Hauā shall advise the Trustees on matters involving Ngāti Hauā tikanga, reo, kawa and kōrero.

6.6 Quorum

The quorum for any meetings of Te Kāhui Kaumātua o Hauā shall be not less than five (5) duly appointed koroua and kuia.



6.7 **Proceedings of Meetings**

The rules of the Third Schedule as to notice of meetings of Trustees shall apply equally to notice of meetings of Te Kāhui Kaumātua o Hauā. Otherwise Te Kāhui Kaumātua o Hauā shall regulate its proceedings as it sees fit.

7 **EXECUTIVE OFFICER AND OTHER EMPLOYEES**

7.1 **Trustees to appoint Chief Executive Officer**

The Trustees may, no later than three (3) months after the Settlement Date, appoint a Chief Executive Officer to manage the day to day administration of the Trust including without limitation the implementation of the Trust's planning, reporting and monitoring obligations under this Trust Deed.

7.2 **Delegations to Chief Executive Officer**

The Chief Executive Officer shall be responsible for the employment of all other employees of the Trust and shall exercise such other powers and discretions as are delegated to him or her by the Trustees from time to time.

7.3 **Trustee Role**

A Trustee may not hold the position of Chief Executive Officer, employee, or contractor to any entity or trust in the Ngāti Hauā Group.

8 **COMMERCIAL ENTITY AND COMMUNITY DEVELOPMENT TRUST**

8.1 **Establishment and Purpose of the Commercial Entity**

The Trustees may establish a company or limited partnership to undertake Commercial Activities and receive and manage the assets contemplated by the Ratification Booklet and ratified Ratification Process resolutions in the manner set out in the Ratification booklet.

8.2 **Ownership and Control of the Commercial Entity**

The ownership and control of the Commercial Entity will initially be structured in accordance with the Ratification Booklet and the ratified Ratification Process resolutions. Specifically, the Trustees are empowered to transfer or issue shares or interests (as the case may be) in the Commercial Entity to Recognised Recipients as set out in the Ratification Booklet

8.3 **Community Development Trust**

In receiving, controlling, and supervising the use of the Trust's Assets on behalf of Ngāti Hauā, whether pursuant to the Deed of Settlement, the Settlement Act or otherwise, the Trustees may establish the Community Development Trust to undertake Community Development Activities. The Community Development Trust may consist of one (1) or more executive committees of the Trustees each of which may be responsible for one (1) or more Community Development Activities.

8.4 **Control of the Community Development Trust**

The Trust shall have and retain the power to appoint and remove:

- (a) the trustees of any Community Development Trust established under clause 8.3; and



- (b) the members of any executive committee established to undertake Community Development Activities under clause 8.3.

8.5 Trust to monitor

In giving effect to the Trust's Purposes the Trustees shall be responsible for monitoring and otherwise overseeing the activities of the Commercial Entity and the Community Development Trust. The Trustees shall also exercise its ownership or other rights and interests in the Commercial Entity and the Community Development Trust in such a way as to promote the performance by the Commercial Entity and the Community Development Trust of their respective objectives and respective sole purposes as set out in this Trust Deed.

8.6 Assets held for Ngāti Hauā

All assets held and income derived by any member of the Ngāti Hauā Group, including the Commercial Entity shall be held and derived for and on behalf of the Trust or Ngāti Hauā as the case may be.

8.7 Directors responsible for governance

For the avoidance of doubt, and except as expressly provided by this Trust Deed, all companies and other entities within the Ngāti Hauā Group shall be governed by their respective boards and the role of the Trustees in respect of those companies and other entities shall be limited to the exercise of the rights conferred on the Trustees as shareholder or interest holder, or (as applicable) appointor, and beneficiary of the relevant entity.

8.8 Remuneration of directors and other trustees

The Trustees shall determine the remuneration payable to any:

- (a) director of the Commercial Entity and, if the Commercial Entity is a limited partnership, any director of the general partner of the limited partnership;
- (b) trustee of the Community Development Trust; and
- (c) member of any executive committee undertaking Commercial Development Activities.

8.9 No influence in determining remuneration

No Trustee receiving any remuneration referred to in clause 8.8 shall take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration nor shall the Trustee in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid.

8.10 Trustees May Establish Other Corporate Entities

Nothing in this clause shall prevent the Trust from establishing another form of corporate entity (including a limited liability partnership) to undertake Commercial Activities or any other activities that further the objects and purposes of the Trust. The Trustees must first seek professional advice in this regard.



9 APPOINTMENT OF DIRECTORS

9.1 Appointment and removal of directors

The directors of the Commercial Entity, in the case of a limited partnership the directors of the general partner, and the trustees of the Community Development Trust shall be appointed and removed by the Trustees in their sole and absolute discretion. For the avoidance of doubt, any reference to a director of the Commercial Entity also means the director of the general partner where the Commercial Entity is a limited partnership.

9.2 Directors of the Commercial Entity

There shall be not more than five (5) and not less than three (3) directors of the Commercial Entity. At least one (1) director must be a Member of Ngāti Hauā. The directors may invite an associate director or directors to attend at meetings of the directors but any associate director may not exercise a vote at any such meeting.

9.3 Trustees of the Community Development Trust

There shall be not more than seven (7) and not less than five (5) trustees of the Community Development Trust and not more than five (5) and not less than three (3) members of any executive committee established to undertake Commercial Development Activities.

9.4 Appointments with regard to skills and expertise

A director of the Commercial Entity and a trustee of the Community Development Trust shall be appointed only if that person has the particular skills and expertise that are required of a member of the board to which the appointment relates and bearing in mind the activities that the Commercial Entity or the Community Development Trust undertakes or is likely to undertake in the future and the mix of skills and expertise that is required on the relevant board.

9.5 Rotation of directors of the Commercial Entity

Two (2) of the directors of the Commercial Entity shall retire from office as at the date chosen for the annual general meeting of the Commercial Entity in each year. The directors to retire shall be those who have been longest in office since their last appointment. However, in the case of directors who were last appointed on the same day, those to retire will be determined by agreement between those directors or, if agreement cannot be reached, by lot. Retiring directors will be eligible for reappointment.

9.6 Rotation of trustees of the Community Development Trust

Two (2) of the trustees of the Community Development Trust shall retire from office as at the date chosen for the annual general meeting of the Community Development Trust in each year. The trustees to retire shall be those who have been longest in office since their last appointment. However, in the case of trustees who were last appointed on the same day, those to retire will be determined by agreement between those trustees or, if agreement cannot be reached, by lot. Retiring trustees will be eligible for reappointment.



10 APPLICATION OF INCOME

10.1 Commercial Entity to remit funds to the Trust

The Commercial Entity shall in each Income Year remit to the Trustees so much of the surplus income derived by the Commercial Entity on behalf of the Trustees in accordance with their shareholding or interest in the Commercial Entity as is agreed between the Commercial Entity and the Trust having regard to:

- (a) the Commercial Entity's objective and sole purpose in clause 8.1 of this Trust Deed and the desirability of retaining and reinvesting income to meet that objective and purpose;
- (b) the projected operating requirements of the Commercial Entity and its subsidiaries as set out in their plans; and
- (c) the responsibilities and duties of the directors of the Company to comply with the requirements of the Companies Act 1993 or Limited Partnership Act 2008.

10.2 Trustees may make payments to Community Development Trust

The Trustees may in each Income Year pay such portion of the Trust's income as it may determine to the Community Development Trust or any executive committee established to undertake Commercial Development Activities. The Community Development Trust or executive committee (as the case may be) shall apply all such income received by it towards the fulfilment of its objective and sole purpose as set out in clause 8.3 of this Trust Deed.

10.3 Trustees may apply income as they see fit

Subject to any other requirements in this Trust Deed, the Trustees may provide for the payment, application or appropriation, or decide to pay, apply or appropriate as much of the available income (including any funds remitted from the Commercial Entity) in any Income Year as the Trustees in their sole discretion think fit for or towards the Trust's Purposes.

10.4 Payments out of income

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

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

10.5 Matters to consider in applying income

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



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

10.6 **Accumulation in six months where income not applied**

Any income from any Income Year that is not paid or applied in accordance with this clause 10 shall be accumulated and any income so accumulated shall be added to and form part of the capital of the Trust's Assets and shall be subject to the trusts and powers herein declared in respect of the capital of the Trust's Assets.

11 **PLANS**

11.1 **Trustees to prepare annual plan**

In addition to the requirement in clause 11.3, the Trustees shall prepare no later than one (1) month before the commencement of each Income Year an annual plan which specifies in respect of that Income Year information including:

- (a) the strategic vision of the Trust for the Ngāti Hauā Group;
- (b) the nature and scope of the activities proposed by the Trustees for the Ngāti Hauā Group in the performance of the Trust's Purposes;
- (c) the ratio of capital to total assets;
- (d) the performance targets and measurements by which performance of the Ngāti Hauā Group may be judged;
- (e) the manner in which it is proposed that projected income will be dealt with; and
- (f) any proposals for the ongoing management of the Trust's Assets having regard to the interests of all Members of Ngāti Hauā.

11.2 **Trustees to prepare Five Year Plan**

In addition to the requirement in clause 11.3 the Trustees shall also produce within 18 months following the execution of this Trust Deed, and update not less than every two (2) years, a Five Year Plan. Such a plan shall set out the longer term vision of the Trust in respect of the matters referred to in clause 11.1(a) to (f) and shall 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.

11.3 **Initial Annual Plan and Five Year Plan**

In addition to the requirements in clauses 11.1 and 11.2 the Trustees shall, within three (3) months of establishment of the Trust prepare and produce an initial Annual Plan and an initial Five Year Plan that comply with the matters in clause 11.1 and



11.2. Those plans shall have effect until such time as they are replaced by new plans as required in clause 11.1 and 11.2.

12 ANNUAL REPORTS, ACCOUNTS AND AUDITOR

12.1 Preparation of annual report

The Trustees must, within five (5) months after the end of each Income Year, cause to be prepared an Annual Report on the affairs of the Ngāti Hauā Group covering the accounting period ending at the end of that Income Year which includes a comparison of performance against Annual Plan, and Consolidated Financial Statements including a balance sheet and income and expenditure statement and notes to those documents so as to give a true and fair view of the financial affairs of the Ngāti Hauā Group for that Income Year. The financial statements shall include as a separate item details of any remuneration to any Trustee and details of any premiums paid in respect of Trustees' indemnity insurance.

12.2 Audit of financial statements

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

12.3 Appointment of auditor

The auditor shall be appointed by the Trustees prior to the end of the Income 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 the auditor.

13 COMMERCIAL ENTITY AND COMMUNITY DEVELOPMENT TRUST PLANS AND REPORTS

13.1 Commercial Entity and Community Development Trust to prepare Plans and Statements of Intent

The Trustees shall procure that the Commercial Entity and the Community Development Trust will:

- (a) within three (3) months of the establishment of the Commercial Entity and the Community Development Trust respectively, prepare a Statement of Intent setting out its long term objectives and the general principles by which it proposes to operate;
- (b) as required by the Trustees update the Statement of Intent to take into account changes in circumstances that may arise from time to time, including without limitation changes to the nature of its business and the business of any of its subsidiaries;
- (c) within three (3) months of the establishment of the Commercial Entity and the Community Development Trust respectively, prepare a Five Year Plan which shall be updated not less than every two (2) years, and which sets out



its medium term vision and the specific steps that it proposes to take during that period to fulfil the objectives and principles set out in the Statement of Intent referred to in paragraph (a) of this clause;

- (d) no later than one (1) month following the completion of the Five Year Plan referred to in paragraph (c) of this clause, and thereafter no later than two (2) months before the commencement of each Income Year, prepare an annual plan setting out the steps to be taken in the relevant Income Year to meet its five (5) year planning objectives and fulfil the objectives and principles of the Statement of Intent;
- (e) in addition to any normal reporting requirements, within two (2) calendar months after the completion of the first, second and third quarter of each Income Year send to the Trustees reports on its operations and financial position together with an unaudited summary of financial results as at the end of that period (such reports to be in such form as the Trustees may require from time to time).

13.2 Trustees' approval required

Prior to being implemented all Statements of Intent, Five Year Plans and Annual Plans must be approved by the Trustees. Such approval shall be given in light of the Trustees' overall plans and policies in respect of the Trust's Assets and the Ngāti Hauā Group, and having regard to the specific roles of the Commercial Entity and the Community Development Trust as set out in clause 8. However, nothing in this clause shall allow the Trustees to give directions beyond approving or not approving any plan or Statement of Intent or otherwise exercising its powers as shareholder, appointor or beneficiary, with the intention that the directors of the Commercial Entity, or the trustees of the Community Development Trust, shall otherwise retain full discretion in respect of the implementation of the plans and Statements of Intent.

13.3 This clause is intentionally left blank

13.4 This clause is intentionally left blank

13.5 Report to include comparison against plans

In addition to the matters set out in clauses 13.3 and 0, the Trustees shall ensure that all reports by the Commercial Entity and the Community Development Trust include a comparison of their performance against both their respective annual plans for that Income Year and their medium and longer term planning objectives (as set out in the Five Year Plans and Statement of Intent).

13.6 Protection of sensitive Information

For the avoidance of doubt, nothing in this clause 13 limits or affects the rights of the Trustees, as shareholder in the Company, to agree pursuant to section 211(3) of the Companies Act 1993 not to include information in the annual report of the Company where the Trustees consider on reasonable grounds that the information is commercially or otherwise sensitive.



13.7 **Previously Approved Plans and Statements of Intent**

Pending approval of any Statement of Intent, Five Year Plan or Annual Plan by the Trustees, the Commercial Entity and Community Development Trust may continue to implement any Statement of Intent, Five Year Plan, and Annual Plan previously approved by the Trustees.

14 **DISCLOSURE OF PLANS, REPORTS AND MINUTES**

14.1 **Documents to be available for inspection**

The Trustees shall hold at the offices of the Trust and make available for inspection by any Member of Ngāti Hauā during normal business hours on any Business Day:

- (a) the Annual Report for each of the preceding three (3) Income Years;
- (b) the Consolidated Financial Statements for the preceding three (3) Income Years;
- (c) the Annual Plan;
- (d) the Five Year Plan;
- (e) the Statements of Intent;
- (f) the minute book kept in accordance with clause 16.14 of all decisions taken and business transacted at every annual general meeting and special general meeting;
- (g) their own personal details on the Register;
- (h) the current Trust Deed; and
- (i) the current constitution of the Commercial Entity; and
- (j) the trust deed of the Community Development Trust.

14.2 **Costs of copying**

Any Adult Registered Member of Ngāti Hauā shall be entitled to obtain copies of the information referred to in clause 14.1. However the Trustees shall also be entitled to recover at their discretion all reasonable copying or postage costs (if any).

15 **NO DISCLOSURE OF SENSITIVE INFORMATION**

- 15.1 For the avoidance of doubt, but subject to the Trustees' reporting obligations in clauses 12.1, 14.1(a), 14.1(b), 14.1(f), 16.1(a) and 16.1(b), the Trustees may at their sole discretion limit disclosure of any information about the activities or proposed activities of the Trustees and the Ngāti Hauā Group which the Trustees consider on reasonable grounds to be commercially or otherwise sensitive or subject to obligations of confidentiality.



16 GENERAL MEETINGS

16.1 Trustees to hold annual general meeting

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

- (a) report on the operations of the Ngāti Hauā Group during the preceding Income Year;
- (b) present the Annual Report and duly audited Consolidated Financial Statements;
- (c) present the proposed Annual Plan;
- (d) announce the names of all newly appointed Trustees;
- (e) seek approval of the appointment of the auditor for the next Income Year pursuant to clause 16.2(b);
- (f) seek approval of the Trustees' remuneration pursuant to clause 16.2(a);
- (g) undertake all other notified business; and
- (h) at the discretion of the Chairperson, and authorised by a resolution of the Adult Registered Members of Ngāti Hauā present at the annual general meeting, undertake any other general business raised at that meeting.

16.2 Approval of Trustees' remuneration and appointment of auditor

- (a) Except as provided in clause 3.5(b), no remuneration will be paid to a Trustee in his or her capacity as a Trustee unless that remuneration has been authorised by a resolution of the Adult Registered Members of Ngāti Hauā present at the annual general meeting. Each such resolution will express the remuneration to be paid to the Trustees as a monetary sum per annum payable either to all Trustees taken together or to any person who from time to time holds office as a Trustee.
- (b) The appointment of the auditor for the next Income Year must be authorised by a resolution of the Adult Registered Members of Ngāti Hauā present at the annual general meeting.

16.3 Notice of general meeting

The Trustees shall give not less than twenty-one (21) days' notice of the holding of the annual general meeting to all Adult Registered Members of Ngāti Hauā in the following manner:

- (a) in writing, sent by electronic form to all Adult Registered Members of Ngāti Hauā. Where the Trustees do not have an electronic address for an Adult Registered Member, or a notice sent to an electronic address fails, and the



Trustees are aware of the failure, then the notice must subsequently be sent by post to the last known postal address of that Adult Registered Member;

- (b) advertised prominently in appropriate major metropolitan newspapers circulating in New Zealand and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Hauā reside.

All notices must contain the date, time and place of the meeting and details of where copies of any information to be laid before the meeting may be inspected. Written notices under clause 16.3(a) must also include a copy of the agenda of matters to be discussed at the meeting.

16.4 Notice of special general meetings

In addition to the annual general meeting of the Trust, the Trustees shall convene a special general meeting of the Trust for the Members of Ngāti Hauā on the requisition of:

- (a) the Chairperson for the time being of the Trust; or
- (b) 75% of Trustees; or
- (c) 5% of Adult Registered Members of Ngāti Hauā;

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

16.5 Annual general meeting not limited to notified business

At the discretion of the Chairperson, and authorised by a resolution of the Adult Registered Members of Ngāti Hauā present at the annual general meeting, any general business raised at the designated time for general business at any annual general meeting may be transacted in addition to the business expressly referred to in the notice calling that meeting.

16.6 Special meeting limited to notified business

No business shall be transacted at any special general meeting convened under clause 16.4 other than the business expressly referred to in the notice calling that meeting.

16.7 Invalidation

The accidental omission to give notice to, or a failure to receive notice of an annual or special general meeting by an Adult Registered Member of Ngāti Hauā does not invalidate the proceedings at that meeting.

**16.8 Deficiency of notice**

Subject to clause 16.6, a deficiency or irregularity in a notice of any special or 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 of Ngāti Hauā who attend the meeting agree to waive the deficiency or irregularity.

16.9 Quorum

The quorum required for any annual or special general meeting of the Trust shall be thirty (30) Adult Registered Members of Ngāti Hauā present in person, and 75% of Trustees present in person.

16.10 Chairing of meetings

The Chairperson for the time being of the Trust will be the chairperson of any annual or special general meeting and will preside over and have control over the meeting. If the Chairperson is not present at the time appointed for holding a meeting, then the Trustees present shall elect one (1) of their number to substitute as the chairperson for that meeting.

16.11 Voting

To the extent that a vote is sought or required at any annual or special general meeting, every Adult Registered Member of Ngāti Hauā present shall have only one (1) vote. All resolutions except Special Resolutions require the approval of not less than a majority of the Adult Registered Members of Ngāti Hauā who validly cast a vote. Voting may be by voice or on a show of hands. The chairperson of the meeting may also demand a poll on a resolution either before or after any vote, which among other things, requires the Adult Registered Members to verify their eligibility by a process directed by the chairperson of the meeting. However, except as provided in clauses 2.5, 16.1(e), 16.1(f) 16.2, 28.1, 29 and 30 and where Special Resolutions have been passed in accordance with the Fourth Schedule the Trustees shall not be bound by a resolution passed at any annual or special general meeting, but will only be required to give consideration to any such resolution in administering the Trust's Assets and carrying out the Trust's Purposes. Where the Trustees do not wholly implement a resolution passed at an annual or special general meeting, the Trustees shall clarify their reasons in its next Annual Report.

16.12 Adjourned meetings

If after one (1) hour of the time appointed for an annual or special general meeting, a quorum is not present, the meeting will stand adjourned to be re-convened within fourteen (14) days after the date of the meeting at a time and venue agreed by the attendees of the adjourned meeting. If a quorum is not present after one (1) hour from the time appointed for that adjourned meeting, the Adult Registered Members of Ngāti Hauā present will constitute a quorum.

16.13 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 and may direct that any uncompleted item of business of which notice was given and which, in his or her opinion, is required to be voted upon, be put to the vote by a poll, without further discussion.

16.14 Minutes

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

16.15 Minutes to be evidence of proceedings

Any minute of the proceedings at an annual general meeting or a special general meeting must be signed by the chairperson as soon as practicable after the meeting and will be evidence of those proceedings.

16.16 Minutes to be evidence of proper conduct

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

17 DISCLOSURE OF INTERESTS

17.1 Definition of interested Trustee

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

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

17.2 Interests in common with Marae

Notwithstanding clause 17.1, no Trustee will be interested in the matter where that Trustee is a member of a Marae and where his or her interest is not different in kind from the interests of other members of that Marae.

17.3 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 Trustees:



- (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.

17.4 Disclosure of Interests of other Trustees

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 Trustees to the conflict of interest.

17.5 Recording of Interest

A disclosure of interest by a Trustee (and the nature and the extent or monetary value of that interest) shall be recorded in the minute book and the interest register of the Trustees.

18 DEALINGS WITH "INTERESTED" TRUSTEES

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

19 PROHIBITION OF BENEFIT OR ADVANTAGE

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

20 DISCLOSURE OF TRUSTEE REMUNERATION ETC

- 20.1 The Trustees shall, in accordance with clause 12.1, show the amount of any remuneration paid to any Trustee and the amount of any premiums paid out of the Trust's Assets for any Trustee indemnity insurance separately in the financial statements including any payments made pursuant to clause 23.

21 ADVICE TO TRUSTEES

21.1 Trustees may rely on advice

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

- (a) an employee of the Trust whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned; and



- (b) a professional adviser or expert in relation to matters which the Trustees believe on reasonable grounds to be within the person's professional or expert competence.

21.2 **Trustees may obtain solicitor or barrister's opinion**

If the Trustees are in doubt over any matter relating to the management and administration of the Trust's Assets, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a Solicitor or Barrister of the High Court of New Zealand of at least seven (7) years' standing. This right to obtain and act upon a Solicitor or Barrister's opinion, however, will not restrict any right on the part of the Trustees to apply to the High Court of New Zealand for directions.

22 **LIABILITY OF TRUSTEES**

22.1 **General Limitation of Liability**

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 Trust 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.

22.2 **Special Resolutions**

To avoid doubt, the limitation of liability in clause 22.1 applies to any act or omission of that Trustee or the Trust which is authorised by, or undertaken to give effect to, any Special Resolution or any other resolution of the Adult Registered Members of Ngāti Hauā.

23 **INDEMNITY AND INSURANCE**

23.1 **Indemnity and insurance for Trustees**

Any Trustee, officer or employee of the Trust or of any other member of the Ngāti Hauā Group:

- (a) shall be and is hereby indemnified, and
- (b) may have their insurance costs met,

out of the Trust's Assets against any liability which he or she incurs in defending any civil or criminal proceedings issued because of his or her actions in relation to the Trust or the Ngāti Hauā Group, where 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 or any member of the Ngāti Hauā Group with the object of fulfilling the Trust's Purposes.

23.2 **Indemnity and insurance costs to be just and equitable**

All indemnities and insurance costs may only be provided to the extent that the Trustees in their discretion think just and equitable.

23.3 **Indemnity and insurance for 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 their insurance costs met out of those assets.

23.4 Record of decisions

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

24 NGĀTI HAUĀ NOT TO BE BROUGHT INTO DISREPUTE

24.1 Trustees not to bring into disrepute

No Trustee shall act in a manner which brings or is likely to bring the Trust or any member of the Ngāti Hauā Group into disrepute.

24.2 Directors not to bring into disrepute

The Trustees shall also require that any directors or trustees appointed by or at the direction of the Trustees to any Commercial Entity (or as applicable) any trust in which the Trustees have an interest do not act in a manner which brings or is likely to bring the Trust or any member of the Ngāti Hauā Group into disrepute.

24.3 Censure or removal of Trustees

If, having followed the procedure in clause 24.4, the Trustees believe that a Trustee has acted in a manner that brings or is likely to bring into disrepute the Trust or any member of the Ngāti Hauā Group, the Trustees may, by Special Resolution of Trustees formally censure or remove from office that Trustee.

24.4 Procedure where allegation made of bringing into disrepute

If an allegation is made to the Trustees that a Trustee has acted in a manner which brings or is likely to bring the Trust or any member of the Ngāti Hauā Group into disrepute, the Trustees must implement the following procedure:

- (a) A written notice of the allegation shall be served by the Trustees on the Trustee and the Marae which elected that Trustee;
- (b) The Trustee shall have thirty (30) days to respond to the allegation and the response shall be in writing and delivered to the Trustees;
- (c) The relevant Marae may also respond in writing to the Trustees within that thirty (30) day period;
- (d) If no response is received, the Trustees may exercise the rights of censure or removal in clause 24.3;
- (e) If the Trustees are not satisfied with the responses received from the Trustee and/or the Marae and wishes to consider exercising the rights of censure or removal in clause 24.3, they must first take reasonable steps to resolve the matter with the Trustee concerned by mediation or other alternative dispute resolution procedure acceptable to the Trustees and the Trustee concerned (both acting reasonably);



- (f) If the mediation or alternative dispute resolution procedure has not resolved the matter to the satisfaction of the Trustees and the Trustee concerned within 60 days of the notice of the allegation being given to the Trustee, the Trustees may exercise the rights of censure or removal in clause 24.3.

24.5 Censure or removal to be notified

The censure or removal of a Trustee in accordance with this clause shall, together with reasons, be immediately notified in writing to the Marae that elected the Trustee concerned. The censure or removal shall also be reported to the Members of Ngāti Hauā at the next annual general meeting of the Trust following such censure or removal.

24.6 Effect of Removal

A Trustee removed from office in accordance with clause 24.3 shall cease to hold office as a Trustee forthwith and shall not be entitled to be re-elected as a Trustee for a period of not less than three (3) years following his or her removal.

24.7 Replacement of Trustee

The removal of a Trustee in accordance with clause 24.3 shall give rise to a casual vacancy which shall be filled in accordance with rule 4.5 of the Second Schedule.

25 GIFTS OR DONATIONS

25.1 Trustees may accept specific trusts

Notwithstanding any other provision in this Trust Deed, the Trustees may accept or otherwise deal with any property upon trust for the purposes of the Trust or for any specific purpose that comes within the Trust's Objects and Purposes. Such a trust may include any trust for the benefit of the Members of Ngāti Hauā or any of them. Any property held by the Trustees pursuant to this clause shall be dealt with in accordance with the terms of the trust and shall not constitute part of the Trust's Assets.

25.2 Specific trusts to be separate

If the Trustees accept a trust for any specific purpose as outlined in clause 25.1 it must keep the property subject to such trust and any income derived from it separate from the Trust's Assets; and administer that property and income as a separate specific trust in terms of the trust under which it was accepted.

25.3 Use of specific trust assets

The Trustees shall not use the assets of any separate specific trust to make good any deficit, loss, damage or breach of trust relating to any other assets that the Trustees may hold, and the Trustees shall also not use the Trust's Assets to make good any deficit, loss, damage or breach of trust relating to any specific trust.

25.4 Expenses of specific trusts

Each separate specific trust shall bear its own administration expenses plus a fair proportion (determined by the Trustees) of the administration expenses applicable to the Trust.



26 RECEIPTS FOR PAYMENTS

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

27 CUSTODIAN TRUSTEE

27.1 Power to Appoint

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

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

27.2 Removal and Replacement

The Trustees may remove and replace any Custodian Trustee appointed pursuant to clause 27.1.



28 AMENDMENTS TO TRUST DEED

28.1 Special Resolution required

Subject to clause 28.2 and clause 28.3, all amendments to the Trust Deed shall only be made with the approval of a Special Resolution passed in accordance with the Fourth Schedule.

28.2 Limitations on Amendment

No amendment shall be made to the Trust Deed which:

- (a) changes the Trust's Objects and Purposes so that the Trustees are no longer required to act for the collective benefit of the present and future Members of Ngāti Hauā;
- (b) changes this clause 28.2;
- (c) changes clause 30;
- (d) changes the requirement for a Special Resolution (as defined from time to time) in clause 28.1 or clause 29; and
- (e) changes the definition of "Member of Ngāti Hauā" in clause 1.1 (unless the change is made pursuant to clause 28.3).

28.3 Amendment to reflect Deed of Settlement and Settlement Legislation

Notwithstanding any other provision in this Trust Deed to the contrary, this Trust Deed:

- (a) must be amended by the Trustees if necessary to make the definition of Member of Ngāti Hauā or Ngāti Hauā Ancestor consistent with that set out in the final Deed of Settlement and the Settlement Act; and
- (b) may be amended by the Trustees to reflect provisions (if any) in the Deed of Settlement and the Settlement Legislation in relation to rights and powers of the Trustees;

If the Trust Deed is amended due to operation of this sub-clause a Special Resolution passed in accordance with the Fourth Schedule is not required.

28.4 Consideration of proposals

Every Adult Registered Member of Ngāti Hauā may put forward for consideration by the Trustees proposals for amendments to the Trust Deed. Any proposal put forward under this clause 28.4 must be in writing and addressed to the Chairperson at the Registered Office of the Trust. Any proposal put forward under this clause 28.4 must be considered by the Trustees at their next available meeting. If the Trustees do not discard the proposal in accordance with clause 28.5 they may, in their discretion, discuss this at the next annual general meeting.



28.5 **Proposals to be discarded**

Where a proposal for amendments to the Trust Deed does not comply with clause 28.2, the Trustees may in their discretion discard the proposal and the Trustees will not be required to call a special general meeting in accordance with the Fourth Schedule.

28.6 **Requirements to alter Marae list**

Where a proposed amendment to the Trust Deed will have the effect of either adding a new Marae to the list of Marae set out in the Fifth Schedule or deleting a Marae from that list, then no special general meeting may be called in accordance with the requirements of the Fourth Schedule until the following additional requirements have been met:

- (a) The proposed amendment to add or delete the Marae has been submitted by a Member of Ngāti Hauā to the Trustees who have sought the advice of Te Kāhui Kaumātua o Hauā;
- (b) Te Kāhui Kaumātua o Hauā have at a duly convened meeting of Te Kāhui Kaumātua o Hauā resolved to endorse the addition or deletion of the Marae and have advised the Trustees accordingly;
- (c) In the case of a proposal to delete a Marae, the Trustees have made all reasonable efforts to ensure that all Members of Ngāti Hauā registered with that Marae on the Ngāti Hauā Register have been registered with another Marae that the rights of those Members to vote on the election of Trustees have been preserved by some other method; and
- (d) Following the receipt of the advice of Te Kāhui Kaumātua o Hauā under clause 28.6(b) above, the Trustees have by a Special Resolution of Trustees agreed to submit to a special general meeting a proposal to amend the Fifth Schedule by adding or (as applicable) deleting the relevant Marae.

29 **RESETTLEMENT**

29.1 **Power to Resettle**

Subject to clause 29.2 the Trustees have the power at any time or times:

- (a) by deed to settle or resettle any or all of the Trust's Assets upon trust (including any existing trust, charitable or otherwise) in any manner which in the opinion of the Trustees is for the advancement or benefit of the Members of Ngāti Hauā; or
- (b) to apply by way of gift or transfer any or all of the Trust's Assets to any other organisation, body, trust or entity (including any charitable entity) whose objects or purposes are the same or similar to any of the Trust's Purposes.

29.2 **Special Resolution Required**

The Trustees must not make any resettlement, or any other application of the Trust's Assets pursuant to clause 29.1 which is:



- (a) a Major Transaction; or
 - (b) a gift or transfer for less than fair value; or
 - (c) a gift, transfer or resettlement to a charitable entity,
- unless that Major Transaction, gift or transfer;
- (d) is approved by way of Special Resolution; or
 - (e) is contingent upon approval by way of Special Resolution; and
 - (f) notice is given to the Adult Registered Members of Ngāti Hauā in accordance with rule 3 of the Fourth Schedule.

30 **TERMINATION OF TRUST**

30.1 **Subject to clause 28.2**

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

31 **PERPETUITIES AND VESTING DAY**

- 31.1 The Vesting Day for the Trust is the day that is eighty (80) years less one (1) day after the date of this Deed, that date being within the perpetuities period permitted by section 6 of the Perpetuities Act 1964 and the perpetuities period applicable to the Trust is hereby specified accordingly. On the Vesting Day, the Trustees shall hold the remaining capital and income of the Trust's Assets on trust for the Members of Ngāti Hauā then living as tenants in common in equal shares.
- 31.2 If the Settlement Act provides that the rule against perpetuities, and the other rules of law regulated by the Perpetuities Act 1964, are not to apply to the Trust, clause 31.1 shall be void

32 **ARCHIVING OF RECORDS**

32.1 **Records to be held for seven years**

All minutes and other records of any proceedings of the Trust and any companies and other entities in the Ngāti Hauā Group shall be held by the Trustees and those companies and other entities for a period of seven (7) years.

**32.2 Records to be archived**

At the expiry of seven (7) years the Trustees shall archive the records of the Trust and the companies and other entities in the Ngāti Hauā Group for such period as the Trustees consider necessary.

32.3 Records may be retained for longer

Notwithstanding clauses 32.1 and 32.2, the Trustees and any of the companies and other entities within the Ngāti Hauā Group may hold on to any records for a period exceeding seven (7) years if in their discretion such records contain information that is commercially or otherwise sensitive or is still required by the Trustees or entity to which the information relates.

33 DISPUTE RESOLUTION**33.1 Disputes in relation to membership or tikanga**

In the event that a dispute arises regarding membership or otherwise in connection with the tikanga, reo, kawa, whakapapa and kōrero of Ngāti Hauā then that dispute shall be referred in the first instance to the Trustees.

33.2 Notice of Dispute

All disputes referred to the Trustees in accordance with clause 33.1 shall be submitted to the Trustees by notice in writing and the Trustees shall acknowledge receipt in writing within ten (10) working days of the date of receipt of the notice.

33.3 Reference to Te Kāhui Kaumātua o Hauā

If a dispute is not settled within thirty (30) days of the receipt by the Trustees of written notice of the dispute in accordance with clause 33.2 then that dispute shall be referred to Te Kāhui Kaumātua o Hauā.

33.4 Te Kāhui Kaumātua o Hauā to appoint Te Roopu Rongomau

On having a dispute referred to it, and consistent with its responsibility to protect the mauri of Ngāti Hauā, Te Kāhui Kaumātua o Hauā shall appoint Te Roopu Rongomau which shall consist of up to six (6) Ngāti Hauā koroua and kuia who, in the view of Te Kāhui Kaumātua o Hauā, have the necessary skills and expertise to deal with the relevant dispute. The role of Te Roopu Rongomau in dealing with the dispute shall be to facilitate and make findings and decisions on the dispute referred to it.

33.5 Deliberations of Te Roopu Rongomau

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

33.6 Te Roopu Rongomau to convene hui

In facilitating the resolution of any dispute Te Roopu Rongomau may convene a general meeting of the koroua and kuia of Ngāti Hauā in order to discuss the matters that are in dispute.



33.7 Hui to meet notice requirements

Any general meeting of koroua and kuia called by Te Roopu Rongomau in order to resolve any disputes shall be called in accordance with the requirements as to notice and meeting procedure that apply in respect of general meetings in clause 16.3.

33.8 Notification of Outcome

Te Roopu Rongomau shall give its findings and decision, together with its reasons, in writing to both parties to the dispute.

33.9 Disputes as to interpretation of Trust Deed

In the event that a dispute arises as to the interpretation of any clause or rule in this Trust Deed, not being a dispute to which clause 33.1 applies, that dispute shall be referred in the first instance to the Trustees.

33.10 Notice of Dispute

All disputes referred to the Trustees in accordance with clause 33.9 shall be submitted to the Trustees by notice in writing clearly setting out all issues in relation to the disputed interpretation and the Trustees shall acknowledge receipt in writing within ten (10) working days of the date of receipt of the notice.

33.11 Reference to an expert for determination

If the dispute is not settled within thirty (30) days of receipt by the Trustees of written notice of the dispute in accordance with clause 33.10, then the dispute shall be referred to an expert who has the necessary skills and expertise to deal with the relevant dispute. The expert is to be appointed by the Trustees; or, if the Trustees are a party to the dispute itself, the expert shall be appointed by the Chief Judge of the Maori Land Court and if he or she for any reason declines to make the appointment then by the President for the time being of the New Zealand Law Society.

33.12 Role of experts

The role of the expert appointed under rule 33.11 shall be to make findings and decisions in relation to the dispute as notified to the Trustees pursuant to clause 33.10.

33.13 Procedure of experts

In dealing with any dispute the expert appointed under rule 33.11 shall, subject to meeting the requirements of natural justice, have the sole discretion to call for evidence and determine the manner in which a dispute before them should be dealt with. The findings and decisions of the expert shall be final and binding on the parties.

33.14 Notification of outcome

The expert shall give his or her findings and decision, together with reasons, in writing to both parties to the dispute.

34 REVIEW OF TRUST DEED

- 34.1 After three (3) years from the date of the first election of Trustees, the Trustees shall undertake a review of this Trust Deed and its operation with a view to reporting

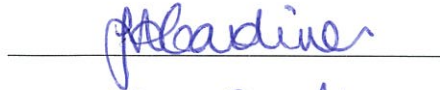


to the next annual general meeting of the Trust after the completion of the review on the effectiveness of the arrangements set out in this Trust Deed. The report shall include recommendations as to the amendments (if any) that should be made to this Trust Deed.

Signed by **Mokoro Gillett** as Initial Trustee



in the presence of:



Name: Lisa Gardiner

Occupation: General Manager

Address: 9046 Papamoa Beach Rd
Papamoa, 3118

Signed by **Bob Penetito** as Initial Trustee



in the presence of:



Name: Lisa Gardiner

Occupation: General Manager

Address: 9046 Papamoa Beach Rd,
Papamoa 3118

Signed by **Te Ao Marama Maaka** as Initial Trustee



in the presence of:



Name: Lisa Gardiner

Occupation: General Manager

Address: 9046 Papamoa Beach Rd,
Papamoa 3118



Signed by **Te Ihingarangi Rakatau** as Initial Trustee

Te Ihingarangi Rakatau

in the presence of:

Lisa Gardiner

Name: *Lisa Gardiner*

Occupation: *General Manager*

Address: *904b Papamoa Beach Rd*
Papamoa 3118

Signed by **Adam Whauwhau** as Initial Trustee

Adam Whauwhau

in the presence of:

Lisa Gardiner

Name: *Lisa Gardiner*

Occupation: *General Manager*

Address: *904b Papamoa Beach Rd*
Papamoa 3118

Signed by **Linda Raupita** as Initial Trustee

Linda Raupita

in the presence of:

Lisa Gardiner

Name: *Lisa Gardiner*

Occupation: *General Manager*

Address: *904b Papamoa Beach Rd*
Papamoa 3118



Signed by **Rangitonga Kaukau** as Initial Trustee

Rangitonga Kaukau
in the presence of:

Lisa Gardiner

Name: Lisa Gardiner

Occupation: General manager

Address: 904b Papamoa Beach Rd
Papamoa 3118



FIRST SCHEDULE NGĀTI HAUĀ MEMBERSHIP REGISTER

1 TRUSTEES TO KEEP REGISTER

1.1 Trustees to maintain register

The Trustees shall administer and maintain the Ngāti Hauā Register which is a register of the Members of Ngāti Hauā.

1.2 Register to comply with this Schedule

The Ngāti Hauā Register shall be maintained in accordance with the rules and procedures set out in this Schedule.

2 CONTENTS OF REGISTER

2.1 Register to contain Members' details

The Ngāti Hauā Register shall record in it the full names, dates of birth and postal addresses of the Members of Ngāti Hauā. It shall also record the name or names of the Marae to which each Member of Ngāti Hauā is registered for the purposes of Trustee elections in accordance with Schedule 2 of this Deed.

2.2 Registration not limited to one Marae

A Member of Ngāti Hauā may belong by whakapapa to more than one (1) Marae and may register with each Marae to which the member claims affiliation. The Adult Registered Member must nominate a Marae of primary affiliation to which he or she chooses to register for the purposes of Trustee elections.

2.3 Membership Registration Number:

The Trustees will allocate a membership identification number to each Adult Registered Member of Ngāti Hauā on the Register. The Trustees will immediately after allocation, notify the relevant Adult Registered Member of Ngāti Hauā of his or her membership identification number.

3 APPLICATIONS FOR REGISTRATION

3.1 Form of applications

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

- (a) the full name, date of birth and postal address of the applicant;
- (b) the name or names of the Marae to which the applicant claims affiliation;
- (c) the name of the Marae of primary affiliation to which the applicant chooses to register for the purposes of Trustee elections;
- (d) the whakapapa (genealogical connections) through which the applicant claims affiliation to Ngāti Hauā and the name of the Marae to which the applicant claims to affiliate in terms of paragraph (b) of this rule, including details of



the whakapapa connection of the applicant to Ngāti Hauā and to the relevant Marae;

- (e) such evidence as the Trustees may from time to time require as to that applicant's status as a Member of Ngāti Hauā and affiliation to a particular Marae.

3.2 Applications to be made by

An application for registration as a Member of Ngāti Hauā may be made by:

- (a) Members of Ngāti Hauā who are eighteen (18) years of age or older, on their own behalf or by their legal guardian;
- (b) other Members of Ngāti Hauā who are under the age of eighteen (18) years, by their parent or legal guardian on their behalf.

4 DECISIONS AS TO MEMBERSHIP

4.1 Whakapapa Committee to be established

The Trustees shall establish a Whakapapa Committee to make decisions on all applications made pursuant to rule 3.1 of this Schedule by any person for the recording in the Ngāti Hauā Register of that person's membership of Ngāti Hauā.

4.2 Composition of Whakapapa Committee

The Whakapapa Committee shall comprise not less than three (3) and not more than five (5) members of Ngāti Hauā, appointed by the Trustees from time to time, with the expertise and knowledge of Ngāti Hauā whakapapa necessary to make determinations regarding membership applications. Trustees with the required expertise and knowledge of Ngāti Hauā whakapapa may be appointed to the Whakapapa Committee.

4.3 Consideration of applications

All applications for membership pursuant to rule 3.1 of this Schedule together with any supporting evidence shall be forwarded by the Trustees to the Whakapapa Committee.

4.4 Decisions to be made on applications

Upon receipt of an application for membership in accordance with rule 3.1 of this Schedule the Whakapapa Committee shall consider the application and shall make a decision as to whether or not the application should be accepted both as to the applicant's status as a Member of Ngāti Hauā and as a member of the Marae to which the applicant claims to affiliate.

4.5 Successful applications to be notified and registered

In the event that the Whakapapa Committee decides that the application should be accepted then such decision shall be notified in writing to the Trustees, who shall in turn notify the applicant and enter the applicant's name and other relevant details (including membership identification number in accordance with rule 2.3) in the appropriate part of the Ngāti Hauā Register.



4.6 **Notification of unsuccessful applicants**

In the event that the Whakapapa Committee decides to decline the application (whether as to the status of the applicant as a Member of Ngāti Hauā or as a member of any Marae) then such decision shall be conveyed in writing to the Trustees together with the reasons for the decision. The Trustees shall then notify the applicant in writing of the decision together with the reasons given for the decision.

4.7 **Unsuccessful applicant may reapply**

Any applicant whose application has been declined may at any time seek to have his or her application reconsidered by the Whakapapa Committee provided that such application for reconsideration may only be made on the basis of new evidence (being evidence that was not submitted or considered as part of the initial application or, if more than one (1), any previous application) as to the applicant's status as a Member of Ngāti Hauā or as affiliating to a particular Marae.

4.8 **Members may change Marae**

Any Member of Ngāti Hauā who is registered on the Ngāti Hauā Register may, by applying in writing to the Trustees, change the Marae that he or she is for the time being recorded as registered with.

4.9 **Process to change Marae**

Any application to change Marae shall be dealt with by the Trustees in the same manner as applications for membership as set out in this rule 4.

5 **MAINTENANCE OF REGISTER**

5.1 **Trustees to establish policies**

The Trustees shall take such steps and institute such policies as are necessary to ensure that the Ngāti Hauā Register is maintained in a condition that is as up to date, accurate and complete as possible in recording the Members of Ngāti Hauā.

5.2 **Assistance in identifying membership**

In maintaining the Ngāti Hauā Register the Trustees shall include in the policies that they develop, policies for assisting in the identification and registration of those Members of Ngāti Hauā that are not for the time being on the Ngāti Hauā Register. Such policies shall include policies as to the nature of the assistance that the Trustees will provide to those persons that believe that they are Members of Ngāti Hauā but for whatever reason are not able to establish such membership.

5.3 **Responsibility of Members of Ngāti Hauā**

Notwithstanding rule 1.1, of this Schedule it shall be the responsibility of each person who is a Member of Ngāti Hauā (or in the case of those persons under eighteen (18) years of age, the parent or guardian of that person) to ensure that his or her name is included in the Ngāti Hauā Register and that his or her full postal address for the time being is provided and updated. Any Member of Ngāti Hauā may choose to terminate their registration of membership of Ngāti Hauā, by notifying the Trustees in writing.



5.4 Consequences of registration

Registration of any person on the Ngāti Hauā Register as a Member of Ngāti Hauā shall be conclusive evidence of that person's status as a Member of Ngāti Hauā and affiliation to the Marae under whose name he or she is recorded.

5.5 Register available for Inspection

Subject to any policies that may be adopted from time to time by the Trustees for the protection of private information, the Trustees shall ensure that the Ngāti Hauā Register is available to be inspected during business hours by all Adult Members of Ngāti Hauā whose names appear on the Ngāti Hauā Register.



SECOND SCHEDULE ELECTIONS OF TRUSTEES

1 PROCEDURE

1.1 This Schedule to apply

The Trustees shall be elected to office in accordance with the rules and procedures set out in this Schedule.

1.2 Election to be by Marae

Each Marae, acting through the Adult Members of Ngāti Hauā listed in the Ngāti Hauā Register as registered with that Marae, shall be entitled to elect one (1) Trustee.

1.3 Two Initial Trustees to continue in office for 3 years

In addition to the Trustees elected under rule 1.2 and notwithstanding any other provision in this Deed but subject always to rule 7 of this Schedule, Mokoro Gillett and Bob Penetito will hold office for a term of three (3) years from the conclusion of the annual general meeting of the Trust in the First Election Year until the conclusion of the third annual general meeting of the Trust in the following Election Year. Accordingly, for that three (3) year period, there may be up to seven (7) Trustees, being Mokoro Gillett and Bob Penetito (appointed under this rule 1.3) and up to five (5) Trustees elected by Marae under rule 1.2. After that three (3) year period, there may be up to five (5) Trustees, being those Trustees elected by Marae under rule 1.2.

2 ELIGIBILITY FOR APPOINTMENT

2.1 Trustee to be registered with Marae

To be eligible to be elected as a Trustee, a person must:

- (a) at least seven (7) days prior to the Hui-a-Marae, be recorded in the Ngāti Hauā Register as registered with the Marae for which the election is being held;
- (b) not have ceased to hold office in the last three (3) years for any of the reasons set out in sub-rules (a) to (e) of rule 7 of this Schedule; and
- (c) not be a person to which any of sub-rules (f) to (i) of rule 7 of this Schedule apply.

2.2 Trustees not to be Trust employees

A Trustee shall not hold the position of Chief Executive Officer nor shall a Trustee be employed as an employee of the Trust, or be engaged as an independent contractor or consultant in any paid capacity whatsoever other than in a paid capacity pursuant to clause 3.5 (as a Trustee) or clause 8.9 (as a director of the Commercial Entity, trustee of the Community Development Trust or a member of an executive committee undertaking Community Development Activities).



2.3 **Trustees may be Directors**

Nothing in this Deed, including without limitation rule 2.2 of this Schedule, prevents a Trustee from holding office as a director or trustee of any other member of the Ngāti Hauā Group.

3 **TRUSTEE ELECTIONS**

3.1 **Marae for First Election Year and every 3 years after that**

Elections of the Trustees by the Marae selected in accordance with rule 3.3(a) must be held every three (3) years from the First Election Year and subject to rule 4.3 must be concluded, as required by rule 5, in time for the Trustees elected in the First Election Year to take office immediately following the annual general meeting of the Trust held in that year.

3.2 **Marae for Second Election Year and every 3 years after that**

Elections of the Trustees by the remaining Marae not otherwise selected under 3.3(a) must be held every three (3) years from the Second Election Year and subject to rule 4.3 must be concluded, as required by rule 5, in time for the Trustees elected in the Second Election Year to take office immediately following the annual general meeting of the Trust held in that year.

3.3 **Initial Trustees to select Marae**

Within six (6) months of the Settlement Date, the Initial Trustees shall:

- (a) select (by a method determined by the Initial Trustees) the Marae whose Trustees comprise up to one half of the total number of Trustees for whom elections will be held in the First Election Year; and
- (b) determine that the remaining Marae not otherwise selected under sub-rule (a) above will hold elections in the Second Election Year.

4 **TERM OF OFFICE**

4.1 **Term of office**

Subject to rules 4.3, 4.4 and 7 of this Schedule, the Trustees from time to time shall hold office from the conclusion of the annual general meeting of the Trust in the Election Year in which they are elected until the conclusion of the third annual general meeting of the Trust in the following Election Year.

4.2 **Trustees to face re-election every three years**

No Trustee shall hold office for longer than three (3) years without facing re-election.

4.3 **Continuation of Trustee where no replacement elected**

Subject to rule 7 of this Schedule, if the election of a Trustee or Trustees by a Marae is not completed within the timeframe prescribed for such election then the sitting Trustees shall continue to hold office until the election is completed and he or she has either been re-elected or replacement Trustees have been elected. This rule shall not affect the term of the Trustees that are eventually elected, which term shall



expire at the conclusion of the annual general meeting of the Trust in the Election Year following their election.

4.4 Eligibility of sitting Trustees

Sitting Trustees shall be eligible for re-election.

4.5 Casual vacancies

Should any casual vacancy arise as a result of a Trustee ceasing to hold office prior to the expiry of his or her term of office then that vacancy shall be filled by the holding of a further election in accordance with this Schedule provided that the Trust shall have the discretion not to hold such an election if the casual vacancy occurs less than six (6) months before the original Trustee's term was due to expire.

4.6 Term of casual appointments

In the case of a Trustee elected pursuant to rule 4.5 of this Schedule the Trustee thereby appointed shall hold office for the balance of the term of office of the Trustee that he or she has replaced.

4.7 Temporary Trustee

If the Trustees decide in accordance with rule 4.5 not to hold an election to fill a casual vacancy, the Trustees may convene a meeting of the members of the relevant Marae with public notice being given in accordance with rule 4.8. The members present at the meeting may resolve to appoint a temporary trustee by a vote in accordance with clause 16.11 of this Deed provided the proposed trustee satisfies the eligibility criteria for trustees in rule 2 of this Schedule. In the event, that there is more than one (1) nominee, the trustees will conduct a vote and the highest polling candidate will be appointed as a temporary trustee. For the avoidance of doubt, a temporary Trustee may not be appointed if the vacancy to be filled occurs more than six (6) months before the original Trustee's term was due to expire in which case an election to fill the vacancy must be held in accordance with this Schedule. A temporary Trustee appointed under this rule 4.7 shall hold office for the balance of the term of the office of the Trustee that he or she has replaced and during that time shall have all the powers, duties and responsibilities of an elected Trustee.

4.8 Notice of Consultation Hui

Notice of a meeting of members of the relevant Marae pursuant to rule 4.7 must be given not less than seven (7) days before the meeting and shall be advertised prominently in any metropolitan or provincial newspaper circulating in regions where the Trustees consider that a significant number of members of the relevant Marae reside.

5 TIMING OF ELECTIONS

The elections for Trustees in any given Election Year must, except in the case of elections to fill casual vacancies under rule 4.5 of this Schedule, be concluded by the time of the annual general meeting of the Trust in that Election Year.



6 HUI A MARAE

6.1 Hui-a-Marae

Each Trustee will be appointed by the Adult Registered Members of Ngāti Hauā registered with that Marae, by a Hui-a-Marae (a meeting of the Marae) duly convened and notified in accordance with rule 6.2.

6.2 Notice of Hui

Notice of a Hui-a-Marae must be given not less than twenty-one (21) days before the Hui-a-Marae and shall be:

- (a) in writing and sent by electronic form to all Adult Registered Members of Ngāti Hauā. Where the Trustees do not have an electronic address for an Adult Registered Member, or a notice sent to an electronic address fails, and the Trustees are aware of the failure, then the notice must subsequently be sent by post to the last known postal address of that Adult Registered Member; and,
- (b) advertised prominently in any metropolitan or provincial newspaper circulating in regions where the Trustees consider that a significant number of Adult Registered Members of Ngāti Hauā registered with the relevant Marae reside.

6.3 Content of notices

All notices under rule 6.2 must contain the date, time and place of the Hui-a-Marae.

6.4 Eligibility to vote

Those eligible to vote on the election of a Trustee are those Adult Registered Members of Ngāti Hauā registered in accordance with rule 6.5 of this Schedule with the Marae in respect of which the relevant Trustees are to be appointed. For avoidance of doubt, each such Adult Member of Ngāti Hauā will only be eligible to vote at Trustee elections of their Marae of primary affiliation.

6.5 Date by which Members to be registered

The date by which an Adult Member of Ngāti Hauā must be recorded in the Ngāti Hauā Register as registered with his or her Marae of primary affiliation for the purposes of Trustee elections, is the date that is seven (7) days prior to the Hui-a-Marae.

6.6 Election process

The chairperson of the Hui-a-Marae will determine the election process for that Marae, and any such election process must give the Adult Registered Members of Ngāti Hauā registered with that Marae a fair and reasonable opportunity to participate in the election of a trustee representative for that Marae.

6.7 Confirmation of Marae election

- (a) Promptly upon the election of its Trustee, each Marae must give written notice to the Chief Executive Officer of the results in an Election Certificate, signed by the newly elected representative as evidence of his or her consent to be a trustee and to be bound by the terms of the Trust Deed.



- (b) On or as soon as practicable after the date on which a proper Election Certificate is received by the Chief Executive Officer the Chief Executive Officer will publish the name of the trustee elected by that Marae on the website for the Ngāti Hauā Iwi Trust.

7 TERMINATION OF OFFICE OF TRUSTEE

Notwithstanding the forgoing rules of this Schedule, a Trustee shall cease to hold office if he or she:

- (a) retires from office by giving written notice to the Trust;
- (b) completes his or her term of office and is not re-elected;
- (c) refuses to act;
- (d) is absent without leave from three (3) consecutive ordinary meetings of the Trustees without good reason or without the permission of the Chairperson;
- (e) is removed from the office of Trustee in accordance with clause 24.3;
- (f) is or becomes physically or mentally incapacitated to the extent that he or she is unable to perform the duties of a Trustee;
- (g) is or becomes bankrupt or makes any composition or arrangement with his or her creditors;
- (h) is or becomes a person convicted of any offence punishable by a term of imprisonment of three (3) or more years, or is or becomes a person convicted of a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961), within the last seven (7) years;
- (i) is or becomes a person in respect of whom an order has been made under section 383 of the Companies Act 1993;
- (j) dies.

8 RECORD OF CHANGES OF TRUSTEES

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

9 DISPUTE

Any dispute or disagreement as to election process (including the result of any election) is to be dealt with under clause 33 of this Trust Deed as if it were a dispute regarding membership.



THIRD SCHEDULE PROCEEDINGS OF TRUSTEE MEETINGS

1 TRUSTEES TO REGULATE MEETINGS

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

2 NOTICE OF MEETING

2.1 Notice to Trustees

Written notice of every meeting shall be either hand-delivered, posted or sent by facsimile or by electronic form to each Trustee at least seven (7) days before the date of the meeting. However, it shall not be necessary to give notice of a meeting of Trustees to any Trustees for the time being absent from New Zealand unless that Trustee has provided details of where he or she may be contacted while overseas. No notice shall be required for adjourned meetings except to those Trustees who were not present when the meeting was adjourned.

2.2 Content of notice

Every notice of a meeting shall state the place, day and time of the meeting, and the agenda of the meeting.

2.3 Waiver of notice

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

2.4 Meeting limited to notified business

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

2.5 Deficiency of notice

Subject to rule 2.4 of this Schedule, no deficiency in the giving of notice for any meeting of Trustees shall otherwise invalidate such meeting or the proceedings at such meeting.

3 QUORUM

- 3.1 Seventy-five percent (75%) of Trustees present at a meeting shall constitute a quorum. If after one (1) hour of the time appointed for a meeting of the Trustees a quorum is not present the meeting will stand adjourned to be reconvened in accordance with rule 1.1 of this Schedule.



4 CHAIRPERSON

4.1 Trustees to appoint

Except for the Co-Chairs who are confirmed through the ratification of the Deed of Settlement, at the first meeting of the Trustees following an election, the Trustees shall appoint or re-appoint a Chairperson at their discretion.

4.2 Termination of office

- (a) The Co-Chairs will cease after the first election;
- (b) In the event that the Chairperson resigns from that office, ceases to be a Trustee, or is removed from office by the Trustees passing a special resolution of no confidence in him or her then the Trustees shall appoint a Chairperson at their discretion.

5 PROCEEDINGS AT MEETINGS

5.1 Decisions by majority vote

Unless stated otherwise in this Trust Deed, questions arising at any meeting of Trustees shall be decided by a majority of votes of Trustees present at a validly called meeting. In the case of an equality of votes, the Chairperson shall not have a second or casting vote.

5.2 Chairperson

The Chairperson shall take the chair at all the meetings of the Trustees. If the Chairperson is not present then Trustees present shall elect one (1) of their number to chair the meeting.

5.3 Vacancies

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

5.4 Defects of appointment

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

5.5 Unruly meetings

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



6 DELEGATION TO COMMITTEES BY TRUSTEES

6.1 Trustees may appoint committees

The Trustees may from time to time as they think expedient appoint one (1) or more Trustees to be a committee for making any inquiry or as an executive committee to undertake any Community Development Activity on such terms as the Trustees may by resolution direct and any committee so appointed may co-opt, for the purposes of consultation and advice, persons who are not Trustees, provided that a Trustee shall chair any such committee.

6.2 Committees to report to Trustees

All committees appointed under rule 6.1 of this Schedule shall report to the Trustees in respect of their activities and such reports shall, unless a direction is made to the contrary by the Trustees:

- (c) be provided on a monthly basis; and
- (d) contain details of the activities of the committee since the last such report.

6.3 Regulation of procedure by committees

Subject to these rules and the provisions of this Trust Deed, any committee established by the Trustees may regulate its procedure as it sees fit provided that the committee must notify the Trustees of all persons co-opted to the committee.

7 WRITTEN RESOLUTIONS

- 7.1 In exceptional or urgent circumstances, a written resolution signed by all the Trustees who have been fully informed by the Chairperson as to the details of and the reasons for the resolution shall be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees. Such a resolution may comprise several duplicated documents, each signed by one (1) or more of the Trustees.

8 MINUTES

8.1 Minutes to be kept

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

8.2 Minutes to be evidence of proceedings

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

8.3 Minutes to be evidence of proper conduct

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



9 TELECONFERENCE MEETINGS

9.1 For the purposes of these rules a Teleconference Meeting between a number of Trustees or committee members who constitute a quorum shall be deemed to constitute a meeting of the Trustees or the committee members (as the case may be). All the provisions in these rules relating to meetings shall apply to Teleconference Meetings so long as the following conditions are met:

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

10 FORMS OF CONTRACTS

10.1 Contracts by deed

Any contract which, if made between private persons, must be by deed, shall, if made by the Trustees, be in writing signed under the name of the Trust by any three Trustees, on behalf of or by direction of the Trustees;

10.2 Contracts in writing

Any contract which, if made between private persons, must be in writing signed by the parties to be bound by the contract shall, if made by the Trustees, be in writing signed under the name of the Trust by a person acting with the express or implied authority of the Trustees, on behalf of or by direction of the Trustees.

10.3 Oral contracts

Any contract which, if made between private persons, may be made orally may be made in the same manner by or on behalf of the Trustees by any Trustee or the Chief Executive Officer, in either case acting by direction of



the Trustees in relation to what may reasonably be considered as matters of minor consequence in the context of the operations of the Trust.

10.4 Contracts pursuant to resolution

Notwithstanding anything to the contrary in this rule, no contract made by or on behalf of the Trustees shall be invalid by reason only that it was not made in the manner provided by this rule if it was made pursuant to a resolution of the Trustees.



FOURTH SCHEDULE PROCEDURE FOR PASSING SPECIAL RESOLUTION

1 THIS SCHEDULE TO APPLY

1.1 A Special Resolution to:

- (a) approve a Major Transaction in accordance with clause 2.5; or
- (b) amend this Trust Deed in accordance with clause 28;
- (c) approve a resettlement or other transaction in accordance with clause 29; or
- (d) terminate the Trust in accordance with clause 30;

shall only be passed as set out in this Schedule.

2 SPECIAL GENERAL MEETING REQUIRED

2.1 A special general meeting of the Trust must be called for the purposes of considering one (1) or more Special Resolutions. No other business may be transacted at such special general meeting.

2.2 In order for a Special Resolution to be passed it must receive the approval of not less than seventy-five percent (75%) of those Adult Registered Members of Ngāti Hauā who validly cast a vote in favour of the proposed Special Resolution in accordance with this Schedule.

3 NOTICE

3.1 Notice of special general meeting

The Trustees shall give not less than twenty-one (21) days' notice of the date, time and place of the special general meeting called for the purposes of considering any Special Resolution.

3.2 Method of giving notice

Notice of a special general meeting called for the purposes of considering a Special Resolution shall be:

- (a) in writing and sent by electronic form to all Adult Registered Members of Ngāti Hauā. Where the Trustees do not have an electronic address for an Adult Registered Member, or a notice sent to an electronic address fails, and the Trustees are aware of the failure, the Trustees must post the notice to the last address shown for each such Adult Registered Member of Ngāti Hauā on the Ngāti Hauā Register; and
- (b) advertised prominently in any metropolitan or provincial newspaper circulating in regions where the Trustees consider that a significant number of Adult Registered Members of Ngāti Hauā registered with the relevant Marae reside.



3.3 **Content of written notice to Members of Ngāti Hauā**

All written notices given in accordance with rule 3.2(a) of this Schedule shall contain:

- (a) the date, time and place of the special general meeting called for the purposes of considering the Special Resolution; and
- (b) details of the proposed Special Resolution; and
- (c) details of the reasons for the proposed Special Resolution and the effect that the Special Resolution will have.

3.4 **Content of advertisement**

All advertisements published in accordance with rule 3.2(b) shall contain the matters referred in rule 3.3(a) and 3.3(b) together with details of how and where any further information can be obtained.

4 **VOTING**

4.1 **Method of Special General Voting**

Voting on a Special Resolution will be by voice or on a show of hands. The chairperson of the meeting may also demand a secret ballot on a Special Resolution either before or after any vote.

4.2 **Eligibility to vote**

Those eligible to vote on a Special Resolution are those Adult Members of Ngāti Hauā recorded in the Ngāti Hauā Register as an Adult Registered Member of Ngāti Hauā on the day immediately preceding the special general meeting.

4.3 **Only one vote to be cast in relation to Special Resolutions**

Each Adult Registered Member of Ngāti Hauā present at the special general meeting will only have one (1) vote. The chairperson at the meeting may (in his or her sole discretion) require that the persons present at the meeting verify their eligibility to vote under a process directed by the chairperson.

4.4 **Counting votes and certification of result**

The chairperson of the meeting will appoint a person to count all of the votes. Once all of the votes have been counted and the result of the Special Resolution determined by the chairperson of the meeting, the chairperson of the meeting will certify the result of the Special Resolution and communicate the result to the meeting and to the Trustees.

5 **PROCEEDINGS AT SPECIAL GENERAL MEETING**

- 5.1 Except as otherwise set out in this Schedule the provisions of clause 16 shall apply to the holding of any special general meeting called for the purposes of considering a Special Resolution and the meeting shall be conducted accordingly.



FIFTH SCHEDULE

MARAE

Rukumoana Marae

Kai a te mata

Waimakariri

Raungaiti

Te Iti o Hauā



**SIXTH SCHEDULE
RATIFICATION BOOKLET**



SEVENTH SCHEDULE

FORM OF ELECTION CERTIFICATE

The person named below was elected as the representative trustee of					
Marae at a Hui-a-Marae duly convened and held in accordance with the Trust Deed of the Ngāti Hauā Iwi Trust					
ELECTED TRUTSEE					
Surname:			First Names:		
CERTIFIED on behalf of:				Marae by	
Name of Chairperson:			Signature:		
Dated the		day of:		20	