

Deed of Trust of the Tapuika Iwi Authority

Consolidated Trust Deed incorporating all variations to the original deed of Trust for Tapuika Iwi Authority dated 10 December 2006.

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Executed as a deed on the day of 2022

Introduction

- A. By deed dated 14 December 2006 (“the 2006 Deed”), Tapuika established a trust to receive and manage assets on behalf of Tapuika in a manner which will provide for Tapuika’s current and future needs.
- B. The 2006 Deed was amended and replaced by Deed dated 14 December 2012 (“the 2012 Deed”), in order to enable the Tapuika Iwi Authority to receive the Settlement assets under the Deed of Settlement.
- C. In accordance with the powers of amendment, and as approved by Special Resolution under the terms of the Trust Deed the terms of the trust have subsequently been varied and those varied terms are now incorporated in the terms of this Deed..

1. Definitions and Interpretations

1.1 Defined Terms

In this Deed, unless the context otherwise requires:

“**2006 Deed**” means the deed of trust creating the Tapuika Iwi Authority dated 10 December 2006;

“**2012 Deed**” means the deed of trust amending and replacing the 2006 Deed dated 14 December 2012;

“**Adult Registered Members of Tapuika**” means those Members of Tapuika identified on the Tapuika Register as being 18 years of age and over;

“**Amendment Date**” means the date the special resolution is passed appointing the Guardian Trustee as provided for in clauses 3.2 and 3.3;

“**Annual General Meeting**” means an annual meeting held in accordance with clause 10.1;

“**Annual Plan**” means the annual plan of the Trustees prepared in accordance with clause 6.1;

“**Annual Report**” means the annual report of the Tapuika Group prepared by the Trustees in accordance with clause 6.3;

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

“Board” means in relation to a Trust Entity the trustees, or board of directors, of that Trust Entity;

“Business Day” means any day in which registered banks are open for business in Auckland;

“Chairperson” means the chairperson from time to time of the Trust elected by the Trustees in accordance with rule 4 of the First Schedule;

“Chief Returning Officer” means the person appointed from time to time as chief returning officer for the purposes of a Special Resolution in accordance with rule 8.1 of the Second Schedule;

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

“Consolidated Financial Statements” means the consolidated financial statements of the Tapuika Group prepared by the Trustees in accordance with clause 6.4;

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

“Deed of Settlement” means a deed entered into between representatives of Tapuika and the Crown recording the settlement of the Tapuika Claims;

“Deputy Chairperson” means the deputy chairperson from time to time of the Trust if one is elected in accordance with rule 4 of the First Schedule;

“Disputes Committee” means a committee formed in accordance with clauses 27.4 and 27.5;

“Financial Year” means any year or accounting period beginning 1 July of one calendar year and ending 30 June in the following calendar year or any other period the trustees by resolution adopt;

“Five Year Plan” means the five year plan of the Trustees prepared in accordance with clause 6.2;

“Guardian Trustee” means an incorporated company registered on the NZ Companies Register under the name Tapuika Iwi Authority Trustee Limited and

complying with the provisions of clauses 3.1(f) and 3.2 of this deed to act as sole Trustee of this Trust once so appointed;

“Investment Activities” means any activity carried out in pursuit of the Trust's Purposes and which has as its principal objective investment and growth of its capital for cultural and social development purposes that benefit Tapuika, including without limitation:

- (a) The fostering of all aspects of Tapuika tikanga, reo, and korero;
- (b) The provision of support and assistance to Members of Tapuika 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 Tapuika; and
- (d) The provision of funding to Members of Tapuika for the cultural and social development of the iwi.

“Major Transaction” means:

- (a) The acquisition of, or an agreement to acquire, whether contingent or not, Property by the Trustees the value of which is more than half the value of the Trust Fund before the acquisition; or
- (b) The disposition of, or an agreement to dispose of, whether contingent or not, Property by the Trustees the value of which is more than half the value of the Trust Fund before disposition; or
- (c) A transaction that has or is likely to have the effect of the Trustees acquiring rights or interests or incurring obligations or liabilities the value of which is more than half the value of the Trust Fund before the transaction; or
- (d) Approval by the Trustees of a major transaction of a Trust Entity where the transaction involves the acquisition or disposal, or agreement to acquire or dispose, whether contingent or not, Property the value of which is more than half of the combined value of the assets of that relevant Trust Entity and the Trust Fund;

but does not include:

- (e) Any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all or substantially all of the assets of the Trust; or

- (f) Any acquisition or disposition of Property by the Trustees or a Trust Entity from or to any other wholly owned member of the Tapuika Group; and
- (g) Nothing in paragraph (c) of this definition applies by reason only of the Trustees giving, or entering into an agreement to give, a charge secured over assets the Trustees hold on trust under this Deed and the value of which is more than one half of the value of the assets of the Trust Fund for the purpose of securing the repayment of money or the performance of an obligation.

“Member of Tapuika” means every individual referred to in subparagraph (a) of the definition of Tapuika;

“Mandated Iwi Organisation” has the same meaning as provided for in the Māori Fisheries Act 2004;

“Nga Koeke” means recognised cultural practitioners from the hapu and marae of Tapuika who have particular knowledge, expertise and wise counsel on matters relating to Tapuika tikanga, kawa, whakapapa and cultural practices of Tapuika;

“Nga Koeke Council” means members of Nga Koeke appointed by the Trustees as members of the Nga Koeke Council pursuant to clause 4.1;

“Ordinary Resolution” means a resolution approved by a simple majority of the Adult Registered Members of Tapuika who validly cast a vote on the matter in question;

“Property” means all property (whether real or personal) and includes choses in action, rights of any kind howsoever arising, interests and money;

“Related Person” means a parent, child, sibling or spouse;

“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;

“Social Development Activities” means any activity carried out in pursuit of the Trust's Purposes and which has as its principal objective the cultural and social development of Tapuika, and shall include without limitation:

- (a) the fostering of all aspects of Tapuika tikanga, reo, and korero;
- (b) the provision of support and assistance to Members of Tapuika 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 Tapuika; and
- (d) the provision of funding to Members of Tapuika for the cultural and social development of the iwi.

“Special General Meeting” means a meeting held in accordance with clause 10.4;

“Special Resolution” means a resolution passed with the approval of not less than 75% of the Adult Members of Tapuika who validly cast a vote in accordance with the process set out in the Second 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 Trust held in accordance with the rules in the First Schedule;

“Statement of Intent” means the statements of intent prepared by any Trust Entity in accordance with clause 7.1;

“Te Takapu o Tapuika” means the land “mai i nga pae maunga ki te toropuke e tu mai ra, ki te awa e rere mai ana, waiho te whenua ko te takapu o taku tamaiti ko Tapuika”;

“TIATL” means Tapuika Iwi Authority Trustee Limited a company formed or to be formed for the purpose of being appointed Guardian Trustee of this Trust or any successor company

“Tapuika” means:

- (a) the collective group composed of individuals who descend from a Tapuika ancestor; and
- (b) every whānau, hapū, or group to the extent that it is composed of individuals referred to in clause, including:
 - (i) Ngāti Tuheke;
 - (ii) Ngāti Kuri;
 - (iii) Ngāti Marukukere;
 - (iv) Ngāti Moko.
- (c) For the purposes of subparagraph (a) above, 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 the Tapuika tikanga (customary values and practices).

Tapuika ancestor means an individual who exercised customary rights by virtue of being descended from:

- (a) Tapuika through Makahae, Huritini, Marangaipāroa, Tukutuku, Tamateranini, and Tuariki; or
- (b) a recognised ancestor of any of the groups referred to in subparagraph (b) of the definition of Tapuika; and
- (c) who exercised customary rights predominantly in relation to Tapuika area of interest as identified in the map identifying the Tapuika area of interest attached to the Deed of Settlement any time after 6 February 1840.

“Tapuika Claims” means Tapuika's historical claims (as defined in the Deed of Settlement) in respect of the Crown's breaches of its obligations to Tapuika under the Treaty of Waitangi;

“Tapuika Fisheries Trust “ means the Trust which is the Mandated Iwi Organisation for Tapuika originally established as the Tapuika Fisheries Trust;

““Tapuika Group” means the Trust and any other Trust Entity incorporated or established pursuant to the terms of this Deed, their subsidiaries (if any) and any trust(s) (whether incorporated or not) under their control;

“Tapuika Register” means the register of Members of Tapuika that is to be maintained in accordance with rule 1 of the First Schedule of the Deed of trust creating the **Tapuika Fisheries Trust** ;

“Trust” means the trust known as Tapuika Iwi Authority created by the 2006 Deed and continued by this Deed;

“Trust Entity” means a wholly owned or controlled company trust or other entity established by the Trust for the purpose of receiving holding or managing any part of the Trust Fund, to carry out Commercial Activities, Investment Activities, Social Development Activities, or for any other purpose but excludes the Guardian Trustee;

“Trust Fund” means all the assets, rights and liabilities including income that are from time to time held by the Trustees on the trusts of this Deed howsoever received including without limitation, all land and all assets received pursuant to the Deed of Settlement and Settlement Act, any money, investments or other property paid or given to or acquired or agreed to be acquired by the Trust,

including any other assets received from the Crown or any other body operating pursuant to any statute including the Māori Fisheries Act 2004;

“Trust's Purposes” means the objects and purposes set out in clause 2.2;

“Trustees” means the trustees of this Trust from time to time as provided for in clause 3 and **“Trustee”** shall mean any one of those persons.

1.2 Interpretation

In this 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 gender;
- (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 Deed;
- (f) the schedules to this Deed shall form part of this Deed;
- (g) headings appear as a matter of convenience only and shall not affect the interpretation of this Deed.

2. Constitution, Status and Objects of the Trust

2.1 Trust:

- (a) The Trustees acknowledge that they hold the Trust Fund upon the trusts and with the powers set out in this Deed. The Trustees further acknowledge that the trust shall be known as Tapuika Iwi Authority.
- (b) The office of the Trust shall be at such place as the Trustees from time to time determine.

2.2 Objects and purposes of the Trust:

The purposes for which the Trust is established are to receive, manage and administer the Trust Fund on behalf of and for the benefit of the present and

future Members of Tapuika in accordance with this Deed including, without limitation:

- (a) To affirm Tapuika, tino rangatiratanga, mana whenua and mana moana;
- (b) Preserving, reviving and protecting nga tikanga me nga taonga o Tapuika;
- (c) Protecting and utilising all land, water and sea based resources of Tapuika;
- (d) The promotion amongst Tapuika of the educational, spiritual, economic, social and cultural advancement, health and well-being of Tapuika;
- (e) The maintenance and establishment of places of cultural or spiritual significance to Tapuika; and
- (f) any other purpose that is considered by the Trust from time to time to be beneficial to Tapuika.

3. Appointment, Powers and Meetings of Trustees

3.1 Appointment of trustees:

- (a) There shall be a minimum of 5 and a maximum of 11 Trustees.
- (b) A person is eligible to be a Trustee if the person is not disqualified by section 16 of the Charities Act 2005.
- (c) Each person who is eligible to be a Trustee and who is elected as a Trustee of the Tapuika Fisheries Trust shall automatically become a Trustee of this trust at the same time with the intent that the same individuals who are the Trustees of the Tapuika Fisheries Trust shall also be the Trustees of this Trust.
- (d) A Trustee will cease to be a Trustee at the time that they cease to be a trustee of the Tapuika Fisheries Trust.
- (e) The Chair and Officers of the Tapuika Fisheries Trust shall be the Chair and officers of this Trust.
- (f) The Trustees may, by Special Resolution be replaced by a sole Guardian Trustee Tapuika iwi Authority Trustee Limited that complies with the following clauses where that Special Resolution identifies the Guardian Trustee, appoints such trustee and names the first directors.

3.2 Appointment of Guardian Trustee

- (a) From the Amendment Date the Guardian Trustee will be Tapuika Iwi Authority Trustee Limited (TIATL), a limited liability company incorporated under the Companies Act having been appointed by Special Resolution
- (b) The constitution of TIATL must include:
 - (i) That its sole business is to act as trustee of the trust ,
 - (ii) That TIATL must comply with the Trustee powers and duties set out in this deed;
 - (iii) Provisions for meetings of the board of TIATL will follow the quorum and other meeting requirements as set out in the first schedule of this deed with such changes are as necessary for context, provided that any such requirements may be amended if approved by Ordinary Resolution at an AGM or SGM of the Trust and TIATL will then operate in accordance with any such amendment.
- (c) The directors of TIATL will at all times be the persons elected as Trustees of the Tapuika Fisheries Trust and each such person shall automatically be appointed as a Director of TIATL at the time that they are elected time and removed as Director of TIATL at the time they cease to be a Trustee of that Trust with the intent that the same individuals who are the Trustees of the Tapuika Fisheries Trust shall also be the Directors of TIATL as the Guardian Trustee of this trust.
- (d) The Shares in TIATL as the Guardian Trustee shall be held by the current persons elected as Trustees of the Tapuika Fisheries Trust at any time who shall hold them on trust for the benefit of the Members of Tapuika.
- (e) The Adult Registered Members may, by way of a Special Resolution, vote to remove the sole Guardian Trustee as trustee of the Trust . A resolution that removes a sole Guardian Trustee shall appoint the persons elected as Trustees of the Tapuika Fisheries Trust for the time being as replacement Trustees of the Trust in the same resolution.

3.3 Powers of Trustees:

- (a) In addition to the powers conferred on the Trustees by law, the Trustees have the widest possible powers and discretions to achieve the Trust's Purposes and are empowered to exercise all the rights, powers and privileges and may incur all the liabilities and obligations of a natural person of full age and capacity but subject to complying with the terms of this Deed.

- (b) Without in any way limiting the wide powers conferred by clause 3.3(a) the Trustees have power to invest the Trust Fund and the income from the Trust Fund as the Trustees think fit provided that in making any investment the Trustees exercise the care, diligence and skill required of a prudent Trustee as set out in the Trustee Act 1956.
- (c) Without prejudice to the generality of clause 3.3(a) or to any of the Trustees' express or implied powers, the Trustees have the powers specified in the Third Schedule and may exercise them either alone or with any other person(s) provided that a Major Transaction can only be carried out with the approval of a Special Resolution.
- (d) except as otherwise expressly provided by this Deed, the Trustees may collectively exercise all the powers and discretions vested in the Trustees by this Deed in the absolute discretion of the Trustees, at such time or times, upon such terms and conditions, and in such manner as the Trustees may decide.

3.4 **Application of Income**

- (a) The Trustees may at any time, after payment of or provision for all reasonable costs, charges and expenses of the Trustees in respect of the establishment, management and administration of the Trust, pay or apply all or any of the income of the Trust in any Financial Year for the purpose or purposes contained in clause 2.2;
- (b) The Trustees may in making any decisions about the application of income in any Financial Year, decide to have set aside, deducted from, or paid out of such income such amounts as the Trustees in their discretion think fit, including:
 - (i) 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
 - (ii) As a reserve to meet fluctuations of income in future years and/or other contingencies.
- (c) In making any decision as to the application of the income in any Financial Year, the Trustees shall, in exercising their discretion:
 - (i) determine how much of the income should cease to be income and be added to and form part of the capital of the Trust Fund, provided that the Trustees may not in the Financial Year convert all of the income to capital;
 - (ii) endeavour to act fairly in considering the present and future need and interests of all Members of Tapuika.

- (d) Any income that is not paid or applied in accordance with clause 3.4 within 12 months of the end of the Financial Year shall be accumulated and shall be added to and form part of the capital of the Trust Fund and shall be subject to the trusts and powers herein declared in respect of the capital of the Trust Fund.

3.5 **Management of the Trust - General:**

- (a) The Trustees may from time to time appoint, remunerate and dismiss employees and contractors of the Trust, unless, either generally or in a particular case, they shall have for the time being delegated any one or more of the powers of appointment, remuneration or dismissal, as the case may be, to a person holding the position of chief executive of the Trust.
- (b) Except as provided in clause 3.5(c), no Trustee may be engaged on a contract of service or on a contract for services to the Trust.
- (c) A Trustee, or an incorporated or unincorporated entity of which a Trustee is a partner or an owner or a principal shareholder may be engaged on a contract for services to provide trade or cultural services to the Trustees provided:
 - (i) the procurement of the contract for services is contestable by persons other than Trustees;
 - (ii) the services to be rendered have no connection with the management or the financial administration or control of the Trust;
 - (iii) without limiting clause 11 (relating to the disclosure of interests), the full terms and conditions of the proposed contract have been disclosed in advance and in writing to the Trustees;
 - (iv) the Trustees have agreed unanimously to the contract; and
 - (v) the existence of the contract and its value are disclosed in the Trust's Annual Report.

3.6 **Committees:**

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

- (b) All committees appointed under clause 3.6(a) 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:
 - (i) be provided on a monthly basis; and
 - (ii) contain details of the activities of the committee since the last such report.
- (c) Subject to 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.

3.7 Delegation of powers

- (a) The Trustees may delegate in writing to any committee or to the chief executive of the Trust, any of the powers exercisable by the Trustees, provided that no committee may enter into any contract or binding obligation with any third party unless that contract or obligation has been expressly authorised in writing by the Trustees.
- (b) Any person or committee acting under delegated power shall act in accordance with the terms of this Deed and, in the absence of proof to the contrary, shall also be presumed to be acting within the terms of the delegation.
- (c) The Trustees may revoke wholly or partly any delegation of the powers of the Trustees at any time.
- (d) The Trustees must, in delegating the powers of the Trustees, provide restrictions or rules by or within which such delegated powers are to be exercised in accordance with this clause, including monetary limits of authority and in each case must require the delegate to report to the Trustees on any action or decision taken as delegate.
- (e) Notwithstanding the delegation by the Trustees of any powers under clause 3.5, the Trustees shall remain responsible for the exercise of those powers by the delegate as if the Trustees had exercised the power themselves, unless the Trustees:
 - (i) believed on reasonable grounds when making the delegation, and at all times subsequently, that the delegate would exercise the power in accordance with the provisions of this Deed and the duties owed by the Trustees in the exercise of their office under this Deed; and

- (ii) have monitored, by means of reasonable methods, the exercise of the power by the delegate.

3.8 **Proceedings of Trustees:**

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

3.9 **Trustees Remuneration**

Trustees' remuneration must be authorised by a resolution of Adult Registered Members of Tapuika in accordance with clause 10.2. In recommending Trustee remuneration levels the Trustees must first seek independent, professional advice in that regard.

4. **Nga Koeke Council**

4.1 **Appointment of Nga Koeke Advisory Council**

The Trustees may from time to time appoint from the Nga Koeke, a Nga Koeke Council on such terms of appointment, and subject to such rules and regulations, meeting procedures and processes, as may be prescribed by the Trustees from time to time. The Trustees shall when making appointments take into consideration the desirability of the Nga Koeke Council being broadly representative of Tapuika.

4.2 **Role of Nga Koeke Council:**

- (a) Following the election of any new Trustees, any new Trustees who have not previously been elected as Trustees will meet with the Nga Koeke Council for the purposes of seeking advice and guidance on Tikanga o Tapuika.
- (b) The Trustees may at any other time seek the advice of the Nga Koeke Council on matters relating to Tapuika tikanga, kawa, whakapapa and customary practices of Tapuika.
- (c) The Trustees must give regard to advice they obtain or receive from the Nga Koeke Council in respect of matters relating to Tapuika tikanga, kawa, whakapapa and customary practices of Tapuika

4.3 **Trustees not to be members of Nga Koeke Council:**

For the avoidance of doubt, a Trustee may not contemporaneously with his or her holding office as Trustee be appointed to, or remain a member of, the Nga Koeke Council.

5. Trust may establish Trust entities

5.1 Establishment of Trust Entities:

- (a) The Trustees may establish Trust Entities in order to receive, hold or manage the Trust Fund, or any Property forming part of the Trust Fund, provided that any Trust Entity must be established for the benefit of the Trust or Tapuika, solely in furtherance of one or more of the Trust's purposes, and in accordance with any requirements of this deed.
- (b) The Trustees shall ensure that the Trust Deed, constitution or other governing document of any Trust Entity has clauses, that :
 - (i) have the same effect as clauses 13(no private profit), 14(prohibition on benefit or advantage) and 3.3(c) (major transactions) of this deed;
 - (ii) provide for a term of office and rotation of Board members; and
 - (iii) provide that the effect of those clauses cannot be removed.
- (c) The Trustees shall have and retain the power to appoint and remove the members of the Board of any Trust Entity. The Board of a Trust Entity will comprise no fewer than 3 members. A Board which has 3 or 4 members may have one Trustee appointed to that Board. A Board which has 5 or more members may have up to three Trustees appointed to that Board. In every case, the Board of a Trust Entity will comprise a majority who are Members of Tapuika. Nothing in this clause will require a Trustee to be removed from office on a Board as a result of any casual vacancy arising in a Board from time to time.
- (d) The Trustees may, from time to time, disestablish any Trust Entity.
- (e) The Trustees shall monitor and supervise each Trust Entity in the following manner:
 - (i) The Trustees shall be responsible for monitoring and otherwise overseeing the activities of any Trust Entity and shall exercise its ownership or other rights and interests in any Trust Entity in such a way as to promote the performance by that Trust Entity of its purposes.
 - (ii) For the avoidance of doubt, and except as expressly provided by this Deed, each Trust Entity shall be governed by its respective Board and the role of the Trust in respect of each Trust Entity shall be limited to the exercise of the rights conferred on the Trust as shareholder or (as applicable) appointor and as beneficiary of the Trust Entity.

- (iii) The Trustees shall require that any members of the Board appointed by or at the direction of the Trustees to any Trust Entity do not act in a manner which brings or is likely to bring Tapuika, the Trust or any Trust Entity into disrepute.
- (iv) Any person appointed to the Board of any Trust Entity must have the particular skills and expertise that are, in the opinion of the Trustees, required of a member of the Board of the Trust Entity to which the appointment relates and bearing in mind the activities that the relevant Trust Entity undertakes or is likely to undertake in the future.

5.2 **Assets held for Tapuika:**

All assets held and income derived by any member of the Tapuika Group, shall be held and derived for and on behalf of the Trust.

5.3 **Board Remuneration:**

- (a) The Trustees shall determine the remuneration payable to any directors or trustees of a Trust Entity.
- (b) No Trustee receiving any remuneration referred to in clause 5.3(a) 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.

6. **Plans, Annual Reports, Accounts and Auditor**

6.1 **Trust to prepare annual plan:**

The Trustees shall, no later than one month before the commencement of each Financial Year complete an Annual Plan which specifies in respect of that Financial Year the following information:

- (a) the strategic vision of the Trust for the Tapuika Group;
- (b) the nature and scope of the activities proposed by the Trust for the Tapuika 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 Tapuika 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 Fund having regard to the interests of all Members of Tapuika.

6.2 Trust to prepare Five Year Plan:

The Trustees shall also produce within 12 months following the execution of this Deed, and update not less than every two years, a Five Year Plan. Such a plan shall:

- (a) set out the longer term vision of the Trustees in respect of the matters referred to in clause 6.1(a) to (f); and
- (b) include a statement by the Trustees of the commercial, management and distribution policies that the Trustees intend to follow in respect of the Trust Fund.

6.3 Preparation of annual report:

The Trustees must, within 4 months after the end of each Financial Year, cause to be produced an Annual Report on the affairs of the Tapuika Group covering the accounting period ending at the end of that Financial 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 Tapuika Group for that Financial Year. The Consolidated Financial Statements shall include as a separate item details of any remuneration or fees paid to any Trustee or any Trustee's firm (including without limitation any such payment to any Trustee as a director or trustee of any other member of the Tapuika Group), details of any premiums paid in respect of Trustees' indemnity insurance and any payments made under clause 17.1.

6.4 Audit of financial statements:

The Trustees must also ensure that the Consolidated Financial Statements for each Financial Year are audited by a chartered accountant in public practice prior to the date for giving notice of the annual general meeting of the Trustees for the Financial Year immediately following the Financial Year to which the financial statements relate. The Financial Statements may be prepared as Consolidated Financial Statements together with or separate from consolidated statements of the Tapuika Iwi Authority and any entity associated with that Trust as may be appropriate having regard to generally accepted accounting practice.

6.5 **Appointment of auditor:**

The appointment of the auditor for the next Financial Year must be authorised by an Ordinary Resolution of the Adult Members of Tapuika present at the Annual General Meeting. No Trustee or employee of the Trustees (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 Trustee's accountant shall not be appointed as auditor.

7. **Trust Entity Plans and Reports**

7.1 **Trust Entities to prepare Plans and Statements of Intent:**

The Trustees shall procure that each Trust Entity will:

- (a) within 6 months of the establishment of each Trust Entity produce 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) no later than 12 months following the establishment of each Trust Entity produce a 5 year plan, which shall be updated not less than every 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 3 months following the completion of the 5 year plan referred to in paragraph (c) of this clause, and thereafter no later than 2 months before the commencement of each Financial Year, produce an annual plan setting out the steps to be taken in the relevant Financial Year to meet its 5 year planning objectives and fulfil the objectives and principles of the Statement of Intent;
- (e) in addition to any normal reporting requirements, within 2 months after the completion of the first, second and third quarter of each Financial 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).

7.2 **Trust approval required:**

Prior to being implemented all Statements of Intent, 5 year plans and annual plans must be approved by the Trustees. Such approval will be given, or withheld in light of the Trustee's overall plans and policies in respect of the Trust Fund and the Tapuika Group, and having regard to the specific roles of each Trust Entity. 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 Board of a Trust Entity shall otherwise retain full discretion in respect of the implementation of the plans and Statements of Intent.

7.3 **Reports by the Trust Entities to comply with Companies Act 1993:**

The Trustees shall procure that all annual reports by any Trust Entity comply in all respects with the requirements of the Companies Act 1993 as if the Trust Entity were a company, including without limitation:

- (a) the description required by section 211(1)(a) of the Companies Act 1993 of any change during the accounting period in the nature of the business of the Trust Entity or any of its subsidiaries, or the classes of business in which the Trust Entity has an interest, whether as a shareholder of another entity or otherwise;
- (b) the financial statements (or as appropriate group financial statements) for that Financial Year completed and signed in accordance with the Financial Reporting Act 1993;
- (c) the auditor's report of the financial statements (or group financial statements) of the Trust Entity for that Financial Year.

7.4 **Report to include comparison against plans:**

The Trustees shall procure that all reports by any Trust Entity include a comparison of their performance against both their respective annual plans for that Financial Year and their medium and longer term planning objectives (as set out in the 5 year plans and Statements of Intent).

7.5 **Protection of Sensitive Information:**

For the avoidance of doubt, nothing in this clause 7 limits or affects the rights of the Trust, as shareholder in a Trust Entity, to agree pursuant to section 211 (3) of the Companies Act 1993 not to include information in the annual report of a Trust Entity where the Trustees consider on reasonable grounds that the information is commercially or otherwise sensitive.

8. Disclosure of Plans, Reports and Minutes

8.1 Documents to be available for inspection:

The Trustees shall hold at its offices and make available for inspection by any Member of Tapuika during normal business hours on any Business Day:

- (a) the Annual Report for each of the preceding three Financial Years;
- (b) the Consolidated Financial Statements for the preceding three Financial Years;
- (c) the Annual Plan;
- (d) the Five Year Plan;
- (e) the Statements of Intent;
- (f) the minute book kept in accordance with clause 10.13 of all decisions taken and business transacted at every Annual General or Special Meeting;
- (g) Trustee details;
- (h) A register of interests of Trustees;
- (i) the current Trust Deed;
- (j) the current constitutional documents of any Trust Entity.

8.2 Costs of copying:

Any Member of Tapuika shall be entitled to obtain copies of this information. However the Trust shall also be entitled to recover at its discretion all reasonable copying or postage costs (if any).

9. No Disclosure of Sensitive Information

9.1 Authority may limit disclosure:

For the avoidance of doubt, but subject to the Trustee's reporting obligations in clauses 6.3, 8.1(a), 8.1(b), 8.1(f), 10.1(a) and 10.1(b), the Trustees may, at its sole discretion, limit disclosure of any information regarding the activities or proposed activities of the Trustees and the Tapuika Group which the Trustees consider on reasonable grounds to be commercially or otherwise subject to obligations of confidentiality.

10. **General Meetings**

10.1 **Trustees to hold Annual General Meeting:**

The Trustees shall, no later than six months after the end of each Financial Year, and in any event no more than 15 months after the date of the last Annual General Meeting of the Trust, hold a general meeting for the Members of Tapuika, to be called its Annual General Meeting, and shall at that meeting:

- (a) report on the operations of the Tapuika Group during the preceding Financial 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) appoint new members to the Nga Koeke Council (if any);
- (f) approve the appointment of the auditor for the next Financial Year;
- (g) approve the Trustees' remuneration;
- (h) undertake all other notified business; and
- (i) at the discretion of the Chairperson, undertake any other general business raised at that meeting.

10.2 **Approval of Trustees' remuneration and appointment of auditor:**

- (a) The rates of remuneration payable to a Trustee for general services as a Trustee ("Trustee Fees") must be authorised by an Ordinary Resolution of the Adult Registered Members of Tapuika present at the Annual General Meeting.
- (b) This clause does not apply to any reimbursement of expenses or other remuneration paid pursuant to clause 13(a).
- (c) This clause does not apply to any remuneration paid to any Trustee in his or her capacity as a Board member of any other member of the Tapuika Group and that remuneration shall be determined by the Trustees pursuant to clause 5.3.
- (d) The appointment of the auditor for the next Financial Year must be authorised by an Ordinary Resolution of the Adult Members of Tapuika present at the Annual General Meeting.

10.3 **Notice of Annual General Meeting:**

- (a) The Trust shall give not less than 21 days' notice of the holding of the Annual General Meeting, such notice to be given on the Trust's website if it has one and shall also be inserted prominently in one or more major metropolitan newspapers and/ or provincial newspapers circulating regions where the Trustees consider that a significant number of Members of Tapuika reside and by such other means as the trustees may approve (if any). All such notices shall contain:
 - (i) the date, time and place of the meeting or means of joining the meeting if the meeting is to be held by way of an electronic platform; and
 - (ii) the agenda for the meeting; and
 - (iii) where any relevant explanatory documents may be viewed or obtained.
- (b) The Trustees must, prior to the giving of notice for the meeting, decide if the meeting will be held at a physical location, electronically or through a combination of physical and electronic attendance.

10.4 **Notice of Special Meetings:**

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

- (a) the Chairperson and Deputy Chairperson for the time being of the Trustees; or
- (b) any 4 Trustees; or
- (c) 5 % of Adult Registered Members of Tapuika.

Those requesting the meeting shall be required to provide a written statement to the Trust 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.

Except where notice of a Special Resolution is required under the Second Schedule, notice of a Special General Meeting shall be given in the same manner as for a notice of the Annual General Meeting.

10.5 Annual General Meeting not limited to notified business:

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

10.6 Special Meeting limited to notified business:

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

10.7 Deficiency of notice:

Subject to clause 10.6 a deficiency or irregularity in a notice of any Annual General or Special General will not invalidate anything done at the meeting if:

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

10.8 Quorum:

- (a) The quorum required for any Annual General or Special General Meeting of the Trustees shall be twenty (20) Adult Registered Members of Tapuika present in person as well as one or more Trustees present in person.
- (b) Where a meeting is conducted by way of an electronic platform, a person is present for the purposes of forming the quorum if they have joined the meeting and remained connected and are able to communicate with the others present in the meeting.

10.9 Chairing of meetings:

The Chairperson for the time being of the Trust will be the chairperson of any Annual General or Special General Meeting and will preside over and have control over the meeting. If the Chairperson is not present at the time appointed for holding a meeting, then the Deputy Chairperson shall be the chair. If the Deputy Chairperson is also not present, then the Trustees present shall elect one of their number to substitute as the chairperson for that meeting.

10.10 Voting:

- (a) To the extent that a vote is sought or required at any Annual General or Special General Meeting, every Adult Registered Member of Tapuika present shall have one vote.

- (b) All resolutions except Special Resolutions require the approval of an Ordinary Resolution. Voting may be by voice or on a show of hands , or similar process determined by the Trustees as appropriate for any meeting held over an electronic platform. However, except as provided in clauses, 10.1, 10.2, and where Special Resolutions have been passed in accordance with the Second Schedule, the Trustees shall not be bound by a resolution passed at any Annual General or Special General Meeting, but will only be required to give consideration to any such resolution in administering the Trust Fund and carrying out the Trust's Purposes.
- (c) Notwithstanding clause 10.10(b), the Chairperson, or 5 Adult Members of Tapuika voters who are present and eligible to vote on any matter, may at any time prior to a vote require that a vote be by way of secret ballot rather than by way of voice or show of hands.

10.11 **Adjourned meetings:**

If within one hour of the time appointed for an Annual General or Special General Meeting, a quorum is not present, the meeting will stand adjourned to be re-convened 7 days after the date of the meeting. On that later day, the meeting will be held again at the same time and in the same place, or electronic platform as the adjourned meeting, with notice to any electronic links needed to join being notified on the Trust's website and social media platforms.. If a quorum is not present within one hour from the time appointed for that adjourned meeting, the Adult Members of Tapuika present will constitute a quorum.

10.12 **Unruly meetings:**

If any Annual General or Special General Meeting becomes so unruly or disorderly that in the opinion of the chairperson of the meeting the business of the meeting cannot be conducted in a proper and orderly manner, or if any meeting in the opinion of the chairperson of the meeting becomes unduly protracted, the chairperson of the meeting 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 by a poll, without further discussion.

10.13 **Minutes:**

The Trustees shall keep a proper record in a minute book of all decisions made and business transacted at every Annual General or Special General Meeting.

10.14 **Minutes to be evidence of proceedings:**

Any minute of the proceedings at an Annual General or Special General Meeting which is purported to be signed by the chairperson of the meeting shall be evidence of those proceedings.

10.15 **Minutes to be evidence of proper conduct:**

Where minutes of an Annual General or 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.

11. **Disclosure of Interests**

11.1 **Definition of an 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 Trustees or any subsidiary of the Trustees;
- (d) is the parent, child or spouse, defacto or civil union partner of another party to, or person who will or may derive a material financial benefit from, the matter; or
- (e) is otherwise directly or indirectly interested in the matter.

11.2 **Interests in common with hapu or marae:**

Notwithstanding clause 11.1, no Trustee will be interested in a matter solely because that Trustee is a member of a hapu or marae and where his or her interest is not different in kind from the interests of other members of that hapu or marae.

11.3 **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 any interest or any potential interest to his or her co-Trustees at a meeting of the Trustees, including:

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

11.4 **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.

12. **Dealings with “Interested” Trustees**

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.

13. **No private pecuniary profit**

No private pecuniary profit may be made by any Trustee in connection with the affairs of the Trustees except that:

- (a) any Trustee may receive full reimbursement for all actual and reasonable costs and expenses properly incurred by that Trustee in connection with the affairs of the Trust;
- (b) the Trustees may pay Trustees fees to any Trustee in return for Trustee services rendered to the Trustees as are approved by the Trust pursuant to clause 10.2;

provided that:

- (c) before any such reimbursement paid to a Trustee may be regarded as properly incurred by that Trustee or any such remuneration paid to a Trustee may be regarded as reasonable or properly payable or any such charges may be regarded as usual, the amount of that reimbursement, remuneration or charge must have been approved as such by a resolution of Trustees and in the case of an appointment referred to in clause 3.5(c) the provisions of that clause have been complied with;
- (d) A Trustee may receive remuneration as a Board member of a Trust Entity provided that the provisions of clause 5.3 have been complied with.

14. **Prohibition of Benefit or Advantage**

In the carrying on of any business by any member of the Tapuika 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.

15. **Advice to Trustees**

15.1 **Trustees may rely on advice:**

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

- (a) an employee of the Trustees whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned;
- (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;
- (c) a committee appointed and acting in accordance with clause 3.6.

15.2 **Limitation on clause 15.1:**

Clause 15.1 applies only if the Trustees:

- (a) act in good faith;
- (b) make proper inquiry where the need for inquiry is indicated by the circumstances; and
- (c) have no knowledge that such reliance is unwarranted.

15.3 **Trustees may obtain legal opinion:**

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

16. **Liability of Trustees**

A Trustee shall only be liable for losses attributable to his or her dishonesty or to his or her wilful commission or omission of an act which he or she knows or should have known to be a breach of this Deed. In particular, no Trustee shall be

bound to take, or be liable for failing to take, any proceedings against a co-Trustee for any such breach or alleged breach.

17. Indemnity and Insurance

17.1 Indemnity and insurance for Trustees:

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

17.2 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.

17.3 Indemnity and insurance regarding specific trusts:

If any assets are held by the Trustees on any separate specific trust, then any Trustee, 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.

17.4 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.

18. Tapuika not to be brought into disrepute

18.1 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 Tapuika Group into disrepute.

18.2 Directors not to bring into disrepute:

The Trustees shall also require that any directors or trustees appointed by or at the direction of the Trustees to any company (or as applicable) any trust in which

the Trust has an interest do not act in a manner which brings or is likely to bring the Trust or any member of the Tapuika Group into disrepute.

18.3 Trustee may be censured or removed:

Any Trustee that acts in a manner that brings or is likely to bring into disrepute the Trust or any member of the Tapuika Group may, by a resolution passed by a majority of not less than 75% of the other Trustees, be formally censured.

18.4 Censure to be notified:

The censure of a Trustee in accordance with this clause shall, together with reasons, be reported to the Members of Tapuika at the next Annual General Meeting of the Trust following such censure or removal.

19. Gifts or Donations

19.1 Trust may accept specific trusts:

Notwithstanding any other provision in this Deed, the Trustees may accept or otherwise deal with any property upon trust for the purposes of the Trust or for any specific purpose that comes within the Trust's Purposes. Such a trust may include any trust for the benefit of the Members of Tapuika 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 Fund.

19.2 Specific trusts to be separate:

If the Trust accepts a trust for any specific purpose as outlined in clause 19.1 above it must keep the property subject to such trust and any income derived from it separate from the Iwi Authority's Assets, and administer that property and income as a separate specific trust in terms of the trust under which it was accepted.

19.3 Use of specific trust assets:

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

19.4 Expenses of specific trusts:

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

20. **Receipts for payments**

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

21. **Custodian Trustee**

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 Fund may be vested in the custodian trustee as if the custodian trustee were sole Trustee;
- (b) The management of the Trust Fund and the exercise of all powers and discretions exercisable by the Trustees under this Deed shall remain vested in the Trustees as fully and effectively as if there were no custodian trustee;
- (c) The sole function of the custodian trustee shall be to hold, invest or dispose of all or any part of the Trust Fund 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 High Court of New Zealand 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 Fund 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 Trustees or be affected by notice of the fact that the Trustees have not concurred.

22. Amendments to Deed

22.1 Special Resolution required:

Subject to clause 22.2, all amendments to the Deed shall only be made with the approval of a Special Resolution passed in accordance with the Second Schedule.

22.2 Limitations on Amendment:

No amendment shall be made to the Deed which:

- (a) changes the Trust's Purposes so that the Trust is no longer required to act for the benefit of the present and future Members of Tapuika;
- (b) changes this clause 22.2, clauses 5.1(b)(i), or 23;
- (c) changes the requirement for a Special Resolution in clause 22.1; or
- (d) changes the membership and beneficiaries of the Trust.

22.3 Consideration of proposals

Every Adult Registered Member of Tapuika may put forward for consideration by the Trustees proposals for amendments to this Deed. Any proposal put forward under this clause 22.3 must be in writing and addressed to the Chairperson at the registered office of the Trustees. Any proposal put forward under this clause 22.3 must be considered by the Trustees at their next available meeting. If the Trustees do not discard the proposal in accordance with clause 22.4 they may, in their discretion, discuss this at the next Annual General Meeting.

22.4 Proposals to be discarded

Where a proposal for amendment to this Deed does not comply with clause 22.2, the Trustees may, in their discretion, discard the proposal and will not be required to call a Special General Meeting in accordance with the Second Schedule.

23. Termination of Trust

Subject to clause 22.2:

- (a) The Trust shall only be terminated or dissolved if the Adult Registered Members of Tapuika have, by Special Resolution, resolved that it has become impossible, impracticable or inexpedient to carry out the Trust's Purposes; and

- (b) On the termination or dissolution of the Trust, the Trust Fund 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 Tapuika, as the Adult Registered Members of Tapuika shall by Special Resolution decide.

24. **Power to resetttle**

The Trustees have power at any time or times by deed to settle or resetttle upon trust in any manner which in the opinion of the Trustees is for the advancement and benefit of the Members of Tapuika, the whole or any portion or portions of the capital or income of the Trust Fund provided that:

- (a) any such settlement or resettlement must comply with any relevant legislation;
- (b) the settlement or resettlement may only be promoted if a Special Resolution supporting it is put and passed at a General Meeting in accordance with the Second Schedule; and
- (c) the settlement or resettlement is upon trusts for the benefit of the present and future Members of Tapuika.

25. **Perpetuities**

Unless stated otherwise in the Settlement Act, the perpetuity period for the Trust is the period that commences on the date of this Deed and ends eighty years less one day after that date of this Deed, that period 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.

26. **Keeping of records**

26.1 **Records to be held for seven years:**

All minutes and other records of any proceedings of the Trustees and any companies and other entities in the Tapuika Group must be held by the Trustees and those companies and other entities for a period of not less than seven years.

26.2 **Records may be retained for longer:**

Notwithstanding clause 26.1 the Trustees and any other entities within the Tapuika Group may hold on to any records for a period exceeding seven years if in their discretion such records contain information that is commercially or otherwise sensitive or is still required by the Trust or entity to which the information relates.

27. Dispute Resolution

27.1 Disputes:

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

27.2 Notice of Dispute:

All disputes referred to the Trustees in accordance with clause 27.1 shall be submitted to the Trustees by notice in writing and the Trustees shall acknowledge receipt in writing within 10 Business Days of the date of receipt of the notice.

27.3 Reference of Dispute:

If a dispute is not settled within 60 days of the receipt by the Trust of written notice of the dispute in accordance with clause 27.2 then, if requested by a party to the dispute, it shall be referred to a Disputes Committee constituted in accordance with clause 27.4 and 27.5.

27.4 Dispute Committee to be Appointed as required:

There shall not be a permanent Disputes Committee. Disputes Committees shall be appointed on a case by case basis, having regard to the precise subject matter of the dispute, and only after the expiry of the 60 day period referred to in clause 27.3.

27.5 Appointment and composition of Disputes Committee:

A Disputes Committee shall be appointed on terms determined by the Trustees at the time of appointment, and shall comprise three persons, (at least two of whom are Members of Tapuika), and who in the view of the Trustees have the skills and expertise to deal with the issues that are the subject of the relevant dispute, provided that such persons cannot also be Trustees or employees of the Trust although they may be a member or members of the Nga Koeke Advisory Council.

27.6 Role of Disputes Committee:

The role of a Disputes Committee shall be to facilitate and make findings and decisions on the disputes referred to it. The Disputes Committee may, at the cost of the Trust, seek the advice or assistance of a Barrister or Solicitor with a minimum of seven years' experience with regard to the requirements of natural justice in any instance, or such other matters of process and evidence as the Disputes Committee thinks fit, provided that the Disputes Committee has given written notice to the Trust of the intention to obtain that advice and the estimated cost of doing so.

27.7 Deliberations of Disputes Committee:

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

27.8 Disputes Committee may convene hui:

In facilitating the resolution of any dispute a Disputes Committee may convene a general meeting of Tapuika in order to discuss the matters that are in dispute.

27.9 Hui to meet notice requirements:

Any general meeting called by a Disputes Committee in order to try to settle any disputes shall be called in accordance with the requirements as to notice and meeting procedure that apply in respect of general meetings of Tapuika as set out in this Deed.

27.10 Notification of Outcome

A Disputes Committee shall conduct its process and reach a decision in a timely manner having regard to the issue in dispute. The Disputes Committee shall give its findings and decision, together with the reasons therefore, in writing to the Trustees and any other party to the dispute.

28. Contracts**28.1 Signing Contracts and Deeds**

Whenever the Trustees need to sign or attest any agreement, contract or deed that has been approved pursuant to a resolution of the Trustees, it will be sufficient for that agreement, contract or deed to be signed or attested by any three Trustees provided that one of the signing or attesting Trustees is the Chairperson.

29. Review of Trust Deed

After 5 years from the Settlement Date, the Trustees shall undertake a review of this Deed and its operation with a view to reporting to the next Annual General Meeting of the Trustees after the completion of the review on the effectiveness of the arrangements set out in this Deed. The report shall include recommendations as to the amendments (if any) that the Trustees consider should be made to the Deed.

Executed as the Deed

Signed by the said)
)
in the presence of:)

Witnessed by:

..... (signature)

..... (full name)

..... (residential address)

..... (occupation)

Signed by the said)
)
in the presence of:)

Witnessed by:

..... (signature)

..... (full name)

..... (residential address)

..... (occupation)

Signed by the said)
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in the presence of:)

Witnessed by:

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in the presence of:)

Witnessed by:

..... (signature)

..... (full name)

..... (residential address)

..... (occupation)

First Schedule

Proceedings of Trustees

1. **Notice of Meeting**

2. **Trustees to Regulate Meetings**

The Trustees shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Any three Trustees may at any time by notice in writing to the Trustees summon a meeting of the Trustees and the Trustees shall take such steps as are necessary to convene such meeting. At a minimum, the Trustees will meet two times a year.

2.1 **Notice of Meeting**

2.2 **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 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.

2.3 **Content of notice:**

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

2.4 **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.

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**

A quorum at meetings of the Trustees shall consist of one Trustee nominated by each hapu and one Taurahere representative.

In the event that there are vacancies at the time of a meeting that prevent a quorum being met, then the quorum shall be deemed met if all other requirements of the quorum are met except for the attendance by someone holding the vacant position.

4. **Chairperson and Deputy Chairperson**

4.1 **Trustees to elect:**

At the first meeting of the Trustees following each Annual General Meeting the Trustees shall appoint one of their number to be Chairperson and (at their discretion) one to be Deputy Chairperson. The Chairperson and Deputy Chairperson must have served at least one year as Trustee.

4.2 **Termination of office:**

The Chairperson (or Deputy Chairperson) will cease to hold office as Chairperson (or, as the case may be, Deputy Chairperson) in the event that he or she resigns from that office, ceases to be a Trustee or is removed from office by the Trustees passing a resolution of no confidence in him or her. In the event that the Chairperson (or Deputy Chairperson) ceases to hold that office then a further election shall be held for the position in accordance with rule 4.1.

5. **Proceedings at Meetings**

5.1 **Decisions by majority vote:**

Unless stated otherwise in this Deed, questions arising at any meeting of Trustees shall be decided by a majority of votes. In the case of an equality of votes, the Chairperson shall have a second or casting vote.

5.2 **Chairperson:**

The Chairperson shall take the chair at all the meetings of the Trustees. If the Chairperson is not present then the Deputy Chairperson, if there is one, shall take the Chair. If there is no Deputy Chairperson or the Deputy Chairperson is also not present then the Trustees present shall elect one of their number to be chairperson of the meeting.

5.3 **Vacancies:**

The Trustees may act notwithstanding any vacancy 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 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 be valid as if every such person had been duly appointed and was qualified to act 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 ineligible for election.

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 of the meeting becomes unduly protracted, the chairperson of the meeting 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. **Resolutions**

A written resolution signed by all the Trustees or by all the members of a committee shall be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees or of that committee (as the case may be). Such a resolution may comprise several duplicated documents, each signed by one or more of the Trustees or members of the committee (as the case may be), or more than one email transmission confirming the approval of each Trustee or committee member to the terms of the resolution.

7. **Minutes**

7.1 **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.

7.2 **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.

7.3 **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.

8. **Teleconference Meetings**

- (a) A meeting of Trustees may be held by the contemporaneous linking together of Trustees by telephone, video calling or other means of instantaneous communication provided that the provisions of this deed relating to the calling and conduct of meeting are followed, subject to the following modifications:
- (i) The notice of the meeting must contain details of the communication links to be used and how this is to be accessed by the Trustees;
 - (ii) Each Trustee taking part in a meeting by telephone or other means of communication must throughout the meeting be able to hear each of the Trustees taking part in the meeting; and
 - (iii) At the commencement of the meeting each Trustee must acknowledge the Trustee's presence for the purpose of the meeting to all other Trustees taking part and any Trustee joining or leaving the meeting after its commencement must announce that fact, provided that no Trustee may leave the meeting without the permission of the Chair.
- (b) a minute of the proceedings at the 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.

Second Schedule

Procedure for Passing a Special Resolution

1. This Schedule to Apply

A Special Resolution

- (a) to approve a Major Transaction in accordance with clause 3.3(c);
- (b) to amend this Deed in accordance with clause 22;
- (c) to terminate the Trust in accordance with clause 23;
- (d) as is otherwise required by the terms of this Deed,

shall only be passed as set out in this Schedule.

2. ~~Postal~~ Voting and Special General Meeting

~~Voting on a Special Resolution shall occur either by placing voting forms into a ballot box in person at the Special General Meeting held for the purposes of considering the Special Resolution, or by post.~~

Voting forms for a special Resolution may be delivered to the Chief Returning Officer by post, or electronic means or any other method approved by the Trust from time to time or by placing the voting form in a ballot box at the Special General Meeting.

3. Voting

In order for a Special Resolution to be passed it must receive the approval of not less than 75% of those Adult Registered Members of Tapuika who validly cast a vote in favour of the proposed Special Resolution in accordance with this Schedule.

4. Special General Meeting Required

A Special General Meeting of the Trust must be called for the purposes of considering one or more Special Resolutions. No other business may be transacted at such Special General Meeting.

5. **Notice**

5.1 **Notice of Special General Meeting:**

The Trustees shall give not less than twenty-eight (28) days' notice of the date, time and place of the Special General Meeting called for the purposes of considering any Special Resolution (with the intent that notice of the vote and the Special General Meeting shall be given in the same notice).

5.2 **Method of giving notice:**

Notice of a Special General Meeting called for the purposes of considering a Special Resolution shall be given:

- (a) by post, or at the discretion of the trustees, by electronic form email transmission where available, to each Adult Registered Member of Tapuika. If notice sent to an electronic address fails, and the Trust is aware of the failure, then the notice must subsequently be sent to the last known physical address;
- (b) by newspaper advertisement inserted prominently in one or more major metropolitan newspapers and/or provincial newspaper circulating in regions where the Trust considers that a significant number of Members of Tapuika reside;
- (c) on the Trust's website if it has one; and
- (d) by such other means (if any) as the Trustees may determine.

5.3 **Content of notice to members:**

All notices given in accordance with rule 5.2(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;
- (b) details of the proposed Special Resolution;
- (c) details of the reasons for the proposed Special Resolution and the effect that the Special Resolution will have;
- (d) details of the procedure to be followed in making a vote in person, by post, or electronically, including the date by which the voting form must be received by the Chief Returning Officer. postal vote, including the date postal voting closes;
- (e) a statement that postal votes may either be delivered to the Chief Returning Officer at the Special General Meeting, or posted; and

- (f) a voting form or link to an electronic form.

5.4 **Content of advertisement:**

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

6. **Voting**

6.1 **Other details to accompany vote:**

Each voting form must contain sufficient information to identify the voter and the voting documents issued to that voter.

6.2 **Timing of Postal Votes:**

Postal votes must be cast no later than the closing date for voting. Postal votes otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than 3 days after the closing date, but only if the envelope containing the voting form is date stamped on or before the date for voting closes.

6.3 **Postal Votes may be received at the Special General Meeting:**

Postal Voting forms may be delivered to the Chief Returning Officer at the Special General Meeting, rather than being posted.

7. **Appointment of Chief Returning Officer**

7.1 **Appointment of Chief Returning Officer:**

For the purposes of the Special Resolution, the Trustees shall appoint a Chief Returning Officer who shall not be a Trustee or employee of the Trust.

7.2 **Chief Returning Officer to receive voting forms:**

Voting forms must be addressed to the Chief Returning Officer.

7.3 **Chief Returning Officer to be present at Special General Meeting:**

The Chief Returning Officer must be present at the Special General Meeting and supervise the voting process. The Chief Returning Officer will be available to collect any completed voting forms at the Special General Meeting. The Chief Returning Officer shall also ensure that additional voting forms are available at the Special General Meeting.

7.4 Eligibility to Vote:

- (a) The date by which an Adult Member of Tapuika must be recorded on the Tapuika Register so as to receive a postal (or electronic) notice of the election is 42 days before the Special General Meeting.
- (b) The date by which an Adult Member of Tapuika must be recorded on the Tapuika Register as a Member of Tapuika so as to be eligible to vote on a special resolution is the date of the Special General Meeting.

7.5 Only one vote to be cast:

The Chief Returning Officer must ensure that appropriate measures are in place to ensure that only one vote is cast by each Adult Registered Member of Tapuika who votes on the Special Resolution.

7.6 Recording of votes:

A record shall be kept by the Chief Returning Officer of all votes received.

8. Counting of Votes**8.1 All votes to be counted:**

Upon the expiry of the date for the receipt of postal votes, the Chief Returning Officer shall record and count all votes validly cast. The Chief Returning Officer shall reject as invalid any voting form:

- (a) for which there is reasonable cause to believe that it was not prepared by the Trustees for the purpose of the ballot;
- (b) cast by a person who is not a Registered Adult Member of Tapuika;
- (c) that does not clearly indicate whether the voter intended to vote for or against any proposed resolution;
- (d) That does not otherwise comply with the requirements of this Deed,

provided that no voting form shall be rejected as invalid by reason only of some informality in the manner in which it has been dealt with by the voter if the voting form is otherwise regular and if in the opinion of the Returning Officer the intention of the voter is clearly indicated.

8.2 Certification and notifying result:

Once all votes have been counted and the result of the Special Resolution determined by the Chief Returning Officer, the Chief Returning Officer shall certify the result of the Special Resolution and communicate the result to the Trustees.

9. Proceedings at Special Meeting

Except as otherwise set out in this Schedule the provisions of clause 10 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.

Third Schedule

Powers of Trustees

1. Trustees Powers

Except as otherwise provided in this Deed, the Trustees shall have power in accordance with clause 3.3 of this Deed:

- (a) To carry on or form any business, whether or not in partnership or joint venture, to achieve the Objects of the Trust;
- (b) To form or acquire any company to achieve the Trust's Purposes;
- (c) To enter into contracts for the provision of services to achieve the Trust's Purposes and to enter into joint ventures with other charitable entities in order to achieve the Trust's Purposes;
- (d) To open and maintain a bank account and to decide who will be the signatories to that account;
- (e) To acquire, hold and dispose of Property;
- (f) To lease Property;
- (g) To grant leases of Property;
- (h) To maintain, manage and improve Property;
- (i) To subdivide and/or develop property and grant such easements, interests and vest such roads and reserves as the Trustees think fit;
- (j) To borrow or obtain credit;
- (k) To guarantee or act as a surety;
- (l) To enter into, settle and amend derivative transactions;
- (m) To give security in respect of any obligation of the Trustees;
- (n) To apply or set aside any part of the Trust Fund towards the payment of any liabilities or obligations incurred or suffered by the Trustees or falling due in future;
- (o) In relation to any share or other security that is part of the Trust Fund:

- (i) To exercise any voting or controlling or decision-making rights or powers attaching to it; and
- (ii) To concur in any reconstruction or amalgamation of it or in any modification of the rights of the holders of it or of others interested in it and generally to act in respect of it;
- (p) To carry out and complete any scheme or arrangement for the amalgamation of any business or other interests;
- (q) To provide additional capital for any company, unit trust or other entity in which the Trustees hold an interest;
- (r) To consent or withhold consent, with or without conditions, and to negotiate and reach agreements in respect to any matter referred to the trust under the Resource Management Act 1991;
- (s) To advertise the Trust and the Objects;
- (t) To appoint or engage or employ any person or company for any period:
 - (i) As an expert or professional person or entity to advise on or carry out any of the trusts and powers authorised by this Deed; or
 - (ii) As an attorney or delegate for the Trustees in New Zealand or elsewhere for all or any of the purposes of the Trust; or
 - (iii) As a manager or agent for or on behalf of the Trustees in all or any matters relating to the management and the control of the Trust, and any business owned by the Trustees or in which they are concerned; or
 - (iv) As Secretary; or
 - (v) As an employee of the Trustees in all or any matters relating to the Trust;
- (u) To act upon any opinion or advice or information obtained from a person or entity referred to in paragraph 1(t)(i) of this Schedule;
- (v) To determine all questions and matters of doubt which may arise in the course of the management, administration, investment, realisation, distribution, liquidation, partition, resettlement or winding up of the Trust Fund or the Trust, or to apply for directions under section 66 of the Trustee Act 1956;
- (w) Generally to do all such other lawful acts and things that are incidental or conducive to the attainment of the Trust's Purposes; and

- (x) Subject to the express terms of the Deed, to pay any costs or expenses incurred in the course of the Trustees discharging, carrying out or exercising any of their duties and powers.