

RATIFICATION VERSION

Date: [ ]

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DEED OF TRUST OF TE WHIRINGA KĀKAHO O NGĀTI HĀUA

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RATIFICATION VERSION  
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*Tū wheua te pō, tū wheua te ao.*

*Tū wheua ngā tātarāmoa i haria mai e koutou ki tēnei whenua kino.*

*Whatiwhati koa ngā parirau o Rupe, i riro rā i a Rongo.*

*Te whenua ko Rongo,*

*Ko Rongo ki te whakatupua,*

*Ko Rongo ki te whakatawhito,*

*Ko Rongo ki te maimai aroha,*

*Ko Rongo!*

*E Rongo e, whakairihia – ē hai!*

*Whiriwhiria ngā whenu o te ara kupu matua,*

*Whiriwhiria ngā muka o Te Ranga Tairunga,*

*Whiria ngā kākaho, e kore e whati, e kore e whati!*

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### DRAFT FOR RATIFICATION PURPOSES

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#### TE WHIRINGA KĀKAHO O NGĀTI HĀUA TRUST DEED

Executed as a deed on the [DAY] day of [MONTH] [YEAR]

#### PREAMBLE

**Ā mua, i muri ōu kōrero.**

**Ko Ruapehu te pou tuarongo**

**Ko Te Awa Tupua te tāhuhu ki te pou mua**

**Ko Hinengākau te pou tokomanawa**

**Ko Ruatupua rāua ko Paerangi ngā maihi**

**Nei rā te whare o Hāua.**

*Ruapehu is the anchor connecting us to our past.*

*Whanganui Awa is the umbilical cord interweaving our past to our present to our future*

*Hinengākau is the ancestress who binds us together*

*Ruatupua and Paerangi are the two main rootstock*

*This is the ancestral house of Hāua.*

- A.** Ngāti Hāua are one of the Tangata Whenua tribes of Te Kāhui Maunga-ki-Tangaroa (the mountains to the sea), and it is through the tūpuna, Ruatupua and Paerangi from hence mana atua, mana whenua and mana tangata originates. Te Awa Tupua is central to the existence wellbeing of Ngāti Hāua. It has provided both physical and spiritual sustenance to Ngāti Hāua from time immemorial.
- B.** Ngāti Hāua also trace main whakapapa lines to the four waka of Aotea, Tainui, Te Arawa and Tokomaru, later arrivals who intermarried with Ngāti Hāua. As the descendants of pre-waka and waka ancestors, Ngāti Hāua were originally known as the people of Te Puru ki Tūhua.

**Mai Te Puru-ki-Tūhua ki Te Matapihi.**

*From the Plug of Tūhua to Te Matapihi.*

- C.** This traditional pepehā defines the northern and most southern boundaries of the wider Whanganui Iwi but highlights that Ngāti Hāua have always held the mantle of protector of the northern boundary from invasion from external tribes. The Ngāti Hāua approach is embodied in the traditional saying “Wehea te muka, he taura whati, whiria kia mau, kia ū, he taura mau waka” meaning “Separated flax and strands create weak links, bound tightly together would meet any challenge”.
- D.** Ngāti Hāua have sought to defend our rangatiratanga through a range of efforts and strategies since 1840. This included:
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- (a) support of kaupapa such as the Kīngitanga, Te Rohe Pōtae and participation in the Pai Mārire movement, which was set up to peacefully support the retention of land in Māori ownership and tino rangatiratanga;
  - (b) Ngāti Hāua tupuna erecting niu to remind their uri of continuing, despite all the struggles, to not only retain their land but also to practice and demonstrate their rangatiratanga;
  - (c) using legal proceedings and other mechanisms to defend and assert our rangatiratanga in relation to our lands and rivers;
  - (d) raising grievances directly with the Crown, such as Ngāti Hāua tupuna actively petitioning Parliament in the 19th and 20th centuries defending their rights in relation to the whenua, to the Whanganui River and the imposition of the Native Land Court against their will, among other matters; and
  - (e) filing claims in the Waitangi Tribunal.
- E.** Ngāti Hāua claims relating to the Whanganui River were settled in 2014 as part of Ruruku Whakatupua, the Whanganui Iwi settlement in relation to Te Awa Tupua.
- F.** Ngāti Hāua participated in the Waitangi Tribunal's National Park (Wai 1130) and Whanganui Land (Wai 903) and Te Rohe Pōtae (Wai 898) district inquiries, all of which have been concluded. The Waitangi Tribunal's Te Kāhui Maunga: The National Park District Inquiry Report was released in November 2013, whilst He Whiritaunoka: The Whanganui Lands Report was released in October 2015.
- G.** Ngāti Hāua gave Ngāti Hāua Iwi Trust a mandate to negotiate a deed of settlement with the Crown by a series of five mandating hui in May 2017.
- H.** Settlement negotiations between representatives of Ngāti Hāua and the Crown and the Crown took place between 2017 and 2024. The settlement negotiations were underpinned by Te Pou Tikanga, a settlement framework which is a metaphor for the way through which one must pass to enter the rohe of Ngāti Hāua.
- I.** The kaupapa (values) of te tiaki whenua (tangata whenua) are carved into Te Pou Tikanga. Upon entering, those values are shared by te tiaki whenua with every individual who in turn makes a conscious decision to embody those same values within the Ngāti Hāua rohe.
- J.** By deed of settlement, Te Pua o Te Riri Kore, to be signed on [DATE], Ngāti Hāua and the Crown will agree the terms of the settlement of the historical Treaty of Waitangi claims of Ngāti Hāua.
- K.** As part of the Ngāti Hāua settlement it is necessary for a Ngāti Hāua post-settlement governance entity to be established to implement the terms of the settlement, and receive and manage the settlement redress, on behalf and for the benefit of Ngāti Hāua. The terms of the Ngāti Hāua settlement will involve the eventual dissolution of the Ngāti Hāua Iwi Trust.
- L.** In [DATE], the Ngāti Hāua Iwi Trust convened consultation and ratification hui to support the establishment of this Trust to act as the post-settlement governance entity. Through this process, the uri of Ngāti Hāua supported by a majority of [insert percentage] as part of the process of ratification to establish a trust called Te Whiringa
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Kākaho o Ngāti Hāua to act as the post-settlement governance entity, and that the trustees of this Trust will hold property jointly upon the trusts set out in this Deed, and for this purpose has determined to hold the sum of \$10 as the initial trust fund for the Trust.

- M.** The initial trustees of Te Whiringa Kākaho o Ngāti Hāua are the trustees of Ngāti Hāua Iwi Trust, the entity mandated to negotiate the Ngāti Hāua Treaty settlement. This is to provide for continuity and transparency of representation until the First Election of Trustees is held in accordance with this Trust Deed.
- N.** Te Whiringa Kākaho o Ngāti Hāua will:
- (a) be the post-settlement governance entity for the purpose of the settlement of the historical Treaty of Waitangi claims of Ngāti Hāua that is contained in Te Pua o Te Riri Kore and any related arrangements;
  - (b) in so doing, act on behalf and in the beneficial interests of Ngāti Hāua to advance the cultural, social, environmental and economic aspirations of Ngāti Hāua and our hapū; and
  - (c) act as the voice and representative body for Ngāti Hāua.
- O.** Te Whiringa Kākaho o Ngāti Hāua takes inspiration for its name from the whakataukī below, which emphasises strength in unity. Unity is a key driver of any collective endeavour, in this case the Ngāti Hāua post-settlement governance entity:

**Whiria ngā kākaho, e kore e whati**

*Weave together the kākaho reeds, they become unbreakable*

## INTRODUCTION

This Trust Deed sets out the purposes and powers, and provides for the governance, control and operation, of Te Whiringa Kākaho o Ngāti Hāua.

## TERMS OF TRUST

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1. Defined Terms:

In this Trust Deed, unless the context otherwise requires:

“**Adult Member of Ngāti Hāua**” means a Member of Ngāti Hāua who is 18 years of age or over;

“**Adult Registered Member of Ngāti Hāua**” means a Member identified on the Register as being 18 years of age or over;

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**“Annual Plan”** means as the context requires:

- (a) the annual plan of the Trust which is prepared in accordance with *clause 1.1 of SCHEDULE 5*; or
- (b) the annual plan of a Trust Entity which is prepared in accordance with *clause 3.1(d) of SCHEDULE 6*;

**“Annual Report”** means the annual report of the Te Whiringa Kākaho o Ngāti Hāua Group which is prepared by the Trustees in accordance with *clause 2.1 of SCHEDULE 5*;

**“Balance Date”** means 31 March 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;

**“Basic Trust Information”** means the basic trust information specified in section 51(3) of the Trusts Act 2019;

**“Business Day”** means a day of the week other than:

- (a) Saturday and Sunday;
- (b) Waitangi Day, Good Friday, Easter Monday, Anzac Day, Queens Birthday, Te Rā Aro ki a Matariki / Matariki Observance Day and Labour Day;
- (c) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
- (d) a day in the period commencing with 25 December in any year and ending with 4 January in the following year (both days inclusive); and
- (e) Auckland Anniversary Day;

**“Chairperson”** means the chairperson from time to time of the Trust appointed by the Trustees in accordance with *rule 4 of SCHEDULE 3*;

**“Chief Executive”** means the person appointed in accordance with *clause 6.1*;

**“Chief Returning Officer”** means as the context requires:

- (a) the person appointed from time to time as chief returning officer for the purposes of Trustee elections in accordance with *rule 6010.1 of SCHEDULE 2*; or
- (b) the person appointed as chief returning officer for the purposes of a Special Resolution in accordance with *rule 7.1 of SCHEDULE 4*;

**“Commercial Activities”** means any activity carried out in pursuit of the Trust Purpose that has as its principal objective the generation of sustainable financial or economic returns including without limitation the management and administration of the Trust Assets;



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“**Consolidated Financial Statements**” means the consolidated financial statements of Te Whiringa Kākaho o Ngāti Hāua Group prepared by the Trustees in accordance with *clause 2.1 of SCHEDULE 5*;

“**Core Documents**” means the documents specified in section 45 of the Trusts Act 2019;

“**Custodian Trustee**” means the custodian trustee that may be appointed or incorporated in accordance with *clause 20.1*;

“**Deed**” and “**Trust Deed**” mean this deed of trust and include the background and the schedules to this deed;

“**Default Duty**” has the same meaning as provided in section 9 of the Trusts Act 2019;

“**Deputy Chairperson**” means the deputy chairperson from time to time of the Trust if one is appointed in accordance of *rule 4 of SCHEDULE 3*;

A person is “**descended**” from another person if the first person is descended from the other by:

- (a) birth; or
- (b) legal adoption; or
- (c) Māori customary adoption in accordance with tikanga of Ngāti Hāua (customary values and practices);

“**Disputes Committee**” means a committee formed in accordance with *clauses 26.4 and 26.5*;

“**Distribution Day**” has the meaning set out in *clause 24*;

“**Establishment Period**” means the period of appointment of the Initial Trustees, being the period from the date of this Trust Deed until the date following the Settlement Date on which Trustees are first appointed or elected in accordance with the procedures set out in the Second Schedule;

“**Electoral Review Officer**” means the person appointed to act as electoral review officer in accordance with *rule 6313.2 of SCHEDULE 2*;

“**First Election**” means the first election of Trustees, which must be held prior to the first Annual General Meeting following the Settlement Date and in accordance with the procedures set out in *SCHEDULE 2*;

“**Five Year Strategic Plan**” means as the context requires:

- (a) the strategic plan of the Trust prepared in accordance with *rule 1.2 of SCHEDULE 5*; or
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- (b) the strategic plan of a Trust Entity which is prepared in accordance with *rule 3.1(c) of SCHEDULE 6*;

**“Income Year”** means any year or accounting period beginning 1 April of one calendar year and ending 31 March of the following calendar year or any other 12-month period that the Trustees by resolution adopt;

**“Initial Trustees”** means the Trustees identified in *clause 3.1*;

**“Major Transaction”** in relation to any member of the Te Whiringa Kākaho o Ngāti Hāua 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 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 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 Assets before the transaction;

but does not include:

- (d) any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all or substantially all of the Trust Assets (whether the Assets are held by the Trust or any other member of the Te Whiringa Kākaho o Ngāti Hāua Group); or
- (e) any acquisition of Property by a member of Te Whiringa Kākaho o Ngāti Hāua Group from any other member of Te Whiringa Kākaho o Ngāti Hāua Group; or
- (f) any disposition of Property by a member of Te Whiringa Kākaho o Ngāti Hāua Group to any other member of Te Whiringa Kākaho o Ngāti Hāua Group; or
- (g) any acquisition or receipt of Property by any member of Te Whiringa Kākaho o Ngāti Hāua Group by gift; or
- (h) any acquisition or receipt of Property by any member of Te Whiringa Kākaho o Ngāti Hāua Group pursuant to Te Pua o Te Riri Kore, the Settlement Legislation or otherwise pursuant to the terms of any settlement between Ngāti Hāua and the Crown; or
- (i) any acquisition or receipt of Property by any member of Te Whiringa Kākaho o Ngāti Hāua Group as a consequence of the wind-up or dissolution of, or otherwise from, the Ngāti Hāua Iwi Trust.
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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 half of the value of the Trust 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 Assets shall be calculated based on the value of the assets of Te Whiringa Kākaho o Ngāti Hāua Group;

**“Mandatory Duty”** has the same meaning as provided in section 9 of the Trusts Act 2019;

**“Member of Ngāti Hāua”** means an individual referred to in paragraph (a) of the definition of Ngāti Hāua in *clause 2.2*;

**“Ngāti Hāua Area of Interest”** means the Area of Interest of Ngāti Hāua as identified and defined in Te Pua o Te Riri Kore, the Deed of Settlement;

**“Ngāti Hāua Claims”** means Ngāti Hāua historical claims against the Crown in respect of the Crown’s breaches of its obligations to Ngāti Hāua under the Treaty of Waitangi, as identified in Te Pua o Te Riri Kore, the Deed of Settlement;

**“Ngāti Hāua Organisation”** means an entity or trust that:

- (a) represents, or has as its beneficiaries, all or some of the Members of Ngāti Hāua;  
and
- (b) does not represent, or have as a member, any person who is not a Member of Ngāti Hāua; and

for the avoidance of doubt, includes a Trust Entity;

**“Ngāti Hāua Register”** means the register of Members of Ngāti Hāua that is to be maintained by the Trustees in accordance with *SCHEDULE 1* to this Deed;

**“Nomination Form”** means a form prepared by the Trustees for the purpose of receiving nominations from candidates for the position of Trustee pursuant to *rule 6.5* of *Schedule 2*;

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

**“Provisional Vote”** means a vote cast pursuant to *rule 10.4* of *SCHEDULE 2* or *rule 8.3* of *SCHEDULE 4*, as the case may be;

**“Registrar-General of Land”** or **“Registrar-General”** means the Registrar-General of Land appointed in accordance with section 231 of the Land Transfer Act 2017;

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**“Resident Candidates”** means candidates for election to the office of Trustee in accordance with *SCHEDULE 2* of this Deed who are ordinarily resident for at least 50% or more of the time in the Ngāti Hāua Area of Interest;

**“Settlement Act”** means such Act or Acts of Parliament that may be passed so as to give effect to Te Pua o Te Riri Kore, the Deed of Settlement, and the promises contained within that deed;

**“Settlement Date”** means the date defined as the Settlement Date in Te Pua o Te Riri Kore, 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 Hāua who validly cast a vote in accordance with the process set out in *SCHEDULE 4*;

**“Statement of Intent”** means the statements of intent prepared by a Trust Entity in accordance with *clause 3.1(a) of SCHEDULE 6*;

**“Subsidiary”** means a wholly-owned or controlled company or other entity established by the Trust that has not registered as a charity under the Charities Act 2005;

**“Taonga Property”** means any Trust Assets that are designated to be Taonga Property in accordance with *rule 3 of Schedule 5*;

**“Taonga Property Policy”** means a policy in relation to Taonga Property prepared by the Trustees from time to time in accordance with *rule 3 of Schedule 5*;

**“Te Awa Tupua”** means the indivisible and living whole comprising the Whanganui River from the mountains to the sea, incorporating its tributaries and all its physical and metaphysical elements, and includes Te Awa Tupua as a legal person under the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017;

**“Te Kāhui Maunga”** means the sacred mountain clan comprising the mountains of the central North Island, including those that are currently within the Tongariro National Park, and the indivisible and inextinguishable relationship of Ngāti Hāua and other iwi of Te Kāhui Maunga;

**“Te Pae Matua”** means the tikanga-based collective of kaumātua of Ngāti Hāua identified in *clause 5.1*;

**“Te Pou Tikanga”** means the innate values that underpin the Ngāti Hāua aspirations for Treaty settlement and vision for a restored relationship with the Crown;

**“Te Pua o Te Riri Kore”** means the deed [dated [date] / that will be entered into] between Ngāti Hāua and the Crown recording the settlement of the Ngāti Hāua Claims;

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“**Te Whiringa Kākaho o Ngāti Hāua Group**” means the Trust and any Trust Entity (if any);

“**Trust**” means the trust created by this Deed which is to be called Te Whiringa Kākaho o Ngāti Hāua;

“**Trusts Act**” means the Trust Act 2019

“**Trust Assets**” means the trust fund of the Trust and shall include all assets received or otherwise owned or acquired from time to time by the Trustees, including without limitation all assets received pursuant to Te Pua o Te Riri Kore, 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 Entity**” means any entity or trust that is:

- (a) a wholly owned or controlled company, trust or other entity established by the Trust for the purpose of receiving, holding and managing for so long as it is to be retained, any Trust Assets;
- (b) a wholly owned or controlled company, trust or other entity established by the Trust for any other purpose;
- (c) includes any Subsidiary of the Trust; and
- (d) includes any subsidiary of a Trust Entity established by the Trust.

“**Trust Information**” has the same meaning as provided in section 49 of the Trusts Act 2019;

“**Trust Purpose**” means the object and purpose set out in *clause 2.3*;

“**Trust Period**” means the period from the date of this Deed until the Distribution Day;

“**Trustees**” means:

- (a) during the Establishment Period, the Initial Trustees; and
- (b) otherwise, the trustees appointed from time to time in accordance with *SCHEDULE 2* of this Deed to act as the trustees for the time being of the Trust;

and “**Trustee**” shall mean any one of those persons.

“**Whakapapa Committee**” means the committee appointed in accordance with *rule 4* of *SCHEDULE 1*.

### 1.2. Ngāti Hāua:

In this Trust Deed, “**Ngāti Hāua**” means:

- (a) the collective group composed of individuals who descend from a Ngāti Hāua Ancestor; and
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- (b) every whānau, hapū or group to the extent that it is composed of individuals referred to in paragraph (a), including the following descent groups:
- (i) Hāuaroa ki te Rangi;
  - (ii) Ngāti Hāua;
  - (iii) Ngāti Hāuaroa;
  - (iv) Ngāti Hekeāwai;
  - (v) Ngāti Hinetakuao;
  - (vi) Ngāti Hinewai;
  - (vii) Ngāti Hira;
  - (viii) Ngāti Keu;
  - (ix) Ngāti Kura;
  - (x) Ngāti Onga;
  - (xi) Ngāti Pareteho;
  - (xii) Ngāti Pareuira;
  - (xiii) Ngāti Pikikōtuku;
  - (xiv) Ngāti Poutama;
  - (xv) Ngāti Rangitauwhata;
  - (xvi) Ngāti Rangitengaue;
  - (xvii) Ngāti Reremai;
  - (xviii) Ngāti Ruru;
  - (xix) Ngāti Tamakaitoa;
  - (xx) Ngāti Tama-o-Ngāti Hāua;

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(xxi) Ngāti Te Āwhitu;

(xxii) Ngāti Te Huaki;

(xxiii) Ngāi Turi;

(xxiv) Ngāti Tū;

(xxv) Ngāti Te Wera;

(xxvi) Ngāti Whakairi;

(xxvii) Ngāti Whati; and

(c) every individual referred to in paragraph (a).

For the purposes of the definition of “**Ngāti Hāua**”:

**Ngāti Hāua Ancestor**” means an individual:

(a) who exercised Customary Rights by virtue of being descended from:

(i) the union of Hinengākau and Tamahina; or

(ii) a recognised ancestor of any of the groups referred to in paragraph (b) of the definition of Ngāti Hāua; and

(b) who exercised the Customary Rights referred to in paragraph (a) predominantly in relation to the Ngāti Hāua Area of Interest after 6 February 1840; and

**“Customary Rights”** means rights according to tikanga Māori (Māori customary values and practices) including:

(a) rights to occupy land; and

(b) rights in relation to the use of land or other natural or physical resources; and

A person is “**descended**” from another person if the first person is descended from the other by

(a) birth;

(b) legal adoption; or

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- (c) Māori customary adoption in accordance with Ngāti Hāua tikanga (customary values and practices);

**1.3. 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 a person 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; and
- (h) references to a company are references to a company incorporated pursuant to the Companies Act 1993.

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**2. ESTABLISHMENT, OBJECT AND PURPOSE OF THE TRUST**

**2.1. Trust Established:**

- (a) The Trustees acknowledge that they hold the Trust Assets upon the trusts and with the powers set out in this Deed. The Trust shall be known as Te Whiringa Kākaho o Ngāti Hāua.
  - (b) The Trustees have received the sum of \$10.00 to constitute the Trust Assets and the Trustees acknowledge the receipt of that sum. The Trustees declare that they hold the sum of \$10.00 together with all other money and property which may be added to it by way of capital or income upon the trusts and with the powers set out in this Deed.
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**2.2. Trust Governance and Administration:**

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

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**2.3. Object and Purpose of the Trust:**

The purpose for which the Trust is established is to receive, manage, hold and administer the Trust Assets on behalf of and for the benefit of the present and future Members of Ngāti Hāua in accordance with this Deed, including without limitation:

- (a) acting as the voice and representative body for Ngāti Hāua;
- (b) implementing the terms of the settlement of the historical Treaty of Waitangi claims of Ngāti Hāua contained in Te Pua o Te Riri Kore and the Settlement Legislation and receiving or administering any other redress in relation to the Whanganui National Park, Tongariro National Park or Te Kāhui Maunga;
- (c) promoting the social, cultural, spiritual, educational, environmental and economic advancement and well-being of Ngāti Hāua and its Members;
- (d) promoting the health and wellbeing of Ngāti Hāua and its Members;
- (e) promoting the health and wellbeing of the Members of Ngāti Hāua who are children and young persons;
- (f) providing for the ongoing maintenance and establishment of places of cultural or spiritual significance to Ngāti Hāua and its Members, including marae;
- (g) promoting and advancing the social and economic development of Ngāti Hāua and its Members, including the promotion of business, commercial or vocational training;
- (h) promoting and advancing the health and wellbeing of Te Awa Tupua and Te Kāhui Maunga;
- (i) ensuring that any Commercial Activities are appropriately structured to serve the Trust Purpose; and
- (j) any other purpose that is considered by the Trustees from time to time to be beneficial to Ngāti Hāua and its Members.

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**2.4. Trustees Representative:**

The Trustees shall be the representative for Ngāti Hāua in all matters relating to this Deed.

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### 2.5. Guiding Vision and Principles:

The Trustees will act with the overarching vision that Ngāti Hāua will be a positive and responsible tribal nation with the capability to act and live as whānau, hapū and iwi that are vibrant, strong, robust and prosperous: culturally, socially, environmentally and economically. In furthering the Trust's objects and discharging any obligation under this Trust Deed, the Trustees will be guided by the following principles:

- (a) **Ngāti Hāuatanga:** Kia toitū te mana whakaū nā Ngāti Hāua – Our nationhood: to ensure the survival of the Ngāti Hāua Iwi identity.
- (b) **Riri Kore:** Nā ngā tūpuna i hauroatia te maru o te tangata – To ensure the continuity of Ngāti Hāua tikanga.
- (c) **Rongo Niu:** Tā te rino i tukituki ai, mā te rino anō e hanga – The Crown has a responsibility to enhance and uphold Te Tiriti o Waitangi relationship with Ngāti Hāua.
- (d) **Rangitengaue:** Mā te piharau anō te piharau hei whakatika - Ngāti Hāua self-determination, Ngāti Hāua solutions for Ngāti Hāua people.
- (e) **Kokako:** Ko te Awa te tuatahi, ko te Awa te tuarua - Uphold our inherent right of kaitiakitanga.
- (f) **Tapaka:** He huinga wai, he huinga iwi - Te Ara Whanaunga: maintain the integrity of our relationship with others.
- (g) **Tamahina:** Ā mua, i muri, ōu kōrero – Make decisions based on ancestral precedent (tikanga) and values (kaupapa).

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## 3. APPOINTMENT, POWERS, DUTIES AND MEETINGS OF TRUSTEES

### 3.1. Initial Trustees:

- (a) Pending the First Election, the initial seven [7] Trustees shall be:
  - (i) [Initial Trustee Names].
- (b) During the Establishment Period (the period from the date of this Trust Deed until the date on which they are succeeded by the election of Trustees in accordance with the procedure set out in *Schedule 2*), the Initial Trustees will, among other functions:
  - (i) Organise and manage the First Election (including, where necessary, contracting out the running of such election to an independent third party), which must be held prior to the first Annual General Meeting following the Settlement Date and in accordance with the procedure set out in *SCHEDULE 2*.

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- (ii) Receive and manage any funds or assets transferred to the Trust, including receiving funds from the Crown in the event that the Crown transfers any funds to the Trust before the Settlement Date.
  - (iii) Work with the Crown and other relevant parties to advance the implementation of the settlement of the historical Treaty of Waitangi claims of Ngāti Haua; in connection with the management of any funds or assets to be transferred to the Trust, take steps as reasonably required to establish or incorporate appropriate Trust Entities to serve the needs Ngāti Haua.
  - (iv) Maintain records and information that will facilitate the preparation by the first elected Trustees of the first Annual Plan, Five Year Strategic Plan and Annual Report.
- 

### 3.2. Election and Number of Trustees:

Following the First Election, there shall be seven (7) Trustees of the Trust, appointed from time to time to office in accordance with the rules set out in *SCHEDULE 2* as follows:

- (a) at least three (3) Trustees must be Resident Candidates; and
  - (b) the remaining four (4) Trustee positions will be filled by the candidates who receive the highest number of valid votes for the relevant vacancies, regardless of the place of residence of the candidates.
- 

### 3.3. Powers of Trust:

(a) A Trustee has the following general powers:

- (i) all the powers necessary to manage the Trust Assets including, in relation to the Trust Assets, all the powers of an absolute owner of the property:
  - (ii) all the powers necessary to carry out the Trust, including powers incidental to those in paragraph (i).
- (b) The powers of the Trustees include (unless contrary to the terms of this Deed) those set out in sections 57–79 of the Trusts Act 2019, and the Trustees may exercise those powers in accordance with the terms of this Trust. Without limiting in any way the generality of the foregoing, the Trustees shall have the power:
- (i) to receive or accept, or to make any disposition of, any real property, including any interest of any type in real property (whether corporeal or incorporeal hereditament);
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- (ii) to receive or accept, or to make any disposition of, any personal property (whether chattels, choses in action, intellectual property, and otherwise howsoever), including any interest of any type in personal property;
- (iii) to receive or grant any security, including any mortgage, pledge, charge, security interest, or otherwise howsoever, in relation to all, or any part of, the Property;
- (iv) to contract, to grant a release, to grant a power of attorney, to appoint an agent, a receiver, or a stakeholder, to settle property on, or declare, a trust;
- (v) to issue or take any debt or equity security;
- (vi) to borrow or to lend money;
- (vii) to manage the Trust's affairs, activities, assets and liabilities and otherwise further the Trust Purpose through the Trust Entities and such other persons, entities, enterprises or arrangements as the Trustees consider appropriate;
- (viii) employ or contract any employee or contractor, to manage or assist in the day to day management and administration of the Trust;
- (ix) employ or contract any financial advisor, lawyer, accountant or other professional person and obtain any advice, opinion or information from them;
- (x) to distribute benefits, directly or indirectly, to Members of Ngāti Hāua, irrespective of where they reside, to any Ngāti Hāua Organisation; or to any Trust Entity as, when and in such manner as the Trustees may decide; and
- (xi) generally to do all such other lawful acts and things that are incidental or conducive to fulfilling the Trust Purpose.

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### 3.4. Restriction on Major Transactions:

Notwithstanding *clause 3.3*, the Trustees:

- (a) must not enter into a Major Transaction; and
  - (b) must ensure that any Trust Entities are established on terms which provide that such Trust Entities must not enter into a Major Transaction;
  - (c) unless that Major Transaction:
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(i) is approved by way of Special Resolution in accordance with *SCHEDULE 4*; or

(ii) is contingent upon approval by way of Special Resolution.

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### **3.5. Extent of Trustees' Discretion to manage Trust Affairs:**

Subject to any requirements imposed by this Deed, Te Pua o Te Riri Kore - 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.

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### **3.6. Trustees Remuneration:**

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

- (a) seek external independent professional advice at least every three years in relation to an appropriate level of remuneration for each Trustee;
- (b) fix a level of reasonable remuneration for each Trustee that is broadly commensurate with the external advice provided under *clause 3.6(a)*;
- (c) at each Annual General Meeting provide the details of the external independent advice received under *clause 3.6(a)* and the level of remuneration set in accordance with *clause 3.6(b)*; and
- (d) in respect of the initial Trustees in *clause 3.1*, who will be appointed before the First Election, be set by the Initial Trustees for the period they hold office as Initial Trustees, on the basis of external independent professional advice.

This clause, as well as *clause 10.2*, expressly modify the Default Duties in sections 36 and 37 of the Trusts Act 2019.

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### **3.7. Trustee Expenses:**

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

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## **4. DUTIES OF TRUSTEES**

### **4.1. Guiding Principle:**

In exercising the powers and functions under this Deed, each Trustee must:

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- (a) have regard to the context of the Trust and the Trust Purpose; and
- (b) comply with their duties under the Trusts Act 2019, including without limitation the Mandatory Duties, Default Duties and other statutory duties.

### 4.2. Mandatory Duties:

Each Trustee is required to comply with the Mandatory Duties. For the avoidance of doubt, each Trustee must:

- (a) know the terms of this Deed;
- (b) act in accordance with this Deed;
- (c) act honestly and in good faith;
- (d) hold or deal with the Trust Assets and otherwise act for the benefit of the Members of Ngāti Hāua, in accordance with this Deed and the Trust Purpose; and
- (e) exercise their powers for a proper purpose.

### 4.3. Default Duties:

Except where otherwise specified in this Deed, each Trustee must comply with the Default Duties. For the avoidance of doubt and except where otherwise specified in this Deed, each Trustee must:

- (a) when administering the Trust (other than when exercising a discretion to distribute any of the Trust Assets to Members of Ngāti Hāua), exercise the care and skill that is reasonable in the circumstances, having regard, in particular to any special knowledge or experience that the Trustee has or holds themselves out as having;
  - (b) when exercising any power to invest the Trust Assets, the Trustee must exercise the care and skill that a prudent person of business would exercise in managing the affairs of others, having regard, in particular:
    - (i) to any special knowledge or experience that the Trustee has or that the Trustee holds themselves out as having; and
    - (ii) if the person acts as a Trustee in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.
  - (c) not exercise a power of a Trustee directly or indirectly for the Trustee's own benefit;
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- (d) consider actively and regularly whether the Trustee should be exercising 1 or more of the Trustee's powers;
  - (e) not bind or commit Trustees to a future exercise or non-exercise of a discretion;
  - (f) avoid a conflict of interest between the interests of the Trustee and the interests of the Members of Ngāti Hāua;
  - (g) act impartially in relation to the Members of Ngāti Hāua, and must not be unfairly partial to one Member of Ngāti Hāua or a group of Members to the detriment of others;
  - (h) except as provided for in *clauses 3.6 and 10.2*, not make a profit from their trusteeship; and
  - (i) except as provided for in *clauses 3.6 and 10.2*, not take any reward for acting as a Trustee.
- 

### 5. TE PAE MATUA

#### 5.1. Appointment of Te Pae Matua:

The collective of kaumātua within Ngāti Hāua to be known as Te Pae Matua, which comprises those persons who are recognised by Ngāti Hāua hapū and marae as the guardians of Ngāti Hāua tribal knowledge, whakapapa and tradition, shall continue to exist.

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#### 5.2. Role of Te Pae Matua in relation to Trust:

On request from the Trustees, Te Pae Matua may provide advice to the Trustees on matters relating to the hapū, marae, tikanga, reo, kawa, kōrero and whakapapa of Ngāti Hāua or any other matter that the Trustees consider requires the view of Te Pae Matua, provided that nothing in this Deed shall be deemed or construed so as to make the seeking or following of advice obtained from Te Pae Matua as binding upon the Trustees.

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#### 5.3. Trustees may be Members:

A Trustee may participate in the affairs of Te Pae Matua, notwithstanding his or her holding office as Trustee.

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#### 5.4. Procedures of Te Pae Matua:

Except to the extent provided in this Deed, Te Pae Matua shall continue to operate in accordance with such rules, meeting procedures and processes as it may from time to

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time agree consistent with the tikanga of Ngāti Hāua and be convened from time to time as it determines.

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### 6. TRUST MANAGEMENT AND OTHER EMPLOYEES

#### 6.1. Trustees to Appoint Trust Management:

The Trustees may (on such terms as the Trustees determine) appoint Trust Management to manage the day to day administration of the Trust including without limitation the implementation of the Trustees' planning, reporting and monitoring obligations under this Deed.

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#### 6.2. Delegations to Trust Management:

The Trustees shall ensure that any Trust Management is appointed on terms which require that the Trust Management 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.

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#### 6.3. Trustee Role:

A Trustee may not hold the position of Trust Management nor be an employee of any entity or trust in the Te Whiringa Kākaho o Ngāti Hāua Group.

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#### 6.4. Employees and Contractors:

The Initial Trustees during the Establishment Period and otherwise the Trustees or, where Trust Management has been appointed, the Trust Management may:

- (a) employ or contract any employee or contractor to:
    - (i) manage or assist in the day to day management and administration of the Trust;
    - (ii) support the performance by the Trustees of their powers and functions; and
    - (iii) maintain the Registered Office of the Trust.
  
  - (b) employ or contract any financial advisor, lawyer, accountant or other professional person and obtain any relevant advice, opinion or information from them.
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### 7. APPLICATION OF INCOME AND CAPITAL

#### 7.1. Trustees may Apply Income and Capital:

During the Trust Period, and subject to any other requirements in this Trust Deed, the Trustees may:

- (a) at any time, provide for the payment, application or appropriation, or decide to pay, apply or appropriate as much of the available income in any Income Year
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to or for the benefit of Members of Ngāti Hāua in accordance with the Trust Purpose;

- (b) use or apply any capital of the Trust Assets to or for the benefit of Members of Ngāti Hāua for the Trust Purpose without first using or applying the whole or any portion of the income of the Trust Assets for that year; or
- (c) set aside reserves or accumulations for future use or application by the Trustees,

as the Trustees in their sole discretion think fit for or towards the Trust Purpose.

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### **7.2. 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.
- 

### **7.3. 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 Assets, provided that the Trustees may not in the Income Year convert the entire income of the Trust into capital; and
  - (b) endeavour to act fairly in considering the needs and interests of present and future Members of Ngāti Hāua.
- 

### **7.4. 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 7* during or within the six (6) months from the end of that Income Year shall be accumulated and any income so accumulated shall be added to and form part of the capital of the Trust Assets and shall be subject to the trusts and powers herein declared in respect of the capital of the Trust Assets.

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## 8. DISCLOSURE OF PLANS, REPORTS AND MINUTES

### 8.1. Documents to be Available for Inspection:

The Trustees shall hold at their offices, or hold electronically and make available for inspection by any Member of Ngāti Hāua 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 Strategic Plan;
- (e) the Statements of Intent;
- (f) the minute book kept in accordance with *clause 10.14* 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) this Deed and any amendment to this Deed; and
- (i) the current constitution or trust deed of any Trust Entity.

### 8.2. Costs of Copying:

Any Member of Ngāti Hāua shall be entitled to obtain copies of the information referred to in *clause 8.1*. However, the Trustees shall also be entitled to recover at their discretion all reasonable copying or postage costs (if any).

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## 9. NON-DISCLOSURE OF SENSITIVE INFORMATION

### 9.1. Trust Information:

The Trustees must, in compliance with sections 51-52 of the Trusts Act 2019 and with regard to the factors in section 53 of that Act, determine whether the presumption to notify Basic Trust Information or provide Trust Information on request does not apply.

**9.2.** For the avoidance of doubt, but subject to the trustees reporting and review obligations in *clauses (a)8.1(a), 8.1(b), 8.1(f), 9.1, 10.1(A), 10.1(B)* and *rule 2.1 of SCHEDULE 5*,

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the trustees may, at their sole discretion and having regard to the factors in section 53 of the trusts act 2019, limit disclosure of:

- (a) the Basic Trust Information; or
- (b) any Trust Information,

including information about the activities or proposed activities of the Trustees and the Te Whiringa Kākaho o Ngāti Hāua Group, which the Trustees consider on reasonable grounds to be commercially or otherwise sensitive.

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### 10. GENERAL MEETINGS

#### 10.1. Trustees to hold Annual General Meeting:

The Trust shall, no later than six (6) calendar months after the end of each Income 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 Ngāti Hāua, to be called its annual general meeting, and shall at that meeting:

- (a) report on the operations of Te Whiringa Kākaho o Ngāti Hāua 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) approve the appointment of the auditor for the next Income Year;
  - (f) approve the Trustees' remuneration;
  - (g) undertake all other notified business; and
  - (h) at the discretion of the chairperson of the meeting, undertake any other general business raised at that meeting.
-

**10.2. Approval of Trustees' Remuneration and Appointment of Auditor:**

- (a) 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 Hāua 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. This clause does not apply to any remuneration paid to any Trustee in his or her capacity as a director or trustee of a Trust Entity and that remuneration shall be determined by the Trustees pursuant to *rule 1 of SCHEDULE 6*.
- (b) The appointment of the auditor for the next Income Year must be authorised by a resolution of the Adult Registered Members of Ngāti Hāua present at the annual general meeting.

**10.3. Notice of General Meeting:**

The Trustees shall give not less than 21 days' notice of the holding of the annual general meeting and such notice:

- (a) must be sent, by electronic form where available and otherwise by post, to all Adult Registered Members of Ngāti Hāua at the last address shown for each such Adult Registered Member of Ngāti Hāua on the Ngāti Hāua Register;
- (b) if notice sent to an electronic address fails, and the Trustees are aware of the failure, then the notice must subsequently be sent to the last known physical address and, in that event, the 21 day notice period shall be deemed to have been given on the date of the failed electronic communication;
- (c) advertised by electronic or digital means including on the Trust's website and social media; and
- (d) where the Trustees deem it appropriate, may be inserted on at least two (2) separate days in appropriate major metropolitan newspapers and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Hāua reside; and
- (e) any notices shall contain:
  - (i) the date, time and place of the meeting;
  - (ii) an agenda of matters to be discussed at the meeting; and
  - (iii) details of where copies of any information to be laid before the meeting may be inspected.

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**10.4. Notice of Special General Meetings:**

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In addition to the annual general meeting of the Trust, the Trustees shall:

- (a) convene a special general meeting of the Trustees for the Members of Ngāti Hāua at the written request of:
    - (i) the Chairperson and Deputy Chairperson for the time being of the Trust; or
    - (ii) the majority of the Trustees then in office; or
    - (iii) 10% of the Adult Registered Members of Ngāti Hāua; and
  - (b) 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 a 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; and
  - (c) the Trustees shall not be required to give notice calling the meeting until such a statement with agenda items has been received.
- 

### **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.

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### **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.

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### **10.7. Invalidation:**

The proceedings of a meeting are not invalidated by the accidental omission to give notice to, or a failure to receive notice of an annual or special general meeting by, a Member of Ngāti Hāua.

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### **10.8. Deficiency of Notice:**

Subject to *clause 10.6*, a deficiency or irregularity in a notice of any special or general meeting will not invalidate anything done at the meeting if the deficiency or irregularity is not material.

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**10.9. Quorum:**

The quorum required for any annual or special general meeting of the Trust shall be 25 Adult Registered Members of Ngāti Hāua present in person, and three (3) or more Trustees present in person. For the avoidance of doubt, a Trustee is an Adult Registered Member of Ngāti Hāua and he or she is entitled to vote any annual or special general meeting.

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**10.10. 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 Deputy Chairperson shall be the chair. If the Deputy Chairperson is also not present, then the Trustees present shall elect one (1) of their number to substitute as the chairperson for that meeting.

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**10.11. Voting:**

To the extent that a vote is sought or required at any annual or special general meeting:

- (a) every Adult Registered Member of Ngāti Hāua present shall have one (1) vote;
  - (b) all resolutions except Special Resolutions require the approval of not less than a majority of the Adult Registered Members of Ngāti Hāua who validly cast a vote;
  - (c) voting may be by voice or on a show of hands;
  - (d) 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;
  - (e) the latest version of the Ngāti Hāua Register will be present at any annual or special general meetings; and
  - (f) except as provided in *clauses 3.4, 10.1(e), 10.1(f), 10.2, 21.1, 22 and 23* and where Special Resolutions have been passed in accordance with *SCHEDULE 4* 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 Assets and carrying out the Trust Purpose.
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**10.12. Adjourned Meetings:**

If after one (1) hour of the time appointed for an annual or special general meeting, a quorum is not present:

- (a) the meeting will stand adjourned to be re-convened seven (7) days after the date of the meeting;
  - (b) on that later day, the meeting will be held again at the same time and in the same place as the adjourned meeting; and
  - (c) if a quorum is not present after one (1) hour from the time appointed for that adjourned meeting, the Adult Registered Members of Ngāti Hāua present will constitute a quorum.
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**10.13. 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, without giving any reason:

- (a) adjourn the meeting;
  - (b) 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; and
  - (c) the meeting will be considered closed.
- 

**10.14. 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.

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**10.15. Minutes to be Evidence of Proceedings:**

Any minute of the proceedings at an annual general meeting or a special general meeting which is purported to be signed by the chairperson at that meeting shall be evidence of those proceedings.

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**10.16. 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.

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**11. DISCLOSURE OF INTERESTS**

**11.1. 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 Trustees or any other member of Te Whiringa Kākaho o Ngāti Hāua Group;
  - (d) is the parent, child, spouse, de facto 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.
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**11.2. Disclosure of Interest to Other Trustees:**

A Trustee must, after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Trustees, 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.
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**11.3. 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 Trust.

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**12. DEALINGS WITH “INTERESTED” TRUSTEES**

**12.1.** An interested trustee shall not:

- (a) take part in any deliberation or vote in respect of any matter in which that Trustee is interested; or
  - (b) be counted for the purposes of forming a quorum in any meeting to consider such a matter.
- 

**13. DISCLOSURE OF TRUSTEE REMUNERATION AND INSURANCE**

**13.1.** The Trustees shall, in accordance with *rule 2.1 of SCHEDULE 5*, show the amount of any remuneration paid to any Trustee or any Trustee’s firm and the amount of any premiums paid out of the Trust Assets for any Trustee indemnity insurance separately in the financial statements including any payments made pursuant to *clause 16*.

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**14. ADVICE TO TRUSTEES**

**14.1. 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.
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**14.2. Special Trust Advisers:**

In accordance with section 74 of the Trusts Act 2019, the Trustees may, by a resolution passed by a majority the Trustees, appoint a special trust adviser to advise the Trustees on any matter relating to the Trust.

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**15. LIABILITY OF TRUSTEES**

**15.1.** A Trustee shall only be liable for losses attributable to his or her dishonesty, wilful misconduct, gross negligence, or 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

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## RATIFICATION VERSION

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

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### 16. INDEMNITY AND INSURANCE

#### 16.1. Indemnity and Insurance for Trustees:

Any Trustee, officer or employee of the Trust will be indemnified or have their insurance costs met out of the Trust 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, where:

- (a) those proceedings do not arise out of any dishonesty, wilful misconduct, gross negligence, or commission or omission of an act which commission or omission he or she knows or should have known to be a breach of this Deed by the Trustee, officer or employee; and
- (b) he or she was acting in good faith in a manner that he or she believed to be in the best interests of the Trust with the object of fulfilling the Trust Purpose.

#### 16.2. 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.

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#### 16.3. 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.

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#### 16.4. 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 of the Trustees 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.

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**17. TE WHIRINGA KĀKAHO O NGĀTI HĀUA NOT TO BE BROUGHT INTO DISREPUTE**

**17.1. Trustees Not to Bring Into Disrepute:**

No Trustee shall act in a manner which brings or is likely to bring Ngāti Hāua, the Trust or any Trust Entity into disrepute. Examples of actions (or omissions) include:

- (a) a Trustee refusing to act when they should;
  - (b) sustained absence of a Trustee without permission or reasonable excuse;
  - (c) conviction of a serious dishonesty offence or an offence punishable by two (2) or more years imprisonment; or
  - (d) bankruptcy or being subject to a compulsory treatment order.
- 

**17.2. Directors Not to Bring Into Disrepute:**

The Trustees shall also ensure that Trust Entities are established on terms which provide that the directors or trustees of any such Trust Entity are not to act in a manner which brings or is likely to bring Ngāti Hāua, the Trust or any Trust Entity into disrepute.

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**17.3. Trustee may be Censured or Removed:**

Any Trustee that acts in a manner that brings or is likely to bring into disrepute Ngāti Hāua, the Trust or any Trust Entity may:

- (a) upon the receipt by the Trustees of independent external advice in respect of the nature and seriousness of the conduct; and
- (b) followed by a resolution passed by a majority of not less than 75% of the other Trustees,

be formally censured or removed from office.

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**17.4. Censure or Removal to be Notified:**

The censure or removal of a Trustee in accordance with this clause shall, together with reasons, be reported to the Members of Ngāti Hāua at the next annual general meeting of the Trust following such censure or removal.

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**17.5. Effect of Removal:**

A Trustee removed from office in accordance with *clause 17.3* 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.

Each of the Trustees grants a power of attorney in favour of the other Trustees to convey the Trust Assets to the other Trustees and any replacement trustee in the event that the Trustee is removed from office under *clause 17.3*.

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**17.6. Replacement of Trustee:**

The removal of a Trustee in accordance with *clause 17.3* shall give rise to a casual vacancy which shall be filled in accordance with *rule 4.5* of *SCHEDULE 2*. The election process must take place within three (3) months of any removal of a Trustee in accordance with this clause.

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**18. GIFTS OR DONATIONS**

**18.1. 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 Trust Purpose or for any specific purpose that comes within the Trust Purpose. Such a trust may include any trust for the benefit of the Members of Ngāti Hāua or any of them. Any property held by the Trustees pursuant to this clause shall be dealt with in accordance with the terms of that trust and shall not constitute part of the Trust Assets.

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**18.2. Specific Trusts to be Separate:**

If the Trustees accept a trust for any specific purpose as outlined in *clause 18.1* above they must keep the property subject to such trust and any income derived from it separate from the Trust Assets, and administer that property and income as a separate specific trust in terms of the trust under which it was accepted.

**18.3. 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 Assets to make good any deficit, loss, damage or breach of trust relating to any specific trust.

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**19. RECEIPTS FOR PAYMENTS**

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## RATIFICATION VERSION

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**19.1.** The receipt of payments by 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.

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### **20. CUSTODIAN TRUSTEE**

**20.1.** The Trustees may appoint or incorporate a Custodian Trustee in respect of all or any part of the Trust Assets, and on any such appointment or incorporation, sections 67 – 69 of the Trusts Act 2019 and the following provisions shall have effect:

- (a) the Trustees shall require the Custodian Trustee to sign this Deed agreeing to be bound by the terms of this Deed;
  - (b) the Trust Assets or part of may be vested in the Custodian Trustee as if the Custodian Trustee were sole Trustee;
  - (c) the Custodian Trustee holds the title so vested in him or her or it on trust for the Trustees;
  - (d) the management of the Trust Assets 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;
  - (e) 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 and is liable to the Trustees for failing to do so;
  - (f) the Custodian Trustee shall not be liable for acting on any such direction or any failure of the Trustees 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 provided the Trustees are made parties to the proceeding;
  - (g) the Custodian Trustee shall not be liable for any failure on the part of any of the Trustees to fulfil any of the Mandatory Duties or Default Duties (as applicable) or the Trustees' duties under section 68 of the Trusts Act 2019, provided the Custodian Trustee is not knowingly a participant in any dishonest, willful or grossly negligent breach of trust by such Trustee(s);
  - (h) all actions and proceedings touching or concerning the Trust Assets may be brought or defended in the name of the Custodian Trustee at the written direction of the Trustees and, as between the Trustees and the Custodian Trustee, the
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## RATIFICATION VERSION

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Custodian Trustee shall not be liable for the costs and the Trustees shall indemnify the Custodian Trustee for such proceedings; and

- (i) 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.

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### 21. AMENDMENTS TO DEED

#### 21.1. Special Resolution Required:

Subject to *clause 21.2* and *clause 21.3*, all amendments to this Deed shall only be made with the approval of a Special Resolution passed in accordance with *SCHEDULE 4*.

---

#### 21.2. Limitations on Amendment:

No amendment shall be made to this Deed which:

- (a) changes the Trust Purpose so that the Trustees are no longer required to act for the collective benefit of the present and future Members of Ngāti Hāua;
- (b) changes this *clause 21.2*;
- (c) changes *clause 23*;
- (d) changes the finally agreed definition of Member of Ngāti Hāua, Ngāti Hāua Ancestor, Ngāti Hāua Area of Interest, or Ngāti Hāua Claims after settlement legislation has been passed;
- (e) changes the requirement for a Special Resolution (as defined from time to time) in *clause 21.1*;
- (f) changes the membership and beneficiary of the Trust; and
- (g) changes *rule 3.1* of *SCHEDULE 4* relating to the voting threshold of 75% of the Adult Members of Ngāti Hāua.

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#### 21.3. Amendment to Make Definitions Consistent with Te Pua o Te Riri Kore and Settlement Legislation:

Notwithstanding any other provision in this Deed to the contrary, this Deed must be amended by the Trustees to make the definition of Member of Ngāti Hāua, Ngāti Hāua, Ngāti Hāua Ancestor or Ngāti Hāua Claims the same as that set out in the signed version of Te Pua o Te Riri Kore and the Settlement Legislation. If this Deed is amended due to operation of this sub-clause a Special Resolution passed in accordance with

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## RATIFICATION VERSION

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Schedule 4 is not required and the amendment may be made with the approval of a resolution passed by a majority of Trustees.

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### **21.4. Consideration of Proposals:**

Every Adult Registered Member of Ngāti Hāua may put forward for consideration by the Trustees proposals for amendments to this Deed and in that respect:

- (a) any proposal put forward under this *clause 21.4* must be in writing and addressed to the Chairperson at the registered office of the Trust;
  - (b) any proposal put forward under this *clause 21.4* must be considered by the Trustees at their next available meeting;
  - (c) if the proposal for an amendment to this Deed complies with *clause 21.2* and if the Trustees do not discard the proposal in accordance with *clause 21.5* they may, in their discretion, discuss it at the next annual general meeting.
- 

### **21.5. Proposals to be Discarded:**

Where a proposal for amendments to this Deed does not comply with *clause 21.2*, the Trustees may discard the proposal and the Trustees will not be required to discuss it at the next annual general meeting.

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**22. RESETTLEMENT**

**22.1.** The Trustees have the power to settle or resettle any or all of the Trust Assets upon trust in any manner in which, in the opinion of the Trustees is for the advancement or benefit of the present and future Members of Ngāti Hāua provided that the resettlement is approved by a Special Resolution.

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**23. TERMINATION OF TRUST BY MEMBERS**

**23.1.** Subject to *clause 21.2*:

- (a) the Trust established by this Deed may be terminated or dissolved if the Adult Registered Members of Ngāti Hāua have, by Special Resolution, resolved to do so; and
  - (b) on the termination or dissolution of this Trust under this clause, the Trust 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 Hāua as long as such payment does not override the application of *clause 24*.
- 

**24. MAXIMUM DURATION OF A TRUST AND DISTRIBUTION DAY**

**24.1.** The Distribution Day for the Trust is the day that is one hundred and twenty-five years after the date of this Deed, that date being the maximum duration of a trust under the Trusts Act 2019. On the Distribution Day, the Trustees shall hold the remaining capital and income of the Trust Assets on trust for the Members of Ngāti Hāua then living as tenants in common in equal shares.

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**24.2.** If the Settlement Act provides that the limit on the duration of a trust in any rule of law or under the provisions of any act, including section 16 of the Trusts Act 2019, are not to apply to the Trust, *clause 24.1* shall be void.

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**25. KEEPING OF CORE DOCUMENTS**

**25.1. Trustees to Keep Core Documents:**

The Trustees must ensure that the Core Documents are held for the duration of the Trust in accordance with sections 45–48 of the Trusts Act 2019.

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**26. DISPUTE RESOLUTION**

**26.1. Disputes:**

In the event that a dispute relating to the affairs of the Trust arises between:

- (a) any Members of Ngāti Hāua; or
- (b) the Trustees and any Members of Ngāti Hāua

regarding membership, the activities of the Trust or otherwise in connection with the tikanga, reo, kawa, whakapapa and kōrero of Ngāti Hāua then that dispute shall be referred in first instance to the Trustees.

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**26.2. Notice of Dispute:**

All disputes referred to the Trustees in accordance with *clause 26.1* shall be submitted to the Trustees by notice in writing and the Trustees shall acknowledge receipt in writing within 20 Business Days of the date of receipt of the notice.

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**26.3. Reference of Dispute:**

If a dispute is not settled within 90 days of the receipt by the Trustees of written notice of the dispute in accordance with *clause 26.2* then it shall be referred to a Disputes Committee constituted in accordance with *clause 26.4* and *26.5*.

---

**26.4. Disputes 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 in question, and only after the expiry of the 90 day period referred to in *clause 26.3*.

---

**26.5. Appointment and composition of Disputes Committee:**

A Disputes Committee shall comprise three members who shall be appointed by the Trust as follows:

- (a) one (1) independent non-Ngāti Hāua member nominated by the Tumuaki from time to time of Te Hunga Roia Māori or their nominee, such member to be a barrister or solicitor with seven (7) or more years experience, to act as the chair of the Disputes Committee;
  - (b) one (1) Adult Registered Member of Ngāti Hāua appointed for their skills and expertise in dealing with the issues that are the subject of the relevant dispute, provided that such members cannot also be Trustees or employees of the Trust; and
  - (c) one (1) member of Te Pae Matua.
- 

**26.6. 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.

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**26.7. Deliberations of Disputes Committee:**

In facilitating the resolution of any dispute:

- (a) 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;
  - (b) a Disputes Committee may convene a hui with the parties or take any other steps it considers appropriate in order to discuss or resolve the matters that are in dispute; and
  - (c) the findings and decisions of a Disputes Committee shall be final and binding on the parties.
- 

**26.8. Notification of Outcome:**

A 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. The findings and decision of a Disputes Committee may, if the Trustees consider it appropriate, also be reported back to Members of Ngāti Hāua at the next Annual General Meeting.

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**26.9. Exclusion of Alternative Dispute Resolution Provisions:**

Sections 142–147 of the Trusts Act 2019, relating to alternative dispute resolution, are hereby expressly excluded.

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**27. REVIEW OF TRUST DEED**

**27.1. Review of Trust Deed:**

The Trustees shall, within eight (8) years of the Settlement Date, initiate a review of the terms and operation of this Deed and, in particular, shall review the arrangements relating to the election of Trustees and all other aspects of the representation of Ngāti Hāua by the Trust.

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**27.2. Deed Review Process:**

In conducting this review the Trustees shall engage and consult with Ngāti Hāua in order to seek the views of Ngāti Hāua on the terms and operation of this Deed and, in particular, the arrangements relating to the election of Trustees and all other aspects of the representation of Ngāti Hāua by the Trust and shall have regard to the tikanga of Ngāti Hāua.

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**27.3. Review to be Independently Facilitated:**

The process of engagement and consultation required by *clause 27.2* shall be undertaken by an independent facilitator appointed by the Trustees. The role of independent facilitator shall be to:

- (a) liaise with the Trustees in the preparation of any discussion materials to be distributed to Ngāti Hāua;
  - (b) facilitate any hui;
  - (c) receive, compile and review any written submissions received from Ngāti Hāua; and
  - (d) make recommendations to the Trustees as to the amendments that should be made to this Deed as a consequence of the information received from the process of engagement and consultation.
- 

**27.4. Outcome of Review:**

Following the completion of the review and consideration by the Trustees of the report made by the independent facilitator in accordance with *clause 27.3*, the Trustees may recommend amendments (if any) to this Deed and seek the approval of those amendments by Special Resolution in accordance with *SCHEDULE 4*.

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**RATIFICATION VERSION**

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**SIGNED BY (insert name)** as an initial Trustee  
in the presence of:

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

**SIGNED BY (insert name)** as an initial Trustee  
in the presence of:

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

**SIGNED BY (insert name)** as an initial Trustee  
in the presence of:

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

**SIGNED BY (insert name)** as an initial Trustee  
in the presence of:

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

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**RATIFICATION VERSION**

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**SIGNED BY (insert name)** as an initial Trustee  
in the presence of:

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

**SIGNED BY (insert name)** as an initial Trustee  
in the presence of:

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

**SIGNED BY (insert name)** as an initial Trustee  
in the presence of:

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

**SCHEDULE 1  
NGĀTI HĀUA MEMBERSHIP REGISTER**

**1. TRUST TO KEEP REGISTER**

**1.1. Trust to Maintain Register:**

The Trustees shall administer and maintain the Ngāti Hāua Register which is a register of Members of Ngāti Hāua and shall make such additions and corrections to the Register as may from time to time be necessary.

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**1.2. Register to Comply with this Schedule:**

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

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**2. CONTENTS OF REGISTER**

**2.1. Register to Contain Members' Details:**

The Ngāti Hāua Register shall record in it the full names, dates of birth, postal addresses and email addresses of Members of Ngāti Hāua and such other information as the Trustees may determine from time to time.

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**2.2. Beneficiary Registration Number:**

The Trustees will allocate a beneficiary identification number to each Adult Registered Member of Ngāti Hāua on the Register.

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**2.3. Initial Register:**

As at the date of this Deed, the Register shall include all persons who are registered as members of Ngāti Hāua on any registers maintained by the Ngāti Hāua Iwi Trust.

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### 3. APPLICATIONS FOR REGISTRATION

#### 3.1. Form of Application:

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

- (a) the full name, date of birth, postal address, email address and phone contact of the applicant;
  - (b) where known, the whakapapa through which the applicant claims affiliation to Ngāti Hāua;
  - (c) such evidence as the Trustees may from time to time require as to that applicant's status as a Member of Ngāti Hāua; and
  - (d) whether they wish to receive Private Notices and Voting Papers for elections of Trustees and for resolutions regarding amendments to this Deed by electronic means or by post; and
  - (e) such other information as the Trustees may determine from time to time.
- 

#### 3.2. Applications to be made by:

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

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

### 4. DECISIONS AS TO MEMBERSHIP

#### 4.1. Whakapapa Committee to be appointed:

The Trustees shall establish a Whakapapa Committee to make decisions on all applications made pursuant to *rule 3.1* of this Schedule for registration as a Member of Ngāti Hāua.

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**4.2. Composition of Whakapapa Committee:**

The Whakapapa Committee shall comprise three (3) Adult Registered Members of Ngāti Hāua, appointed by the Trustees from time to time, with the expertise and knowledge of Ngāti Hāua whakapapa necessary to make determinations regarding membership applications. Trustees with the required expertise and knowledge of Ngāti Hāua whakapapa may be appointed to the Whakapapa Committee.

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**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.

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**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 applicant should be registered as a Member of Ngāti Hāua.

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**4.5. Successful applicants 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, which shall in turn notify the applicant and enter the applicant's name and other relevant details in the appropriate part of the Ngāti Hāua Register.

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**4.6. Notification to unsuccessful applicants:**

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

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**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 or, if more than one (1), any previous application) as to the applicant's status as a Member of Ngāti Hāua.

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**4.8. Whakapapa Committee to report to Trustees:**

On a monthly basis, the Whakapapa Committee shall provide a report to the Trustees detailing:

- (a) applications for registration as a Member of Ngāti Hāua received by the Trust in the preceding month;
  - (b) applications for registration as a Member of Ngāti Hāua approved by the Whakapapa Committee in the preceding month; and
  - (c) applications for registration as a Member of Ngāti Hāua declined by the Whakapapa Committee in the preceding month.
- 

**5. MAINTENANCE OF REGISTER**

**5.1. Trustees to establish policies:**

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

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**5.2. Assistance in identifying membership:**

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

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**5.3. Responsibility of Members of Ngāti Hāua:**

Notwithstanding *rule 1.1* of this Schedule:

- (a) it shall be the responsibility of each person who is a Member of Ngāti Hāua (or in the case of those persons under 18 years of age, the parent or guardian of that person) to ensure that his or her name is included in the Ngāti Hāua Register;
  - (b) it shall be the responsibility of each person who is a Member of Ngāti Hāua (or in the case of those persons under 18 years of age, the parent or guardian of that person) to ensure that his or her full postal address for the time being is provided and updated; and
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## RATIFICATION VERSION

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- (c) any Member of Ngāti Hāua may choose to terminate their registration of membership of Te Whiringa Kākaho o Ngāti Hāua, by notifying the Trustees in writing.
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### **5.4. Consequences of registration:**

Registration of any person on the Ngāti Hāua Register as a Member of Ngāti Hāua shall be conclusive evidence of that person's status as a Member of Ngāti Hāua.

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### **5.5. Protection of information:**

The Trustees, the Whakapapa Committee and all Trust staff shall ensure that:

- (a) the sacredness of whakapapa as he taonga tapu is acknowledged and respected; and
- (b) and the requirements of the Privacy Act 1993 are met with regard to the storage, disclosure and use of information, and all written or oral information in relation to applications for registrations shall be treated in the strictest confidence subject to the express terms of this Deed.
-

**SCHEDULE 2  
ELECTION OF TRUSTEES**

**1. PROCEDURE**

**1.1. Application of this Schedule:**

With the exception of the Initial Trustees (who shall hold office as at the date of this Deed), the Trustees shall be appointed in accordance with the rules and procedures set out in this Schedule.

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**2. ELIGIBILITY FOR APPOINTMENT**

**2.1. Nominee to be registered:**

To be elected as a Trustee a nominee must, as at the closing date for nominations, be recorded in the Ngāti Hāua Register as an Adult Registered Member of Ngāti Hāua and be eligible in accordance with *rule 2.4* of this Schedule.

---

**2.2. Trustees roles:**

A Trustee may not hold the position of Trust Management nor be an employee of any Trust Entity.

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**2.3. Trustees may be directors or trustees:**

Subject to *rule 1.2* of *SCHEDULE 6*, a Trustee may be a director or a trustee of a Trust Entity.

---

**2.4. Eligibility criteria:**

Notwithstanding the other rules of this Schedule, an Adult Registered Member of Ngāti Hāua is not eligible for nomination as a candidate for election as a Trustee if he or she:

- (a) does not meet the requirements of *rules 2.1* and *2.2* of this Schedule;
  - (b) is or has ever been convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961, or an offence under section 373(4) of the Companies Act 1993 (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004);
  - (c) is bankrupt or has made any composition or arrangement with his or her creditors;
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- (d) has been convicted of an offence punishable by two (2) or more years imprisonment (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004);
  - (e) is subject to a compulsory treatment order under the Mental Health (Compulsory Treatment and Assessment) Act 1992 or is subject to a personal or property order under the Protection of Personal and Property Rights Act 1988;
  - (f) is or has ever been disqualified from being a director of a company registered under the Companies Act 1955 or the Companies Act 1993;
  - (g) is or has ever been removed as a trustee of a trust by order of a Court on the grounds on breach of trust, lack of competence or failure to carry out the duties of a trustee satisfactorily; or
  - (h) has within the last three (3) years been removed from the office of Trustee in accordance with *clause 17.3*.
- 

### 3. ELECTION OF TRUSTEES

#### 3.1. Number of Trustees:

There shall be no more than seven (7) Trustees, provided however that the Trust may from time to time have less than seven (7) Trustees in the event of the early cessation of office of a Trustee and pending the appointment of a replacement Trustee.

#### 3.2. Election of Trustees:

The Adult Registered Members of Ngāti Hāua listed in the Ngāti Hāua Register shall be entitled to elect and cast a vote for one nominee in respect of each trustee position that is vacant in accordance with the rules for elections as set out in this Schedule.

#### 3.3. In each election:

- (a) Three (3) Trustee positions will be filled by the three (3) highest polling Resident Candidates in the election, who will be elected as Trustees.
- (b) The remaining four (4) Trustee positions will be filled by the candidates who receive the highest number of valid votes for the relevant vacancies, other than the three (3) highest polling Resident Candidates. For the avoidance of doubt, the remaining four (4) Trustee positions will be filled regardless of the place of residence of the candidates.
- (c) The elections for the Trustees shall be concluded by the time of the annual general meeting of the trust in that income year.
- (d) The Trustees must convene a hui ā-iwi open to all Adult Registered Members for the purpose of a candidates forum, to be held after the closing date for nominations and before the opening date of the voting period. All candidates for

## RATIFICATION VERSION

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election for Trustee positions will be required to attend the hui ā-iwi either in-person or online to present to those Adult Registered Members in attendance.

**3.4.** Trustees must represent the interests of all Members of Ngāti Hāua irrespective of whānau or hapū affiliations.

**3.5. First Election**

The Initial Trustees must ensure that the First Election is held prior to the first Annual General Meeting following the Settlement Date.

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### 4. TERM OF OFFICE

**4.1. Term of office:**

Subject to *rule 4.2* of this Schedule, the Trustees from time to time shall hold office for a term of three (3) years.

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**4.2. Retirement of Initial Trustees:**

The Initial Trustees shall retire from office at the end of the Establishment Period upon elections having been held, before the Settlement Date, for the appointment of Trustees in accordance with the provisions of this Schedule.

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**4.3. Term following retirement of Initial Trustees:**

Following the retirement of the initial Trustees in accordance with *rule 4.2* of this Schedule, each Trustee shall hold office until the conclusion of the annual general meeting of the Trust in the third Income Year following his or her appointment. However, if because of a review of the election of a Trustee's replacement under *rule 13* of this Schedule the appointment of that Trustee's replacement has not been completed as at the expiry of the Trustee's term, then that Trustee shall continue to hold office by virtue of his or her previous appointment until the review process is completed. For the purposes of calculating the term of the replacement Trustee, that replacement Trustee shall, once he or she takes office, be deemed to have taken office on the date upon which the term of office of the previous Trustee expired, being the date of the relevant annual general meeting.

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**4.4. Eligibility of retiring Trustees:**

Retiring Trustees shall be eligible for re-election.

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**4.5. Casual vacancies:**

Should:

(a) there be no person elected to replace a Trustee following that Trustee's retirement; or

(b) any casual vacancy arise prior to the expiry of any Trustee's term of office; and

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## RATIFICATION VERSION

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- (c) the term to run for that vacant position in either *4.5(a)* and *4.50* exceeds nine (9) months;

then that vacancy shall be filled by the holding of a by-election in accordance with this Schedule.

If the vacancy relates to one of the three (3) Trustee positions initially filled by one the three (3) highest polling Resident Candidates at the previous election, then the vacancy may only be filled by another Resident Candidate.

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### **4.6. Term of casual appointments:**

In the case of an appointment made pursuant to *rule 4.5* of this Schedule the Trustee thereby appointed shall, as the case may be, hold office:

- (a) in the case of a Trustee appointed pursuant to *rule 4.5(a)* of this Schedule, for the same term as that Trustee would have been appointed had he or she been appointed, immediately following the retirement of the previous Trustee, under *rule 4.3* of this Schedule; or
- (b) in the case of a Trustee appointed pursuant to *rule 4.50* of this Schedule, for the balance of the term of office of the Trustee that he or she has replaced.
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## **5. TIMING OF ELECTIONS AND HUI Ā-IWI**

- 5.1.** The elections for Trustees in any given Income Year must, except in the case of elections to fill casual vacancies under *rule 4.5* of this Schedule or to the extent that any review under *rule 13* of this Schedule has been sought in respect of an election, be concluded by the time of the annual general meeting of the Trust in that Income Year.
- 5.2.** The hui ā-iwi open to all Adult Registered Members for the purpose of a candidates forum must be held after the closing date for nominations and before the opening date of the voting period.
- 

## **6. MAKING OF NOMINATIONS**

### **6.1. Calling for nominations:**

At least three (3) months before the annual general meeting of the Trust for the relevant Income Year and in any event in sufficient time for the election to be concluded in accordance with *rule 5* of this Schedule, the Trustees or the Chief Returning Officer acting on their behalf, shall provide written notice of:

- (a) the pending expiration of the term of office of Trustees;
- (b) the date at which the election of Trustees will be held;
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## RATIFICATION VERSION

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- (c) the date of a hui ā-iwi open to all Adult Registered Members for the purpose of a candidates forum (which shall be after the closing date for the receipt of nominations and before the opening date of the election period), where all candidates for election for Trustee positions will be required to attend either in-person or online to present to those Adult Registered Members in attendance;
- (d) the entitlement of Adult Registered Members to nominate candidates for election for Trustee positions that are open for election; and
- (e) specify the method of making nominations, including the Nomination Form, the requirement in *rule 2.1* of this Schedule in terms of Trustee eligibility and the latest date by which nominations must be made and lodged with the Trustees or such other person as the notice directs.

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### **6.2. Timing for nominations:**

All nominations must be lodged with the Trustees no later than 21 days following the date upon which the notice calling for nominations is first given.

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### **6.3. Form of notice:**

All notices given by the Trustees or the Chief Returning Officer under this rule shall be given in writing by:

- (a) post (including by electronic form where available) to all Adult Registered Members of Ngāti Hāua at the last address shown for such Adult Registered Member of Ngāti Hāua on the Ngāti Hāua Register and to any other Member of Ngāti Hāua 18 years of age or over who has made a written request for a notice. If notice sent to an electronic address fails, and the Trustees are aware of the failure, then the notice must be sent to the last known physical address; and
- (b) advertised by electronic or digital means including on the Trust's website and social media; and
- (c) if the Trustees deem it necessary or desirable, inserting a prominent advertisement on at least two (2) separate days in appropriate major metropolitan newspapers and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Hāua reside; and
- (d) such other means as the Trustees may determine.

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### **6.4. Inclusion of invitation to register:**

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## RATIFICATION VERSION

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Any such notice shall also invite applications from qualified persons for inclusion of their names in the Ngāti Hāua Register, and shall set out the date upon which a registration must be received for the applicant, if successful, to be eligible to vote in the notified election, being the same date as that fixed as the latest date for making and lodging nominations.

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### 6.5. Nomination Form:

The Nomination Form prescribed by Trustees for a candidate for election as a Trustee shall:

- (a) be in writing;
  - (b) contain details of the nominee's full name, address and contact number;
  - (c) be counter-signed by three (3) Adult Registered Members;
  - (d) include a declaration signed by the nominee that declares:
    - (i) whether the nominee is a Resident Candidate;
    - (ii) that the nominee meets the criteria specified in *rule 2.1* of this Schedule;
    - (iii) that the nominee is not a person who is precluded from holding office as a Trustee on the basis of one or other of the matters specified in *rule 2.4* of this Schedule;
    - (iv) that the nominee agrees to attend (in-person or online) the hui ā-iwi open to all Adult Registered Members (which shall be after the closing date for the receipt of nominations and before the opening date of the election period) for the purpose of a candidates' forum, where the nominee will be required to present to those Adult Registered Members in attendance;
    - (v) that, if elected, the nominee agrees to be bound by the terms of this Deed and any other relevant Trustee obligations;
    - (vi) whether the nominee has been convicted of any offence under the Crimes Act 1961 and, if so, the nature of such offence or offences and any sentence received, but excluding any offence for which the nominee is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004; and
    - (vii) authorises the Trust to make enquiry of relevant persons, authorities and records to confirm any aspect of the nominee's declaration; and
  - (e) be accompanied by a brief summary or curriculum vitae of the skills and experience the candidate believes are relevant to support their election as a Trustee. The Trust shall make such information available to Members during the course of the election process.
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## RATIFICATION VERSION

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### **6.6. Consent of nominee:**

The consent of each candidate to his or her nomination shall be endorsed on the Nomination Form.

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### **6.7. Withdrawal of nomination:**

A nominee may withdraw their nomination at any time prior to election by notice in writing to the Trust by the nominee.

### **6.8. If the Trustees receive notice of the withdrawal of a nomination after Public Notice of the nominees has been given and Voting Papers have been sent to Adult Registered Members under *rule 8.1* of this Schedule:**

- (a) if the notice of withdrawal of nomination is received 20 Business Days before the date at which voting is to close, the Trustees will promptly give Public Notice of the withdrawal of the nominee and the nominees who remain for election; and
  - (b) the number of remaining nominees for election from the nominations received from Adult Registered Members under *rule 6.5* of this Schedule is less than or equal to the number of Trustee positions remaining open for election, then the provisions in *rule 7.2* of this Schedule shall apply with any necessary modifications.
- 

## **7. HOLDING OF ELECTIONS**

### **7.1. Mode of Voting at Elections:**

Subject to *rule 7.3* of this Schedule, voting at all elections shall be by way of secret ballot by post or electronic form. Voting Papers may be delivered to the Chief Returning Officer by post or by electronic form where available. In each election:

- (a) three (3) Trustee positions will be filled by the three (3) highest polling Resident Candidates in the election, who will be elected as Trustees; and
  - (b) the remaining four (4) Trustee positions will be filled by the candidates who receive the highest number of valid votes for the relevant vacancies, other than the three (3) highest polling Resident Candidates. For the avoidance of doubt, the remaining four (4) Trustee positions will be filled regardless of the place of residence of the candidates.
- 

### **7.2. No elections where nominees equal vacancies:**

In the event that the total number of nominations of Trustees is less than or equal to the total number of vacancies, no election shall be necessary and the person or persons nominated shall be deemed to have been duly appointed.

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**7.3. Adult Members to vote in elections:**

Each Adult Member of Ngāti Hāua is eligible to vote in an election, provided that:

- (a) each such Adult Member of Ngāti Hāua will only be eligible to cast one vote in an election listing up to 7 preferred Trustees in an election; and
- (b) each such Adult Member of Ngāti Hāua must, at the latest date for making and lodging nominations, either be recorded in the Ngāti Hāua Register as an Adult Registered Member of Ngāti Hāua or have completed and sent with their Voting Paper an application form for registration which complies with *rule 3.1 of SCHEDULE 1*.

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**8. NOTICE OF ELECTIONS**

**8.1. Notice to be given:**

Following the closing date for nominations, the Trustees shall, where an election is required due to the number of candidates exceeding the number of vacant positions, send to all Adult Registered Members Private Notice in writing of:

- (a) the purpose of the election;
- (b) the date at which the election will be held, including the opening and closing date for the election (being the last day upon which a vote may be validly cast in the election);
- (c) the date of the hui ā-iwi open to all Adult Registered Members (which shall be after the closing date for nominations and earlier than the opening date of the election period) for the purpose of a candidates forum;
- (d) the number of Trustee positions that open for election and the names of the nominees, including which nominees have declared that they are Resident Candidates;
- (e) a copy of the Nomination Form and curriculum vitae provided by each nominee in accordance with *rule 6.5* of this Schedule;
- (f) the date by which completed Voting Papers are to be received by the Chief Returning Officer;
- (g) the means by which votes may be cast in the election;
- (h) a Voting Paper; and
- (i) where further Voting Papers and any other information that may reasonably inform Adult Registered Members about the election may be viewed or obtained.

## RATIFICATION VERSION

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### 8.2. Period of notice:

The Trust shall give not less than 28 days' notice of the closing date for the elections, hui ā-iwi and the method by which votes may be cast as set out in *rule 7.1* of this Schedule.

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### 8.3. Method of giving notice:

Notice under *rules 8.1* and *8.2* of this Schedule shall be given by:

- (a) post (including by electronic form where available) to all Adult Registered Members of Ngāti Hāua at the last address shown for such Adult Registered Member of Ngāti Hāua on the Ngāti Hāua Register. If notice sent to an electronic address fails, and the Trustees are aware of the failure, then the notice must be sent to the last known physical address;
  - (b) for information other than Voting Papers:
    - (i) advertising by electronic or digital means including on the Trust's website and social media;
    - (ii) inserting a prominent advertisement on at least two (2) separate days in appropriate major metropolitan newspapers and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Hāua reside; and
    - (iii) such other means as the Trustees may determine.
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## 9. POSTAL AND ELECTRONIC VOTING

### 9.1. Other details to accompany vote:

Each voting form must contain information that is sufficient to identify the voter and the voting documents issued to that voter and enable the Chief Returning Officer to ensure that only one (1) vote is cast by each Adult Registered Member.

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### 9.2. Timing and exercise of vote:

Votes by Adult Registered Members must be:

- (a) validly cast on a Voting Paper;
  - (b) received by the Returning Officer on or before the notified date by which completed Voting Papers are to be received by the Returning Officer;
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## RATIFICATION VERSION

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(c) where cast by post, received by the Returning Officer no later than three working (3) days after the closing date for the election but only if the envelope containing the Voting Paper is date stamped on or before the closing date for the election;

(d) where cast by electronic means, received by the Returning Officer before any notified date by which votes by electronic means are to be cast.

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### 10. APPOINTMENT OF CHIEF RETURNING OFFICER

#### 10.1. Appointment of Chief Returning Officer:

For the purposes of elections, the Trustees shall appoint as required a Chief Returning Officer who shall not be a Trustee, a nominee, an employee of the Trust or an Adult Registered Member. The Trustees shall ensure that the Chief Returning Officer is appointed on terms requiring the Chief Returning Officer to act in accordance with the provisions of this Deed setting out the powers and duties of the Chief Returning Officer. The Chief Returning Officer shall be responsible for co-ordinating Trustee elections and receiving and counting all Voting Papers cast in an election held under this Schedule.

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#### 10.2. Chief Returning Officer to receive Voting Papers:

All Voting Papers must be addressed to the Chief Returning Officer.

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#### 10.3. Only one vote to be cast:

The Chief Returning Officer shall ensure that appropriate measures are in place to ensure that only one vote is cast by each Adult Registered Member of Ngāti Hāua.

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#### 10.4. Provisional votes:

Where an Adult Member of Ngāti Hāua is not also an Adult Registered Member of Ngāti Hāua and has voted in accordance with rule 7.3(b) of this Schedule:

- (a) such vote is provisional until such time as the application form for registration as an Adult Registered Member of Ngāti Hāua is approved by the Whakapapa Committee as set out in *SCHEDULE 1*; and
  - (b) where the application form for registration as an Adult Registered Member of Ngāti Hāua is declined in accordance with *SCHEDULE 1*, the said vote will be invalidated.
- 

#### 10.5. Recording of votes:

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

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### 11. COUNTING OF VOTES

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## RATIFICATION VERSION

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### 11.1. 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.

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### 11.2. Certification of election result:

Once all votes have been counted and the result of the election determined by the Chief Returning Officer, the Chief Returning Officer shall certify the result of the election. In each election that is held:

- (a) three (3) Trustee positions will be filled by the three (3) highest polling Resident Candidates in the election, who will be elected as Trustees;
  - (b) the remaining four (4) Trustee positions will be filled by the candidates who receive the highest number of valid votes for the relevant vacancies, other than the three (3) highest polling Resident Candidates. For the avoidance of doubt, the remaining four (4) Trustee positions will be filled regardless of the place of residence of the candidates;
  - (c) If there are fewer than three (3) Resident Candidates in the election, then the Resident Candidates will be deemed elected and the remaining Trustee positions may be filled by the remaining candidates, up to a total of 7 Trustee positions, who receive the highest number of valid votes for the Trustee vacancies regardless of their place of residence.
  - (d) If there are an equal number of votes for any last available Trustee position in an election, the successful nominee will be decided by the drawing of lots by the Returning Officer.
- 

### 11.3. Notification of election result:

The Returning Officer shall make, and forward to the Trustees within 10 Business Days of the date of the election, a declaration in writing stating:

- (a) the number of Voting Papers received;
- (b) the number of Voting Papers rejected as informal;
- (c) the number of valid votes received by each nominee in respect of the Trustee positions for which nominations were made by Adult Registered Members;
- (d) where applicable, the results of any drawing of lots conducted by the Returning Officer under *rule 11.2(d)* of this Schedule; and
- (e) the names of the duly elected Trustees.

11.4. Upon receipt by the Trustees of the declaration under *rule 11.3* of this Schedule, the Trustees shall:

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## RATIFICATION VERSION

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- (a) give Public Notice of the result within 10 Business Days of the date of the declaration;
  - (b) advise the nominees in writing of the result; and
  - (c) announce the result at the Annual General Meeting of the Trust in that Income Year.
- 

### **11.5. Provisional Votes:**

Where, in respect of any election, one or more Provisional Votes has been cast:

- (a) if the validity or otherwise of the Provisional Votes may affect the outcome of the election, the Chief Returning Officer may not certify the result of the election until the validity of the Provisional Votes has been confirmed pursuant to *rule 10.4(a)* of this Schedule and any valid Provisional Vote has been counted;
  - (b) if the validity or otherwise of the Provisional Votes will not affect the result of the election, the Chief Returning Officer may certify the result notwithstanding that the validity of the Provisional Votes has not been confirmed pursuant to *rule 10.4(a)* of this Schedule and the Provisional Votes have not been counted.
- 

## **12. RETENTION OF ELECTION RECORDS**

### **12.1. Compiling and sealing voting records:**

The Chief Returning Officer shall, as soon as practicable after he or she has certified the result of the election, place all voting forms and other voting records into a sealed packet. The Chief Returning Officer shall endorse upon the sealed packet a description of the contents of that packet together with the final date for voting in that election. The Chief Returning Officer shall then sign the endorsement and forward the sealed packet to the Trustees.

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### **12.2. Retention and disposal of packets:**

Subject to *rule 14.1(b)* of this Schedule the sealed packets received from the Chief Returning Officer shall be safely kept unopened by the Trustees for a period of six (6) months from the closing date for making votes in the election to which the packet relates. At the expiry of that one (1) year period the packets shall be destroyed unopened.

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## **13. REVIEW OF ELECTION RESULTS**

### **13.1. Candidates may seek review:**

Any candidate may, within 14 days after the certification of the election result and the giving of notice by the Trust in respect of that election, seek a review of that election.

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**13.2. Appointment of Electoral Review Officer:**

For the purposes of carrying out reviews in respect of any election the Trustees shall ensure that an Electoral Review Officer is appointed. The Election Review Officer shall be the person nominated from time to time by the Tumuaki of Te Hunga Rōia Māori o Aotearoa or their nominee.

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**13.3. Electoral Review Officer to conduct reviews:**

All reviews shall be carried out by the Electoral Review Officer appointed from time to time by the Trustees.

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**13.4. Form of request for review:**

All applications for a review shall be submitted to the Trustees and:

- (a) shall be in writing;
  - (b) shall set out the grounds for the review, which grounds shall be set out with sufficient particularity to enable the Electoral Review Officer to ascertain precisely the basis upon which the review is being sought; and
  - (c) shall be accompanied by any evidence that the applicant for review has to substantiate the grounds given in the application.
- 

**13.5. Service of application on other candidates:**

The application for review and any accompanying evidence shall also be served by the candidate referred to in *rule 13.1* of this Schedule upon all other candidates in the election to which the review relates, either at the same time, or as close thereto as is possible, as the review application is lodged with the Trustees.

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**13.6. Costs:**

Upon making an application for review the applicant shall also lodge with the Trustees the sum of \$500 in lieu of the costs of undertaking the review. That sum shall be held by the Trustees pending the outcome of the review application. If the application is successful, then the \$500 shall be refunded to the applicant, otherwise it shall be used to off-set the costs of the review.

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**14. CONDUCT OF REVIEW**

**14.1. Notification of Electoral Review Officer:**

Upon the receipt of an application for review the Trustees shall notify the Electoral Review Officer and provide to him or her:

- (a) a copy of the application and any accompanying evidence; and
  - (b) the sealed packet of voting forms and other voting documents received from the Chief Returning Officer for that election.
- 

**14.2. Electoral Review Officer to exercise wide powers:**

Subject to compliance by the Electoral Review Officer with the rules of natural justice, the Electoral Review Officer shall have the power to inquire into and decide upon any matter relating to a review in such manner as he or she thinks fit and may in particular seek such further evidence or reports as he or she deems necessary including any reports or evidence from the Chief Returning Officer for the relevant election.

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**14.3. Electoral Review Officer to be guided by substantial merits:**

In reaching his or her conclusion on any review, the Electoral Review Officer shall be guided by the substantial merits of the application without regard to legal forms or technicalities, including any technical defect in complying with the requirements of this Deed, the intention being that no election shall be declared invalid by reason of such technical defect if the Electoral Review Officer is satisfied that the election was so conducted as to be substantially in compliance with the requirements of this Deed and that such defect did not materially affect the result of the election.

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**14.4. Certification of result of review:**

At the conclusion of the Electoral Review Officer's consideration of the review, he or she shall determine whether the successful candidate, or any other candidate, was duly elected, or whether the election was void and should be conducted again, and shall forthwith certify his or her decision with reasons to the Trustees. The Trustees shall then give notice of the result of the review and advise the candidates of the outcome.

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**14.5 Decision to be final:**

All decisions of the Electoral Review Officer shall be final (noting that the right to seek judicial review in the High Court is always available).

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**15. TERMINATION OF OFFICE OF TRUSTEES**

**15.1. Termination or removal of office of Trustees:**

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## RATIFICATION VERSION

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Notwithstanding the foregoing 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 Trustees;
- (b) dies;
- (c) completes his or her term of office and is not reappointed;
- (d) refuses to act in his or her capacity as Trustee;
- (e) is absent without leave from three (3) consecutive ordinary meetings of the Trustees without good reason or without the permission of the Chairperson;
- (f) is convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961, or an offence under section 373(4) of the Companies Act 1993;
- (g) is disqualified from being a director of a company registered under the Companies Act 1993;
- (h) is removed as a trustee of a trust by order of a Court on the grounds on breach of trust, lack of competence or failure to carry out the duties of a trustee satisfactorily;
- (i) is bankrupt or makes any composition or arrangement with his or her creditors;
- (j) is convicted of an offence punishable by two (2) or more years imprisonment;
- (k) becomes subject to a compulsory treatment order under the Mental Health (Compulsory Treatment and Assessment) Act 1992 or becomes subject to a personal or property order under the Protection of Personal and Property Rights Act 1988;
- (l) is determined in accordance with section 104 of the Trusts Act 2019 to have lost capacity to perform the functions of a trustee;
- (m) makes a false declaration in the Trustee's nomination form under *rule 6.5* of this Schedule; or
- (n) is removed from the office of Trustee in accordance with *clause 17.3*.

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### 15.2. Process for termination or removal from office of Trustee:

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## RATIFICATION VERSION

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A Trustee shall be declared removed from office on any of the grounds in *rule 15.1* of this Schedule by a resolution passed by a majority of not less than 75% of the other Trustees.

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**15.3.** A Trustee removed from office in accordance with *rules 15.1* and 15.2 of this Schedule shall cease to hold office as a Trustee forthwith and shall not be entitled to be re-elected or appointed as a Trustee for a period of not less than three (3) years following his or her removal.

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**15.4.** The removal of a Trustee in accordance with *rule 15.1* of this Schedule shall, together with reasons, be reported at the next annual general meeting of the Trust following such removal.

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## 16. REPLACEMENT OF TRUSTEE

### 16.1. Trustee vacancy:

In the event of a Trustee vacancy under *rule 15* of this Schedule:

- (a) if the vacancy relates to an Initial Trustee, a replacement Trustee shall either be appointed by the remaining Initial Trustees or, if more than five (5) Initial Trustees remain in office, the Initial Trustees may continue to act notwithstanding the vacancy;
- (b) if the vacancy occurs within six months of the end of the term of office of the relevant trustee, it shall not be necessary for the Trust to fill the vacancy;
- (c) if the vacancy relates to a Trustee who was elected pursuant to this Schedule who was not one of the three (3) Trustee positions filled by the three (3) highest polling Resident Candidates in the previous election:
  - (i) the Trust shall offer the vacant position to the next highest polling nominee at the previous election;
  - (ii) if that nominee declines to accept appointment as a trustee, a replacement Trustee shall be appointed by the remaining Trustees then in office; and
- (d) if the vacancy relates to a Trustee who was one of the three (3) highest polling Resident Candidates in the previous election:
  - (i) the Trust shall offer the vacant position to the next highest polling nominee at the previous election who did declare that they were a Resident Candidate under *rule 3.3* of this Schedule;
  - (ii) if that nominee declines to accept appointment as a trustee, a replacement Trustee shall be appointed by the remaining Trustees then in office; and

## RATIFICATION VERSION

(e) as required, each of the Trustees grants a power of attorney in favour of the other Trustees to convey the Trust Assets to the other Trustees and any replacement trustee.

### **16.2. Term of replacement Trustees:**

In the case of an appointment made pursuant to *rule 16.1* of this Schedule, the replacement Trustee shall, as the case may be, hold office:

(a) in the case of a person appointed to replace an Initial Trustee, for the balance of the Establishment Period; and

(b) in the case of a person appointed to replace a Trustee elected pursuant to of this Schedule, for the balance of the term of office of the Trustee that he or she has replaced.

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## **17. RECORD OF CHANGES OF TRUSTEES**

### **17.1. 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.

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**SCHEDULE 3  
PROCEDURE FOR TRUSTEE MEETINGS**

**1. TRUSTEES TO REGULATE MEETINGS**

- 1.1. In addition to any General Meeting, the Trustees may agree to convene one (1) or more meetings of Trustees in each Income Year.
- 1.2. A meeting of Trustees may also be requested by the Chairperson, the Deputy Chairperson, or the written request of three (3) or more Trustees in accordance with rule 3 of this Schedule.
- 1.3. Subject to any other requirements in this Deed:
- (a) the meetings of Trustees will be held at such date, time and venue as the Trustees may from time to time determine; and
  - (b) the Trustees may adjourn or otherwise regulate their meetings as they, in their discretion, think fit.
- 

**2. NOTICE OF MEETING**

**2.1. Notice to Trustees:**

Written notice of every meeting shall be either posted or sent 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 Trustee 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.

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**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.

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**2.3. Waiver of notice:**

The requirement for notice of a meeting may be waived if 75% of 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.

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**2.4. Meeting limited to notified business:**

Subject to *rule 2.3* of this Schedule, no business shall be transacted at any meeting of Trustees other than the business expressly referred to in the notice calling the meeting.

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## RATIFICATION VERSION

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### **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.

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## **3. QUORUM**

**3.1.** No business is to be transacted at any meeting of Trustees unless the required quorum is present at the time when the meeting proceeds to business.

**3.2.** The quorum for a meeting of Trustees at which a resolution that is required to be passed by a majority of not less than 75% of Trustees is proposed, other than as provided in *rule 3.6 of this Schedule*, is 75% or more of the Trustees present in person or by telephone or electronic means.

**3.3.** The quorum for meeting of Trustees at which the only resolutions to be proposed are ordinary resolutions, other than as provided in *rule 3.6* of this Schedule, is 50% or more of the Trustees present in person or by telephone or electronic means.

**3.4.** If the required quorum under *rule 3.2* or *3.3* of this Schedule is not present within one (1) hour from the time appointed for any meeting, the meeting will stand adjourned until the 10th Business Day, or such other date as the Trustees may determine, following that adjournment in the case of meeting of Trustees

**3.5.** On the later day to which any meeting is adjourned under *rule 3.4* of this Schedule, the meeting will be held at the same time and in the same place as the adjourned meeting unless the Trustees determine that the meeting shall be held at another time and place.

**3.6.** If a quorum is not present within one (1) hour from the time appointed for any adjourned meeting, the Trustees present in person or by telephone or by electronic means shall constitute a quorum.

**3.7.** If, due to the application of *clause 12.1* of this Deed, the required quorum under *rule 3.2* or *3.3* of this Schedule is not present to determine any resolution, the resolution will be adjourned for consideration at the next scheduled meeting of Trustees or a meeting of Trustees on such other date as the Trustees may determine.

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## RATIFICATION VERSION

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### 4. CHAIRPERSON, DEPUTY CHAIRPERSON AND SECRETARY

#### 4.1. Trustees to appoint:

At the first meeting of the Trustees following an election and at the first meeting of Trustees after the annual general meeting in each subsequent Income Year, the Trustees shall appoint by ordinary resolution:

(a) one (1) of their number to be Chairperson; and

(b) another Trustee to be Deputy Chairperson; and

(c) appoint an employee of the Trust or a contractor, who may be the Trust Management, as Secretary for the purpose of the administration of, and minute taking at, Trustee meetings.

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#### 4.2 Retirement:

Subject to *rule 4.1 of this Schedule*, these people will, unless they earlier retire or are removed as a Trustee, hold their respective offices until the first meeting of the Trust after the annual general meeting in the Income Year immediately following their appointment as Chairperson or Deputy Chairperson or Secretary, but they may at that time be reappointed.

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#### 4.3 Termination of office:

The Trustees may by resolution passed by a majority of not less than 75% of the other Trustees at any time before the next meeting referred to in *rule 4.2 of this Schedule* remove any person from the office of Chairperson or Deputy Chairperson or Secretary and appoint a new Chairperson or Deputy Chairperson or Secretary. In the event that the Chairperson or Deputy Chairperson or Secretary ceases to hold that office then a further appointment in accordance with *rule 4.1* of this Schedule shall be held for the position.

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### 5. PROCEEDINGS AT MEETINGS

#### 5.1. Decisions by vote:

Unless stated otherwise in this 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. This rule expressly modifies the default duty in section 38 of the Trusts Act 2019.

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#### 5.2. Chairperson:

The Chairperson shall take the chair at all meetings of the Trustees. If the Chairperson is not present then the Deputy Chairperson, if there is one, shall take the chair. If there

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## RATIFICATION VERSION

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is no Deputy Chairperson or the Deputy Chairperson is also not present then the Trustees present shall elect one (1) of their number to be chairperson of the meeting.

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### **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.

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### **5.4. Defects of appointment:**

All acts done by any meeting of the Trustees or of any committee appointed under *rule 6.1* of this Schedule 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.

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### **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 or may direct that any uncompleted item of business of which notice was given and which, in his or her opinion, requires to be voted upon, be put to the vote without discussion.

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## **6. APPOINTMENT OF COMMITTEES BY TRUSTEES**

### **6.1. Trustees may appoint committees:**

The Trustees may from time to time by resolution and as they think expedient appoint two (2) or more Trustees to be a committee to inquire into or progress any matter on behalf of the Trust provided that:

- (a) the terms of the committee will include as a minimum a requirement that the committee act in accordance with *rules 6.2* and *6.3* of this Schedule;
  - (b) only a Trustee shall chair any such committee; and
  - (c) any committee so appointed may co-opt, for the purposes of consultation and advice, persons who are not Trustees.
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### **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:

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## RATIFICATION VERSION

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(a) be provided on a monthly basis; and

(b) contain details of the activities of the committee since the last such report.

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### **6.3. Regulation of procedure by committees:**

Subject to these rules and the provisions of this Deed, any committee established by the Trustees may co-opt any person to be a member of that committee and otherwise regulate its procedure as it sees fit provided that:

- (a) the committee must notify the Trustees of all persons co-opted to the committee;
  - (b) regulate its meetings as it sees fit subject to any policies and procedures established by the Trust;
  - (c) determine questions by consensus and where consensus is not reached, the question shall be passed by a majority of votes;
  - (d) incur no debts or liabilities that cumulatively exceed the amount of one thousand (\$1,000) dollars without the prior approval of the Trust;
  - (e) not enter into any transaction or other commitment without the approval of the Trust; and
  - (f) ensure its activities and actions are consistent with the Trust Purpose and the provisions of this Deed.
- 

## **7. WRITTEN RESOLUTIONS**

- 7.1.** A written resolution signed or approved in writing by all the Trustees 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 or approved by one (1) or more of the Trustees.
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## **8. MINUTES**

### **8.1. Minutes to be kept:**

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

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### **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.

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**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.

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**9. TELECONFERENCE OR AUDIO-VISUAL MEETINGS**

**9.1.** For the purposes of these rules a teleconference or audio visual 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/audio visual 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/audio visual meeting and to be linked for the purposes of such a meeting. Notice of a teleconference/audio visual meeting may be given on the telephone or by electronic means;
- (b) throughout the teleconference/audio visual meeting each participant must be able to hear each of the other participants taking part;
- (c) at the beginning of the teleconference/audio visual 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/audio visual meeting by disconnecting his or her telephone or other means of communication without first obtaining the chairperson's express consent;
- (e) a participant shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the teleconference/audio visual meeting unless he or she leaves the meeting with the chairperson's express consent; and
- (f) a minute of the proceedings at a teleconference/audio visual 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.

**SCHEDULE 4  
PROCEDURE FOR PASSING SPECIAL RESOLUTION**

**1. APPLICATION OF THIS SCHEDULE**

1.1. A Special Resolution to:

- (a) approve a Major Transaction in accordance with *clause 3.4*; or
- (b) amend this Deed in accordance with *clause 21*; or
- (c) approve a resettlement in accordance with *clause 22*; or
- (d) terminate the Trust in accordance with *clause 23*;

shall only be passed as set out in this Schedule.

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**2. VOTING ON SPECIAL RESOLUTION TO BE BY BALLOT**

2.1. Every Special Resolution shall be by way of ballot of Adult Registered Members with votes to be:

- (a) cast on a voting form by either electronic voting facilities or by postal voting; and
- (b) received by the Returning Officer on or before any notified date by which completed voting forms are to be received by the Returning Officer.

2.2. The Chief Executive and Returning Officer may, as appropriate and in a manner not inconsistent with the provisions of the Electoral Act 1993, take steps to assist the casting of votes by Adult Registered Members who are disabled.

2.3. For the avoidance of doubt, Adult Registered Members may not vote by proxy.

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**3. APPROVAL OF SPECIAL RESOLUTION**

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

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**4. TRUSTEES MAY CONVENE SPECIAL GENERAL MEETING**

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## RATIFICATION VERSION

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- 4.1.** The Trustees may, but are not required, to call a special general meeting for the purpose of discussing any matter that is required to be the subject of a Special Resolution and no other business may be transacted at such special general meeting.
- 4.2.** Any such special general meeting shall be notified and conducted in accordance with *rule 9.1* of this Schedule, provide that any notice provided to Adult Registered Members of the Special General Meeting shall set out:
- (a) details of the proposed Special Resolution;
  - (b) details of the reasons for the proposed Special Resolution and the effect that the Special Resolution will have; and
  - (c) details of the procedure to be followed in making a postal vote or a vote by electronic means, including the date voting closes.
- 

## 5. NOTICE OF BALLOT

### 5.1. Public notice

At least 20 Business Days before the date at which a ballot will be held under this Schedule, the Trust shall give public notice of:

- (a) the date on which the ballot will be held;
  - (b) the Special Resolution that will be the subject of the ballot;
  - (c) the date by which completed Ballot Papers are to be received by the Returning Officer;
  - (d) the means by which votes may be cast in the ballot; and
  - (e) where Ballot Papers and any other information that may reasonably inform Members about the Special Resolution may be viewed or obtained.
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## 6. VOTING PROCESS

### 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.

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### 6.2. Timing of votes:

Votes must be cast no later than the closing date for voting. Votes otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than three (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.

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## 7. APPOINTMENT OF CHIEF RETURNING OFFICER

### 7.1. Appointment of Chief Returning Officer:

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## RATIFICATION VERSION

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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. The Trustees shall ensure that the Chief Returning Officer is appointed on terms requiring the Chief Returning Officer to act in accordance with the powers and duties of the Chief Returning Officer as set out in this Deed, including, to avoid doubt, *rules 7 and 8* of this Schedule.

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

Voting forms must be addressed to the Chief Returning Officer.

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### **7.3. Chief Returning Officer to be present at special general meeting:**

The Chief Returning Officer must be present at the special general meeting. 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.

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### **7.4. Eligibility to Vote:**

Those eligible to vote on a special resolution are:

- (a) those Adult Members of Ngāti Hāua recorded in the Ngāti Hāua Register as an Adult Registered Member of Ngāti Hāua on the closing day for voting; and
  - (b) subject to *rule 7.5(b)* of this Schedule, any other Adult Member of Ngāti Hāua who has on or before the closing date for voting provided to the Chief Returning Officer an application form for registration which complies with *rule 3.1 of SCHEDULE 1*.
- 

### **7.5. Only one vote to be cast:**

The Chief Returning Officer must:

- (a) ensure that appropriate measures are in place to ensure that only one (1) vote is cast by each Adult Registered Member of Ngāti Hāua; and
  - (b) where any Provisional Vote is cast pursuant to *rule 7.4(b)* of this Schedule, before counting that Provisional Vote, consult with the Whakapapa Committee to ensure that the person casting the vote is eligible to be registered on the Ngāti Hāua Register as an Adult Registered Member.
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### **7.6. Recording of votes:**

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

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## **8. COUNTING OF VOTES**

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## RATIFICATION VERSION

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### 8.1. All votes to be counted:

Upon the expiry of the date for the receipt of votes, the Chief Returning Officer shall record and count all votes validly cast.

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### 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 to the Trustees a declaration in writing stating:

- (a) the number of voting forms received;
  - (b) the number of voting forms rejected as informal;
  - (c) the number of valid votes received in favour of each proposed resolution and the number of valid votes received against each proposed resolution; and
  - (d) whether each proposed resolution has been passed by a sufficient majority of Adult Registered Members.
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### 8.3. Provisional Votes:

Where, in respect of any Special Resolution, one or more Provisional Votes has been cast:

- (a) if the validity or otherwise of the Provisional Votes may affect the outcome of the Special Resolution, the Chief Returning Officer may not certify the result of the Special Resolution until the validity of the Provisional Votes has been confirmed pursuant to *rule 7.5(b)* of this Schedule and any valid Provisional Vote has been counted; or
  - (b) if the validity or otherwise of the Provisional Votes will not affect the result of the Special Resolution, the Chief Returning Officer may certify the result notwithstanding that the validity of the Provisional votes has not been confirmed pursuant to *rule 7.5(b)* of this Schedule and the Provisional Votes have not been counted.
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### 8.4. Notice of results:

Upon receipt by the Trust of the declaration of the Returning Officer under *rule 8.2* of this Schedule, the Trust shall:

- (a) give Public Notice of the result of the ballot within 10 Business Days of the date of the declaration; and
  - (b) announce the result of the ballot at the next annual general meeting of the Trust.
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**9. PROCEEDINGS AT SPECIAL GENERAL MEETING**

- 9.1.** Except as otherwise set out in this Schedule, the provisions of *clause 9* of this Deed 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.
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**SCHEDULE 5**  
**TRUST PLANNING, REPORTING AND POLICY**

**1. PLANS**

**1.1. Trustees to prepare Annual Plan:**

In addition to the requirement in *rule 1.3* of this Schedule, the Trustees shall prepare no later than one (1) month before the commencement of each Income Year an Annual Plan that specifies information in respect of that Income Year including:

- (a) the strategic vision of the Trust for Te Whiringa Kākaho o Ngāti Hāua Group, consistent with the longer term vision of Te Whiringa Kākaho o Ngāti Hāua Group as identified in the Five Year Strategic Plan;
- (b) the steps to be taken in the implementation of Te Pua o Te Riri Kore;
- (c) the nature and scope of the activities proposed by the Trustees for Te Whiringa Kākaho o Ngāti Hāua Group in the performance of the Trust Purpose;
- (d) the ratio of capital to total assets;
- (e) the performance targets and measurements by which performance of Te Whiringa Kākaho o Ngāti Hāua Group may be judged;
- (f) the manner in which it is proposed that projected income will be dealt with;
- (g) any proposals for the ongoing management of the Trust Assets having regard to the interests of all Members of Ngāti Hāua;
- (h) any updates to the Taonga Property Policy; and
- (i) any other information as the Trustees in their discretion consider necessary or appropriate.

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**1.2. Trustees to prepare Five-Year Strategic Plan:**

In addition to the requirement in *1.3* of this Schedule, the Trustees shall also produce within 24 months following the execution of this Deed, and update not less than every three (3) years, a Five Year Strategic Plan that:

- (a) sets out the longer term vision of the Trustees in respect of the matters referred to in *rule 1.1(a)* to *(i)* of this Schedule; and
- (b) includes a statement by the Trustees of the commercial, management and distribution policies that the Trustees intend to follow in respect of the Trust Assets.



**1.3. Initial Annual Plan and Five-Year Strategic Plan:**

In addition to the requirements in *rules 1.1 and 1.2* of this Schedule, the Trustees shall, within three (3) months of establishment of the Trust prepare and produce an Annual Plan. That plan shall have effect until such time as it is replaced by new plans as required in *rules 1.1 and 1.2* of this Schedule.

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**2. ANNUAL REPORTS, ACCOUNTS AND AUDITOR**

**2.1. Preparation of Annual Report:**

The Trustees must, within six (6) months after the end of each Income Year, and no later than 20 Business Days prior to an annual general meeting, cause to be prepared an annual report on the affairs of Te Whiringa Kākaho o Ngāti Hāua Group covering the accounting period ending at the end of that Income Year which includes:

- (a) a comparison of performance against the Annual Plan;
- (b) Consolidated Financial Statements including a balance sheet and income and expenditure statement; and
- (c) notes to those documents so as to give a true and fair view of the financial affairs of the *Te Whiringa Kākaho o Ngāti Hāua* Group for that Income 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 a Trust Entity) and details of any premiums paid in respect of Trustees' indemnity insurance (or any indemnity payments made by an insurer).

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**2.2. 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.

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**2.3. 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.

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### 3. TAONGA PROPERTY POLICY

#### 3.1. Preparation of Taonga Property Policy:

The Trustees must:

- (a) prepare, within six (6) months of the date of this Deed, a Taonga Property policy which may designate any Trust Assets to be Taonga Property and specify any additional safeguards that may be required to ensure such property is to be protected and retained by Ngāti Hāua; and
- (b) keep the Taonga Property Policy updated on an annual basis and report any changes in the Trust's Annual Plan.

#### 3.2. Contents of Taonga Property Policy

The Taonga Property Policy will:

- (a) specify relevant considerations for Trustees prior to making any determination as to whether a Trust Asset is Taonga Property, including that the Trustees must have regard to:
    - (i) whether the Trust Asset is of cultural or spiritual significance such that it justifies the designation of Taonga Property as distinct from other Trust Assets;
    - (ii) whether particular tikanga and kawa apply to the Trust Asset as distinct from other Trust Assets; and
    - (iii) any other relevant considerations that the Trustees consider appropriate; and
  - (b) specify any relevant considerations for Trustees applying to the disposition of any Taonga Property, including that the Trustees must have regard to:
    - (i) whether the cultural or spiritual significance of the Taonga Property will continue to be protected after it is disposed;
    - (ii) whether any tikanga or kawa that apply to the Taonga Property will be provided for after the Taonga Property is disposed; and
    - (iii) any other relevant considerations that the Trustees consider appropriate; and
  - (c) may specify any other matters that the Trustees in their discretion consider appropriate.
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**SCHEDULE 6  
TRUST ENTITIES**

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**1. TRUSTEES MAY ESTABLISH TRUST ENTITIES**

**1.1. Establishment of Trust Entities:**

In receiving, controlling, and supervising the use of the Trust Assets on behalf of Te Whiringa Kākaho o Ngāti Hāua Group, whether pursuant to Te Pua o Te Riri Kore, the Settlement Act or otherwise, the Trustees may establish and oversee the operations of any Trust Entities and, from time to time, disestablish any Trust Entity.

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**1.2. Ownership and Control of Trust Entities:**

The Trustees shall ensure that:

- (a) any Trust Entity is established on terms which require the Trust Entity to manage any of the Trust Assets it holds solely for the benefit of Ngāti Hāua;
  - (b) the Trustees have and retain all the shares in any Trust Entity that is a Company and the sole power to appoint and remove the trustees and directors or any responsible body of any Trust Entity.
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**1.3. Trustees to monitor:**

In giving effect to the Trust Purpose, the Trust:

- (a) shall be responsible for monitoring and otherwise overseeing the activities of any Trust Entity;
  - (b) shall not conduct or otherwise undertake any activities in competition with any Trust Entity;
  - (c) 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 in a manner that is consistent with the Trust Purpose.
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**1.4. Trustee to fund Trust Entities:**

The Trustees may fund Trust Entities (if any) by distributing capital or income or by making advances to the Trust Entity or by such other means as is consistent with the Trust Purpose.

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### **1.5. Assets and Income held for Trust:**

In respect of any Subsidiary:

- (a) all assets held and income derived by a Subsidiary shall be held and derived for and on behalf of the Trust;
  - (b) each Subsidiary shall in each Financial Year remit to the Trust so much of the surplus income derived by that Subsidiary on behalf of the Trust as is agreed between the relevant Subsidiary and the Trust having regard to:
    - (i) the relevant Subsidiary's purposes and the desirability of retaining and reinvesting or distributing income to meet those purposes;
    - (ii) the projected operating requirements of the relevant Subsidiary and any of its subsidiaries as set out in their plans; and
    - (iii) the responsibilities and duties of the directors, trustees or board members of the relevant Subsidiary to comply with the requirements of New Zealand law; and
  - (c) subject to any other requirements in this Deed, the Trust may provide for the payment, application or appropriation of, or decide to pay, apply or appropriate, or direct the Subsidiary to pay or apply, as much of the available income in any Financial Year as the Trust in its sole discretion thinks fit in furtherance of the Trust Purpose.
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### **1.6. Directors responsible for governance:**

For the avoidance of doubt, and except as expressly provided by this Deed:

- (a) all Trust Entities shall be governed by their respective boards or other responsible bodies; and
  - (b) except where expressly specified in this Deed, the role of the Trustees in respect of such Trust Entities shall be limited to the exercise of the rights conferred on the Trustees as shareholders or (as applicable) appointor and beneficiary of the relevant Trust Entity.
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### **1.7. Remuneration of directors and other trustees:**

The Trustees shall ensure that Trust Entities are established on terms which give the Trustees the power to determine the remuneration payable to any director or trustee or controlling body of any Trust Entity.

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### **1.8. No influence in determining remuneration:**

Any Trustee receiving any remuneration referred to in *clause 1.6* shall not:

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## RATIFICATION VERSION

- (a) take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration; or
  - (b) 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.
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### 2. APPOINTMENT OF DIRECTORS AND TRUSTEES

#### 2.1. Appointment and removal of directors and trustees:

The Trustees shall ensure that Trust Entities are established on terms which ensure that:

- (a) the directors and trustees or other controlling body of the Trust Entity shall be appointed and removed by the Trustees; and
  - (b) require as a term of appointment that any directors, trustees or board members appointed by or at the direction of the Trust to any Trust Entity do not act in a manner which brings or is likely to bring Ngāti Hāua, the Trust or any Trust Entity into disrepute.
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#### 2.2. Trustees as directors and trustees of Trust Entities:

No more than 40% of the Trustees then in office may be appointed as directors or trustees of any individual Trust Entity that undertakes any Commercial Activities.

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#### 2.3. Appointments with regard to skills and expertise:

A director, a trustee or a controlling body of any Trust Entity shall only be appointed by the Trustees if that person has the particular skills and expertise that are necessary for the appointment having regard to the activities that the Trust Entity undertakes or is likely to undertake in the future and the mix of skills and expertise that is necessary on the relevant Trust Entity.

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### 3. TRUST ENTITIES TO PREPARE PLANS AND REPORTS

#### 3.1. Trust Entities to prepare Plans and Statements of Intent:

The Trustees shall require that each Trust Entity will:

- (a) within six (6) months of the establishment of the Trust Entity, 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
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- limitation changes to the nature of its business and the business of any of its subsidiaries;
- (c) within twelve (12) months of the establishment of the Trust Entity, prepare a Five Year Strategic Plan that:
    - (i) 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 rule; and
    - (ii) is reviewed and updated not less than every three (3) years.
  - (d) within three (3) months of the establishment of the Trust Entity, 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 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 provide the Trustees with:
    - (i) a report on its operations and financial position;
    - (ii) 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.
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### **3.2. Trustee approval required:**

Prior to being implemented:

- (a) all Statements of Intent, Five Year Strategic Plans and Annual Plans must be approved by the Trustees; and
  - (b) such approval shall be given in light of the Trust's overall plans and policies in respect of the Trust Assets.
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### **3.3. Reports to comply with Companies Act 1993:**

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

- (a) the description required by section 211(1)(a) of the Companies Act 1993 of the nature of the business of the company or any of its subsidiaries, or the classes of business in which the company has an interest, whether as a shareholder of another company or otherwise;
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- (b) the financial statements (or as appropriate group financial statements) for that Income Year completed and signed in accordance with the Financial Reporting Act 2013;
  - (c) the auditor's report of the financial statements (or group financial statements) of the company for that Income Year.
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### **3.4. Trust Entities to meet Companies Act standard:**

All reports of any Trust Entity that is a trust shall be provided to the same standard, including as to form and content, as is required under *rule 3.3* of this Schedule as if the Trust Entity was a company.

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### **3.5. Report to include comparison against plans:**

In addition to the matters set out in *rules 3.3 and 3.4* of this Schedule, the Trustees shall procure that all reports by any Trust Entity include a comparison of its performance against both its respective Annual Plans for that Income Year and its medium and longer term planning objectives (as set out in the Five Year Strategic Plan and Statement of Intent).

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### **3.6. Protection of Information:**

For the avoidance of doubt, nothing in this *rule 3* of this Schedule limits or affects the rights of the Trustees, as shareholders in any Trust Entity that is a company, to agree pursuant to section 211(3) of the Companies Act 1993 not to include information in the annual report of the Trust Entity.

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## **4. STRATEGIC GOVERNANCE**

### **4.1. Trust to exercise strategic governance:**

For the avoidance of doubt and notwithstanding any other requirement in this Trust Deed, including this Schedule, the Trust must exercise strategic governance over any Trust Entity, but not in such a manner as to result in the Trust or any of the Trustees being deemed to be a director of any Trust Entity that is a company under the Companies Act 1993.