

# RONGOMAIWAHINE IWI CHARITABLE TRUST

## CONSTITUTION

**DEED** Dated 16 December 2018

**PARTIES**

1. Paul Bonza Ratapu - Te Atihau
2. Murry Te Aho - Te Atihau
3. Moana Rongo - Apa Apa-a-Rangi
4. Hohepa Cooper - Apa Apa-a-Rangi
5. Dawn Karangaroa - Tuahuru
6. Morehu Cooper - Tuahuru
7. Pera Edwards - Kaiuku
8. Leon Symes - Kaiuku
9. Miriama Linda Ainsley - Te Rakato
10. Dorothy Jo Williams - Te Rakato
11. Wikitoria Howe - Ruawharo
12. Karene Anahera Kereru - Ruawharo
13. Wahati Moananui Jody Rarere - Mahanga
14. Nicola Jane Bell - Mahanga

### INTRODUCTION

This Deed provides the rules and procedures for the Rongomaiwahine Iwi Charitable Trust. The Deed establishes Rongomaiwahine Iwi Charitable Trust to act, amongst other things, as the Mandated Iwi Organisation of Rongomaiwahine for the purposes of the Maori Fisheries Act 2004 and to act as the Iwi Aquaculture Organisation for the purpose of the Maori Commercial Aquaculture Claims Settlement Act 2004.

This Deed sets out the functions and purposes, and provides for the control, governance and operation of Rongomaiwahine Iwi Charitable Trust.

### TRUST TERMS

#### 1. INTERPRETATION

##### Definitions

1.1 In this Deed, unless the context otherwise requires:

**Act** means Maori Fisheries Act 2004.

**Adult Member of Rongomaiwahine** means, a Member of Rongomaiwahine who is

over the age of 18 years.

**Adult Registered Members** means Adult Members of Rongomaiwahine including Whāngai who are registered on the Members' Register.

**Aquaculture Agreement** has the meaning given to it in section 186ZD of the Fisheries Act 1996.

**Aquaculture Settlement Assets** has the same meaning as the term "Settlement Assets" in the Maori Commercial Aquaculture Claims Settlement Act 2004.

**Assets** means, Trust property of any kind, whether tangible or intangible, but excludes, Settlement Quota, Income Shares and Aquaculture Settlement Assets.

**Asset Holding Company** means, a company established by the Trust in accordance with clause 3.2, which meets the requirements for a company defined in the Act as an asset-holding company and includes any subsidiary of the asset-holding company.

**Charitable Purpose** means, every purpose within New Zealand which in accordance with the laws of New Zealand for the time being is charitable, whether such purpose involves the relief of poverty, the advancement of education or religion, or any other object or purpose that is charitable within the laws of New Zealand and includes the meaning of charitable purpose as defined in section OB1 of the Income Tax Act 2004.

**Confidential Information** means, any information which a majority of the Trustees considers on reasonable grounds is of a commercially or otherwise sensitive nature and the release of which could be detrimental to the interests of Rongomaiwahine.

**Corporate Entity** includes the Asset Holding Company, the Fishing Enterprise and any Subsidiary of it, and any other company or trust wholly owned or controlled directly or indirectly by the Trust.

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

**Directors** means, directors or trustees, as the case may be, of any Corporate Entity.

**Fishing Enterprise** means, a fishing operation established by Rongomaiwahine under clause 8.2 to utilise annual catch entitlement from its Settlement Quota.

**General Meeting** means, an Annual General meeting or a Special General meeting or a Hui-a-Iwi convened and conducted in accordance with clause 7.

**Income Share** means, an income share within the meaning of the Act that is allocated and transferred to the Asset Holding Company on behalf of Rongomaiwahine by Te Ohu Kai Moana Trustee Limited.

**Inland Revenue Acts** has the meaning given to it in section 3(1) of the Tax Administration Act 1994.

**Iwi** means, Rongomaiwahine.

**Iwi Aquaculture Organisation** has the meaning given to it in the Maori Commercial Aquaculture Claims Settlement Act 2004.

**Major Transaction** means:

- (a) the acquisition of, or an agreement to acquire, whether contingent or not, assets by the Trust the value of which is more than 25% of the value of the Trust Fund before the acquisition; or
- (b) the disposition of, or an agreement to dispose of, whether contingent or not, Assets by the Trust the value of which is more than 25% of the value of the Trust Fund before the disposition; or
- (c) a transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities the value of which is more than 25% of the value of the Trust Fund before the transaction;

but does not include:

- (d) any transaction, not being a transaction involving Income Shares or Settlement Quota, entered into by a receiver appointed pursuant to an instrument creating a charge over all or substantially all of the Trust Fund; or
- (e) any acquisition or disposition of assets from or to any Corporate Entity or Subsidiary; or
- (f) any transfer of Income Shares or Settlement Quota by an Asset Holding Company to a subsidiary Asset Holding Company in accordance with section 16(3)(b) of the Act; or
- (g) any exchange of Settlement Quota for quota of the same market value that is carried out in accordance with the requirements of the Act and in compliance with any policy of the Trust on quota exchanges that is notified in the Trust's Annual Plan;

provided however that:

- (h) nothing in paragraph (c) of this definition applies by reason only of the Trust giving, or entering into an agreement to give, a charge secured over Assets of the Trust the value of which is more than 25% of the value of the Trust Fund for the purpose of securing the repayment of money or the performance of an obligation.

**Mandated Iwi Organisation** has the meaning given to it in the Act.

**Marae** are the seven marae of Rongomaiwahine, namely Kaiuku Marae, Tuahuru Marae, Ruawharo Marae, Te Rakato Marae, Mahanga Marae, Apaapa-ā-Rangi Marae and Te Atihau Marae.

**Members of Rongomaiwahine** means persons who affiliate to Rongomaiwahine through descent from a primary ancestor of Rongomaiwahine (the identity of such primary ancestor shall be determined pursuant to clause 5 or, if necessary, pursuant to clause 9) and include Whāngai.

**Membership Committee** means the committee appointed under clause 9.3.

**Members' Register** means the register of Members of Rongomaiwahine held and maintained by the Trust in accordance with clause 5.

**Ngā Mātā Waka Members** are those persons who do not descend from a primary ancestor of Rongomaiwahine but who reside in the customary rohe of Rongomaiwahine and who do not hold voting rights in relation to the Trust but can participate in accordance with the terms of this Deed.

**Pakeke Advisory Council** means pakeke, kaumatua and kuia of Rongomaiwahine who are determined in accordance with tikanga of Rongomaiwahine to be the Members of the Pakeke Advisory Council, and in the administration of the affairs of the Trust, the Trust may consult with the Pakeke Advisory Council and the Pakeke Advisory Council may advise the Trust on any matters relating to the affairs of the Trust. The Trust shall take the views of the Pakeke Advisory Council into account.

**Rangatahi Advisory Council** means persons up to the age of twenty-five years who are appointed by the rangatahi of Rongomaiwahine or the Trustees to represent the interests and concerns of the rangatahi of Rongomaiwahine and the youth who reside in the Rongomaiwahine rohe, and who can recommend to the Trust appropriate action to address those interests and concerns. The Trust shall take the views of the Rangatahi Advisory Council into account.

**Rongomaiwahine** means the iwi comprising every person who is descended from a primary ancestor of Rongomaiwahine and who affiliates to one of Ngāi Te Rākatō, Ngāti Hikairo, Ngāti Hinewhakāngi (also known as Hinewhata), Ngāti Meke, Ngāti Tama (including Ngāti Ruawharo), Ngāti Tārewa, and Ngāti Tū (including Ngāti Takoto).

**Rongomaiwahine Iwi Trust** means the Trust established on 16 December 2018 to hold units in Tatau Tatau.

**Rongomaiwahine Iwi Charitable Trust** means the Trust incorporated on 25 May 1988 and registered as a charitable trust (registration number 395837) to advance charitable purposes for the benefit of Rongomaiwahine Iwi.

**Private Notice** means a notice:

- (a) sent by any means that is private to the recipient; and
- (b) complies with Kaupapa 4 of Schedule 7 of the Act.

**Public Notice** means a notice:

- (a) published in a newspaper generally circulating in the relevant area or areas; and
- (b) may also be published by panui or electronic media, including radio and television; and
- (c) complies with Kaupapa 4 of Schedule 7, if applicable, of the Act.

**Quota** means quota shares within the meaning of the Fisheries Act 1996.

**Registered Member** means any Member of Rongomaiwahine who is entered in the Members' Register.

**Registration Form** means the form used from time to time by the Trustees to enter

the details of Members of Rongomaiwahine and Whāngai on the Members' Register.

**Secretary** means any person appointed under clause 4.8 to perform general secretarial and administrative functions for the Trust.

**Settlement Cash Assets** means money allocated and transferred to Rongomaiwahine to section 137(1)(f) of the Act by Te Ohu Kai Moana Trustee Limited.

**Settlement Quota** means, the quota shares within the meaning of the Act that are allocated and transferred to an Asset Holding Company on behalf of Rongomaiwahine by Te Ohu Kai Moana Trustee Limited.

**Subsidiary** means, any subsidiary (as defined by section 5 of the Companies Act 1993) of a Corporate Entity and includes any person or persons that is controlled by a Corporate Entity and includes a separate enterprise, as that term is used in section 32(3) of the Maori Commercial Aquaculture Claims Settlement Act 2004, that is responsible to the Trust.

**Tatau Tatau** means Tatau Tatau o Te Wairoa Trust and the Tatau Tatau Trust Deed is the trust deed of Tatau Tatau as amended from time to time.

**Tatau Tatau representative** means a representative elected or co-opted from time to time in accordance with Schedule 2 of the Rongomaiwahine Iwi Trust Deed and includes the initial Tatau Tatau representatives.

**Te Kawai Taumata** means, the group of that name established under the Act.

**Te Ohu Kai Moana Group** has the meaning given to it in the Act.

**Te Ohu Kai Moana Trustee Limited** means, the company of that name formed under the Act.

**Te Putea Whakatupu Trustee Limited** means, the company of that name formed under the Act.

**Te Wai Maori Trustee Limited** means, the company of that name formed under the Act.

**Tikanga** means, the customary values and practices of Rongomaiwahine.

**Trust** means, Rongomaiwahine Iwi Trust established by this Deed.

**Trust Fund** means, all the assets and liabilities including income that are from time to time held by the Trustees on the trusts of this Deed whether or not received in the manner described in clause 3.2.

**Trustees** means, the persons elected or appointed under clause 4.

**Voting Paper** means, a voting paper (including any electronic voting paper) issued in accordance with Schedule 1 on which the Trustees shall record the membership number of the voter, or in the case of a voter without a registration number, shall have a duly completed Registration Form attached to and forming part of that Voting Paper.

**Whāngai** means those persons who do not affiliate to Rongomaiwahine by descent from a primary ancestor of Rongomaiwahine but who are adopted by a Member of Rongomaiwahine in accordance with the Tikanga of Rongomaiwahine such Tikanga to

be determined in accordance with clause 5 or, if necessary clause 9.

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

### **Interpretation of Schedules**

- 1.2 In the interpretation of each schedule to the Deed, unless the context otherwise requires:
- (a) terms or expressions have the meanings given to them by the Deed; and
  - (b) a reference to a paragraph is a reference to a paragraph of that schedule.

### **Statutes**

- 1.3 Reference to a statute or statutory provision in the Deed includes that statute or provision as amended, modified, re-enacted or replaced from time to time.

### **General References**

- 1.4 References in the Deed to:
- (a) a person includes an individual, body corporate, an association of persons (whether corporate or not) and a trust (in each case, whether or not having separate legal personality);
  - (b) one gender includes the other gender;
  - (c) the singular includes the plural and vice versa;
  - (d) clauses and sub-clauses are references to clauses and sub-clauses in this Deed; and
  - (e) the Deed includes its Schedules.

### **Headings**

- 1.5 Headings are for ease of reference only and must be ignored in interpreting the Deed.

## **2. ESTABLISHMENT OF TRUST**

### **Acknowledgement of Trust**

- 2.1 The Trustees acknowledge and declare that they hold the Trust Fund upon the trusts and with the powers set out in this Deed. The name of the Trust established by this Deed is Rongomaiwahine Iwi Charitable Trust.

## **3. KAUPAPA/PURPOSES**

### **Purposes**

- 3.1 The purposes for which the Rongomaiwahine Iwi Charitable Trust is established are to receive, hold, manage and administer the Trust Fund for every Charitable Purpose

benefiting Rongomaiwahine whether it relates to the relief of poverty, the advancement of education or religion or any other matter beneficial to the community of Rongomaiwahine and all the Members of Rongomaiwahine irrespective of where those Members reside and for every Charitable Purpose benefiting:

- (a) Maori who are not Members of Rongomaiwahine; and
- (b) members of the community generally;

PROVIDED THAT in all activities and decision making that is undertaken pursuant to this Deed, the Trust will respect and acknowledge the mana of whānau and hapū of Rongomaiwahine including by:

- (i) acknowledging and respecting the activities and practices of Rongomaiwahine tupuna, including the kaupapa of whanau ora, tikanga and all aspects of Rongomaiwahine rangatiratanga;
- (ii) uplifting and promoting whanau, hapu and iwi strength, spirituality, development, discipline, esteem, dignity and integrity; and
- (iii) advancing and promoting oranga whanau, employment and wellbeing, education and vocational training, spiritual welfare and te reo Māori and tikanga Māori.

### **Incidental Purposes**

3.2 Incidental to, and to give effect to, the purposes in clause 3.1, the Trustees will:

- (a) directly receive and hold, on behalf of Rongomaiwahine on the trusts set out in clause 3.1, Settlement Cash Assets allocated and grants made to Rongomaiwahine by Te Ohu Kai Moana Trustee Limited, being assets other than Income Shares and Settlement Quota which are to be transferred to the Asset Holding Company of Rongomaiwahine by Te Ohu Kai Moana Trustee Limited;
- (b) receive distributions from Te Putea Whakatapu Trustee Limited and Te Wai Maori Trustee Limited, as provided for under subparts 4 and 5 of Part 2 of the Act and to hold those distributions on the trusts set out in clause 3.1 or on such other trusts as are required in order to ensure that a distribution to the Trust by either of those companies would be within the purposes for which those companies hold their funds and make those distributions but not in a manner that could adversely affect the charitable status of the Trust;
- (c) if relevant, enter into agreements with other Mandated Iwi Organisations in relation to:
  - (i) claims under section 11 of the Act;
  - (ii) the allocation of:
    - (aa) harbour quota under section 143 of the Act; and
    - (bb) freshwater quota under section 148 of the Act;
- (d) establish separate companies to undertake fishing and fisheries-related activities, including, but not limited to, any activity related to the seafood industry, including, for the avoidance of doubt, a Fishing Enterprise, and to hold the shares in those companies and any distributions or other benefits resulting from them on the trusts in clause 3.1;
- (e) establish one or more Asset Holding Companies that, in each case:

- (i) is wholly owned by the Trust;
  - (ii) is separate to the companies referred to in sub-paragraph (d);
  - (iii) performs the functions and complies with the requirements set out in sections 16 to 18 of the Act; and
  - (iv) performs any other function, but not if doing so would be inconsistent with sections 16 to 18 of the Act,
- and to hold the shares in those companies and any distributions or other benefits resulting from them on the trusts in clause 3.1;
- (f) perform the functions provided for, by or under the Act in respect of a Mandated Iwi Organisation, in a manner consistent with the Act;
  - (g) represent Rongomaiwahine by voting at any meeting convened under:
    - (i) clause 1 or clause 6 of Schedule 8 to the Act, to appoint or remove a member or alternate member of Te Kawai Taumata;
    - (ii) section 117 of the Act, implemented in accordance with clause 1 of Schedule 8 to the Act, to appoint a member of a committee of representatives;
  - (h) act on behalf of Rongomaiwahine in relation to aquaculture claims and Aquaculture Settlement Assets under the Maori Commercial Aquaculture Claims Settlement Act 2004, in respect of which the Trustees must act for the benefit of all Members of Rongomaiwahine, irrespective of where those Members reside, including:
    - (i) directly receiving and holding, on behalf of Rongomaiwahine Aquaculture Settlement Assets allocated to Rongomaiwahine by Te Ohu Kai Moana Trustee Limited in accordance with the Maori Commercial Aquaculture Claims Settlement Act 2004; and
    - (ii) entering into Aquaculture Agreements with other Iwi Aquaculture Organisations in relation to the allocation of Aquaculture Settlement Assets;
  - (i) if the Trustees determine, directly receive and hold, on behalf of Rongomaiwahine on the trusts set out in clause 3.1, and any other Treaty of Waitangi settlement assets; and
  - (j) perform other functions provided for, by or under the Act or any other enactment or otherwise, but not if doing so would adversely affect the charitable status of the Trust.

### **Strategic Governance**

3.3 The Trust must exercise strategic governance over:

- (a) its Asset Holding Companies and any Fishing Enterprise; and
- (b) the process to examine and approve annual plans that set out:
  - (i) the key strategies for the use and development of fisheries assets of Rongomaiwahine;
  - (ii) the expected financial return on those assets;
  - (iii) any programme to:
    - (aa) manage the sale of annual catch entitlements derived from the Settlement Quota held by the Asset Holding Companies;
 and

- (bb) reorganise the Settlement Quota held by the Asset Holding Companies, in the buying and selling of Settlement Quota in accordance with the Act,

but not in such a manner as shall result in the Trust or any of the Trustees being deemed to be a Director of that or those companies under the Companies Act 1993, and nor shall this clause or any other provision of this Deed prevent the Trust or any Corporate Entity or Subsidiary from entering into such arrangements with another company or trust as the Trustees shall consider necessary or desirable to efficiently and effectively administer, manage or hold its assets or operations, consistently with the purposes in clause 3.1.

#### **No non-charitable objects and purposes**

- 3.4 The objects and purposes of the Trust shall not include or extend to any matter or thing which is or shall be held or determined to be non-charitable within the laws of New Zealand and the powers and purposes of the Trustees and, without derogating from clauses 11.1(d) or 12, the Trust shall be restricted accordingly and limited to New Zealand.

### **4. APPOINTMENT AND POWERS OF TRUSTEES AND MANAGEMENT OF THE TRUST**

#### **Number of Trustees**

- 4.1 Trustees must be elected by Adult Members of Rongomaiwahine in accordance with the procedures in Schedule 1, and:
  - (a) The Trust shall have a maximum of fourteen and a minimum of seven Trustees;
  - (b) The Trustees shall be elected from seats which represent each of the seven Marae with a maximum of two trustees elected for each Marae;
  - (c) At least one Trustee from each of the Marae must ordinarily reside within the rohe of Rongomaiwahine;
    - provided that the first Trustees shall be those persons who have signed this Deed as parties and those first Trustees shall remain in office until the later of:
      - i. the date one year after the date of this Deed; and
      - ii. the date six months after the date upon which the recognition of the Trust as the Mandated Iwi Organisation of Rongomaiwahine is recorded under section 13(1)(b) of the Act.

#### **Cessation of office of Trustee**

- 4.2 Any person shall cease to be a Trustee if he or she:
  - (a) shall have been in office for more than three years since his or her election; or
  - (b) resigns as a Trustee by giving notice in writing to the Trust; or
  - (c) fails or neglects to attend three consecutive meetings of the Trustees without leave of absence, unless it appears to the other Trustees at their first meeting after the last of such absences that there is a proper reason for such non-

attendance; or

- (d) becomes of unsound mind, becomes a person in respect of whose affairs an order under the Protection of Personal and Property Rights Act 1988 is made, or otherwise becomes unfit or unable to act as a Trustee, or dies; or
- (e) is or becomes a bankrupt who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled; or
- (f) 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 person” for the purposes of the Criminal Records (Clean Slate) Act 2004); or
- (g) Is censured under this Deed by way of a trustee vote of no-confidence for acting in a manner that brings or is likely to bring into disrepute this Rongomaiwahine Iwi Charitable Trust.

4.3 The Trustee concerned shall cease to hold office:

- (a) in a case where sub-paragraph 4.2(a) applies, from the end of the day three years after the date on which that Trustee was last elected to office;
- (b) in a case where sub-paragraph 4.2(b) applies from the date the notice of retirement shall have been delivered to the Trust;
- (c) in the case where sub-paragraph 4.2(c) applies from the date of the first meeting of Trustees after that Trustee's third consecutive absence without leave;
- (d) in cases where sub-paragraphs 4.2(d) to 4.2(f) apply, from the date on which the Trust was notified in writing of the relevant fact together with such evidence as the Trustees may reasonably require; and
- (e) in the case where sub-paragraph 4.2(g) applies from the date of the trustee vote of no-confidence, which must occur only after the trustee concerned has been presented with information of the allegation of disrepute and has had a fair and reasonable opportunity to respond to the allegation.

4.4 Should a vacancy reduce the number of Trustees below half the number specified in clause 4.1, the vacancy shall be filled as soon as practicable by the next highest polling candidate who stood for election as Trustee for that seat in the last election held in accordance with the terms of this Deed, and the remaining Trustees (which shall include any Trustee who shall cease to be a Trustee under sub-paragraph 4.3(a) shall continue to act until that vacancy has been filled.

**Powers of Trustees**

4.5 To achieve the purposes of the Trust:

- (a) the Trustees shall have in the administration, management and investment of the Trust Fund all the rights, powers and privileges of a natural person;
- (b) subject always to the trusts imposed by this Deed, the Trustees may deal with the Trust Fund as if the Trustees were the absolute owners of and beneficially entitled to the Trust Fund including, for the avoidance of doubt, but subject to complying with the applicable provisions of the Act and the Maori Commercial Aquaculture Claims Settlement Act 2004, the acquisition and disposition of Settlement Quota, Income Shares and Aquaculture Settlement Assets;
- (c) in addition to any specific powers vested in the Trustees by law, in dealing with the Trust Fund or acting as Trustees of the Trust, the Trustees may do any act or thing or procure the doing of any act or thing or enter into any obligation

whatever, including, without limitation, exercising unrestricted powers to borrow and raise money, and to give securities and guarantees;

- (d) except as otherwise expressly provided by this Deed, the Trustees may exercise all the powers and discretions vested in the Trustees by this Deed in the absolute and uncontrolled discretion of the Trustees, at such time or times, upon such terms and conditions, and in such manner as the Trustees may decide;
- (e) if any dividend or distribution is received which in the opinion of the Trustees has been paid or made out of profits other than trading profits of the financial year in respect of which the dividend or distribution has been paid or made, the Trustees may decide how much of that dividend or distribution ought to be treated as capital and how much as income of the Trust Fund. Such decision shall be made by the Trustees after considering the nature of the profit used to pay or make the dividend or distribution and the account to which the dividend or distribution has been debited in the books of the person making such payment or distribution. The Trustees shall not be liable to any person in respect of the payment of any moneys in accordance with any decision made by the Trustees under this clause 4.5;
- (f) the Trustees may at any time after payment of or provision for all reasonable costs, charges and expenses of the Trustees in respect of the establishment, management and administration of the Trust, pay or apply all or any of the income of the Trust for the purpose or purposes contained in clause 3.1;
- (g) if any income of any financial year of the Trust shall not be paid or applied in accordance with clause 3.1 during or within six months from the end of that financial year, the Trustees must accumulate that income and any income so accumulated must be added to and form part of the capital of the Trust Fund and is subject to the trusts and powers declared in this Deed in respect of the capital of the Trust Fund; and
- (h) the Trustees may at any time pay or apply all or any of the capital of the Trust for the purpose or purposes contained in clause 3.1.

#### 4.6 Management of the Trust – General

- (a) The Trustees shall have the absolute management and entire control of the Trust Fund.
- (b) The Trustees may from time to time appoint, remunerate and dismiss officers or employees of the Trust, unless, either generally or in a particular case, they shall have for the time being delegated any one or more of the powers of appointment, remuneration or dismissal, as the case may be, to a person holding the position of Chief Executive of the Trust.
- (c) Any individual may be appointed as an officer or employee of the Trust but no Trustee may be appointed as an employee.
- (d) The Trustees may appoint an incorporated or unincorporated entity to provide services to the Trust. In any case where the entity directly or indirectly procures, causes, permits or otherwise howsoever makes a Trustee available to carry out management services, the appointment shall be of no effect and neither that entity nor that person shall have any authority on behalf of nor claim against the Trust, unless prior to that appointment the full terms and conditions of the proposed appointment shall have been disclosed in writing to all the Trustees, and the Trustees shall have voted unanimously (subject to clause 4.13) in support of that appointment on those terms.
- (e) The office of the Trust shall be at such place as the Trustees from time to time

may notify by such means as the Trustees determine to the Members of Rongomaiwahine and in any website, letterhead, formal written contract or printed publications of the Trust.

#### 4.7 Meetings of Trustees

- (a) The Trustees shall meet to conduct business at such intervals as the Trustees may decide, but not less frequently than six times in each year. The Trustees may invite to such meetings whomever the Trustees may decide will assist with their deliberations.
- (b) Except as expressly provided otherwise by this Deed any matter requiring decision at a meeting of the Trustees shall be decided and a resolution is validly made when it is moved by a representative from one Marae and seconded by a representative from a second Marae, and passed by a simple majority of those Trustees present and entitled to vote. For the purposes of counting votes, each marae has one vote..
- (c) In the event of an equality of votes the Chairperson shall have a second or casting vote.
- (d) Except as expressly provided otherwise by this Deed a resolution in writing signed by all the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and constituted. Any such resolution may consist of several like documents each signed by one or more Trustees. Any such document sent by a Trustee by facsimile or such other electronic means as shall be determined by the Trustees from time to time shall be deemed to have been duly signed by that Trustee.
- (e) Any Trustee may at any time give notice convening a meeting of the Trustees. Such notice shall be given by letter posted to each Trustee at least 15 Working Days before the date of the proposed meeting. The notice shall state the time and place of the meeting and, in sufficient terms, the nature of the business to be transacted.
- (f) The quorum for a meeting of Trustees shall be a majority of the Trustees who, for the time being, have been elected or otherwise holding office under clause 4.1, provided that at each meeting, the Trustees present shall represent a majority of the Marae which have elected representatives to the Trust.
- (g) The Trustees may act notwithstanding any vacancy in their body, but if and so long as the number of Trustees holding office is less than the number fixed by clause 4.7(f), the continuing Trustees may act only for the purposes of increasing the number of Trustees to that number or calling a General Meeting pursuant to clause 7.
- (h) The contemporaneous linking together of the Trustees by telephone or other electronic means of communication shall constitute a meeting of the Trustees and the provisions of this clause 4.7 as to meetings of the Trustees shall apply to such meetings provided the following conditions are met:
  - (i) each Trustee shall be entitled to notice of such a meeting and to be linked by electronic means for the purposes of the meeting;
  - (ii) each of the Trustees taking part in the meeting must be able to hear each of the other Trustees taking part during the whole of the meeting;
  - (iii) at the commencement and conclusion of the meeting the Chairperson must call upon each Trustee to acknowledge his or her attendance;
  - (iv) a Trustee may not withdraw from such a meeting unless that Trustee

has previously obtained the express consent of the Chairperson of the meeting to do so;

- (v) a Trustee shall be conclusively presumed to have been present and to have formed part of the quorum of such a meeting at all times during the meeting unless that Trustee has previously obtained the express consent of the Chairperson to withdraw from such a meeting.
- (i) Minutes of the proceedings of all meetings of the Trustees shall be recorded in a book to be kept for that purpose by the Secretary and shall be signed by the Chairperson of the meeting at which the minutes are confirmed. Every such minute purporting to be so signed shall be prima facie evidence of the matters recorded. Minutes of the proceeding's of any meeting by telephone or other electronic means of communication shall be sufficient evidence of the observance of all necessary formalities if the minutes of the meeting signed by the Chairperson of the meeting shall contain a certificate to that effect.

**4.8 Chairperson, Deputy Chairperson and Secretary:**

- (a) The Trustees shall elect one Trustee to act as Chairperson from year to year.
- (b) The Trustees may also elect one Trustee to act as Deputy Chairperson either as the need arises or from year to year or for such term of years as the Trustees may decide. In the absence of the Chairperson the Deputy Chairperson shall have and may exercise all the powers of, and shall perform all the duties, of the Chairperson.
- (c) The Trustees shall appoint a non-voting Secretary who may be honorary, or may be a full-time or part-time employee of the Trust.

**4.9 Delegation of powers:**

- (a) The Trustees may delegate in writing to any Trustee, committee of Trustees, or employee who is the Chief Executive of the Trust, such of the powers of the Trustees as the Trustees may decide, provided that:
  - (i) the Trustees may not delegate strategic governance; and
  - (ii) in the case of any entity appointed under clause 4.6(d), the delegation shall be personal to the person provided by that entity in that capacity.
- (b) Any person or committee acting under delegated power shall act in accordance with the terms of this Deed and, in the absence of proof to the contrary, shall also be presumed to be acting within the terms of the delegation.
- (c) The Trustees may revoke wholly or partly any delegation of the powers of the Trustees at any time.
- (d) Subject to any directions given by the Trustees, any person or committee to which any powers of the Trustees have been delegated may conduct that person's or the committee's affairs as that person or the committee may decide.
- (e) The Trustees must, in delegating the powers of the Trustees, provide restrictions or rules by or within which such delegated powers are to be exercised in accordance with this clause and in each case must require the delegate to report to the Trustees on any action or decision taken as delegate.

**4.10 Accounts and Audit:**

- (a) The Trustees shall keep an account or accounts at such bank or banks as the Trustees may decide. Cheques, withdrawals and authorities shall be signed or endorsed, as the case may be, by such person or persons (including in all instances at least one Trustee) as the Trustees may decide.

- (b) The Trustees shall cause true accounts for each financial year to be kept in accordance with generally accepted accounting practice of all receipts, credits, payments, assets and liabilities of the Trust Fund and all such other matters necessary for showing the true state and condition of the Trust. The accounts of the Trust shall be audited at least once in each year by a chartered accountant (not being a Trustee) appointed in that capacity by the Trustees.
- (c) Nothing in this clause 4.10 shall derogate from any other obligations of the Trustees in respect of accounts and audits.

#### **Reliance on Advice**

- 4.11 The Trustees, when exercising powers or performing duties as Trustees, may rely on reports, statements, financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
- (a) an employee of the Trust whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned;
  - (b) a professional adviser or expert in relation to matters which the Trustees believe on reasonable grounds to be within the person's professional or expert competence;
  - (c) a committee of Trustees appointed and acting in accordance with clause 4.9.
- 4.12 Clause 4.11 applies only if the Trustees:
- (a) act in good faith;
  - (b) make proper inquiry where the need for inquiry is indicated by the circumstances; and
  - (c) have no knowledge that such reliance is unwarranted.

#### **Disclosure of Interest**

- 4.13 Any Trustee who is or may be in any other capacity whatever interested or concerned directly or indirectly in any property or undertaking in which the Trust is or may be in any way concerned or involved shall disclose the nature and extent of that Trustee's interest to the other Trustees, and shall not take part in any deliberations or decision of the Trustees concerning any matter in which that Trustee is or may be interested other than as a Trustee of the Trust, and shall be disregarded for the purpose of forming a quorum for any such deliberation or decision.

#### **Definition of Interested Trustee**

- 4.14 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 by the Trust or any Corporate Entity or Subsidiary;
  - (d) is the parent, child or spouse of another party to, or person who will or may derive a material financial benefit from the matter; or
  - (e) is otherwise directly or indirectly interested in the matter.

#### **Interests in common with Iwi**

- 4.15 Notwithstanding clauses 4.13 and 4.14, no Trustee will be interested in a matter where that Trustee is a member of Rongomaiwahine or a Hapū of Rongomaiwahine

and where his or her interest is not different in kind from the interests of other members of that Iwi or Hapū.

#### **Recording of Interest**

- 4.16 A disclosure of interest by a Trustee shall be recorded in the minute book of the Trust. Immediately following his or her appointment as a Trustee, each Trustee must enter into the minute book and must disclose in writing to the other, the name of any Iwi and Hapū of which he or she is a member, and the Trustee must also, at any time after his or her appointment, enter into the Minute Book and disclose to the next meeting of the Trustees, any interest of which that Trustee becomes aware.

#### **No private pecuniary profit**

- 4.17 No private pecuniary profit may be made by any person from the Trust, except that:
- (a) any Trustee may receive full reimbursement for all expenses properly incurred by that Trustee in connection with the affairs of the Trust;
  - (b) the Trust may pay reasonable remuneration to any Trustee, officer or employee of the Trust in return for services actually rendered to the Trust (including the provision of services as Trustee), provided that no remuneration under this clause shall be paid unless the Trust can establish that it is financially sustainable to do so;
  - (c) any Trustee may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Trustee or by any entity of which that Trustee is a partner, member, employee or associate in connection with the affairs of the Trust;
  - (d) any Trustee may retain any remuneration properly payable to that Trustee by any entity with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatever, notwithstanding that the Trustee's connection with that entity is in any way attributable to that Trustee's connection with the Trust,

provided that:

- (i) before any such reimbursement paid to a Trustee may be regarded as properly incurred by that Trustee or any such remuneration paid to a Trustee may be regarded as reasonable or properly payable or any such charges may be regarded as usual, the amount of that reimbursement, remuneration or charge must have been approved as such by a resolution of Trustees and in the case of an appointment referred to in clause 4.6(d), the provisions of that clause have been complied with;
- (ii) the Trustees must disclose in their Annual Report referred to in clause 7.2 next published after payment of that disbursement, remuneration or charge, in respect of all such reimbursements, remuneration or charges:
  - (aa) the amount thereof received by each Trustee or any such firm or entity;
  - (bb) the nature of the reimbursement and the nature and extent of the services rendered or time expended;
  - (cc) the method of calculation of the reimbursement, remuneration or charge; and
- (iii) in the case of an appointment referred to in clause 4.6(d), the full written terms and conditions thereof have been made available for inspection at the office of the Trust by any Adult Registered Member

who makes written request for the same.

4.18 Subject to clause 4.17, in the exercise of the powers conferred by this Deed, each Trustee in the discharge of any duty or exercise of any discretion as Trustee shall ensure that any person who is:

- (a) a Trustee;
- (b) a shareholder or director of any Corporate Entity or Subsidiary;
- (c) a settlor or a trustee of any Corporate Entity or Subsidiary;
- (d) any associated person (as defined in section OD 7 of the Income Tax Act 2004) of either a director, or any person referred to in clauses 4.13 to 4.16,

does not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence the determination of, the nature or the amount of any benefit or advantage or income or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person, and any payment made to any person in or following breach of this clause 4.18 shall be void.

4.19 The Trustees shall require that a clause to the same effect as clause 4.13 of this Deed be included in the constitution of every Asset Holding Company or Fishing Enterprise or any Subsidiary of any of them.

#### **Appointment and removal of Custodian Trustee**

4.20 The Trustees may at any time by deed appoint any appropriate corporation to be the custodian trustee of the Trust Fund, or any part of the Trust Fund, upon the terms of this Deed or any further terms as the Trustees may decide and for the avoidance of doubt the custodian trustee must when exercising its powers act in accordance with this Deed. The Trustees may at any time by deed revoke any such appointment or otherwise act pursuant to the provisions of section 50 of the Trustee Act 1956.

#### **4.21 Incorporation**

- (a) The Trustees may at any time apply for incorporation under Part II of the Charitable Trusts Act 1957 or the Charities Act 2005 and its amendments under such name as the Trustees may decide. Upon incorporation the powers and discretions conferred upon the Trustees by law or by this Deed shall be conferred upon the Trustees as a trust board.
- (b) Upon incorporation as a charitable trust, the Trust shall have a common seal which shall be affixed by the authority of the Trustees previously given to any document requiring execution by the Trustees. Every such affixing shall be attested by two Trustees and shall be sufficient evidence of authority to affix the seal.
- (c) No person dealing with the Trustees shall be bound or concerned to see or inquire as to the authority to affix the seal, or to inquire as to the authority under which any document was sealed or in whose presence it was sealed.

### **5. REGISTER OF MEMBERS OF RONGOMAIWAHINE**

#### **Members' Register of Rongomaiwahine**

5.1 The Trustees must:

- (a) have, and maintain in a current state, the Members' Register, which can be shared:
  - (i) that includes the name, date of birth, and contact details of every Member of Rongomaiwahine who applies for registration; and

- (ii) that is available for inspection by Registered Members who can view their own registration details; and
  - (iii) that is available for inspection by a parent, legal guardian or other person standing in the stead of a parent, who may view the registration details of any child, ward or other dependant under 18 years of age who was registered by such persons, whichever the case may be; and
  - (iv) that allocates a member registration number to each Member of Rongomaiwahine entered in the Members' Register; and
  - (v) that records the Hapū and/or Marae which the Registered Member has chosen on their Registration Form.
- (b) make ongoing efforts to register all Members of Rongomaiwahine on the Members' Register.
- 5.2 The Trustees may enter in the Members' Register any Member of Rongomaiwahine whose details are already held by the Trustees where:
- (a) the details held by the Trustees fulfil the requirements of Kaupapa 5 of the Maori Fisheries Act 2004, except that the requirement in clause (b)(iii) of that Kaupapa need not necessarily be fulfilled; and
  - (b) the particulars were acquired by the Trustees as a result of an application on a form (not being the Registration Form) made by:
    - (i) Adult Members of Rongomaiwahine on their own behalf or by their legal guardian at the time of the application; and
    - (ii) other Members of Rongomaiwahine who were not Adult Members of Rongomaiwahine at the time of the application, by their parent on their behalf, or by their legal guardian at the time; and
    - (iii) other Members of Rongomaiwahine by an Adult Member of Rongomaiwahine on their behalf who, in the opinion of the Membership Committee, stood in the stead of a parent of that person at the time of the application.
- 5.3 An application to be entered in the Members' Register may be made by:
- (a) Adult Members of Rongomaiwahine on their own behalf or by their legal guardian; and
  - (b) other Members of Rongomaiwahine who are not Adult Members of Rongomaiwahine by their parent or legal guardian on their behalf; and
  - (c) other Members of Rongomaiwahine by an Adult Member of Rongomaiwahine on their behalf who, in the opinion of the Membership Committee, stands in the stead of a parent of that person; and
- in each case that application must be completed on the Registration Form.
- 5.4 Any Adult Member of Rongomaiwahine at, or at any time after, application for registration as a Registered Member, or at any time whether or not on the Members' Register, may request in writing that he or she wishes to receive Private Notice of any General Meetings and/or Voting Papers relating to:
- (a) the election of Trustees; or
  - (b) any amendment to this Deed or the constitutional documents of any Asset Holding Company; or
  - (c) the disposal of Income Shares or Settlement Quota; or
  - (d) the conversion of quota into Settlement Quota.

#### Registration as a Member of Rongomaiwahine

- 5.5 Subject to clauses 5.6 and 5.7, the Trustees must enter in the Members' Register any person:
- (a) by or on behalf of whom a valid application has been made; and
  - (b) who in the reasonable opinion of the Trustees affiliates to Rongomaiwahine through descent from a primary ancestor of Rongomaiwahine.
- 5.6 The Trustees:
- (a) may require any person seeking registration as a Member of Rongomaiwahine to provide evidence verifying his or her affiliation to Rongomaiwahine through descent from a primary ancestor of Rongomaiwahine or of any other matter referred to in clause 5.5 before that person's registration is entered in the Members' Register together with such other information as the Trustees request and the person making the application for registration agrees (but the omission to provide such other information shall not be a reason for the Trustees to not accept the application for registration); and
  - (b) may require any person who is entered in the Members' Register to provide evidence verifying his or her affiliation to Rongomaiwahine through descent from a primary ancestor of Rongomaiwahine and any other matter referred to in clause 5.5;
  - (c) may consult with the Membership Committee in relation to any application for registration, or continued registration as a Member of Rongomaiwahine and
  - (d) without limiting the foregoing, may request the Membership Committee to:
    - (i) determine who is the primary ancestor, or are primary ancestors, of Rongomaiwahine ; and
    - (ii) determine the Tikanga of Rongomaiwahine by which Whāngai or other persons who do not descend from a primary ancestor of Rongomaiwahine are able to affiliate to Rongomaiwahine.

#### **Trustees may decline to register, or remove a person from the Members' Register**

- 5.7 If the Trustees consider that any information about a person received under clause 5.5(a) or clause 5.6 is not accurate or complete, or that the existing information on the Members' Register is not accurate or complete such that in either case the person concerned does not meet the qualifications required by this Deed for entry of that person in the Members' Register, the Trustees may decline to register, or remove that person from the Members' Register, as the case may be.

#### **Process when registration declined or removed**

- 5.8 Where an application for registration is declined, or any decision is made by the Trustees to remove any person from the Members' Register, the person concerned may dispute that decision of the Trustees and clause 9 shall apply.

#### **Registration not necessary**

- 5.9 To avoid doubt, it shall not be necessary, in order to be considered a Member of Rongomaiwahine for the purposes of clause 3.1, for a Member of Rongomaiwahine to be registered in accordance with this clause 5.

#### **De-registration by Member of Rongomaiwahine**

- 5.10 To avoid doubt, a Registered Member may, at any time, request in writing that his or her registration be removed or terminated. His or her registration will be deemed removed at the date on which the written request is received at the Trust's office.

**Notice not necessary**

- 5.11 It shall not be necessary for the Trust to provide Private Notice to a Member of Rongomaiwahine where the Trustees believe on reasonable grounds (and have evidence supporting that belief) that the Member's contact details are not current.

**6. VOTING PROCEDURE**

- 6.1 (a) Any resolution to:
- (i) ratify or change this Deed or amend the constitution of any Asset Holding Company (in accordance with the requirements of sections 17, and 18 as the case may be, of the Act);
  - (ii) dispose of Income Shares (in accordance with section 70 of the Act);
  - (iii) treat quota as Settlement Quota in accordance with section 159 of the Act;
  - (iv) dispose of Settlement Quota in accordance with section 162 of the Act;
  - (v) rationalise any Settlement Quota (under section 172 of the Act); and
  - (vi) enter into a transaction or a series of transactions, or to agree to transact, whether contingent or not, with a person not entitled to hold Income Shares or Settlement Quota under the Act, including an option, security, mortgage, or guarantee, that could result in:
    - (aa) the sale of Income Shares or Settlement Quota by an Asset Holding Company; or
    - (bb) Rongomaiwahine or the Trust being disentitled for a period of more than 5 years to:
      - (i) the income from the Income Shares; or
      - (ii) the income from the Annual Catch entitlement arising from the Settlement Quota; or
      - (iii) the control or use of the annual catch entitlement arising from the Settlement Quota

must be approved by not less than 75% of the Adult Members of Rongomaiwahine who are entitled to vote and actually cast a valid vote in accordance with the voting procedures set out in Schedule 1 and no such resolution shall be passed unless notice in respect of those resolutions has been given in accordance with the Act.

- (b) Any resolution to:
- (i) transfer authorisations or coastal permits that are Aquaculture Settlement Assets (except where the proposed transfer is to a company that is wholly owned by the Trust as an Iwi Aquaculture Organisation); and
  - (ii) a request that Te Ohu Kai Moana Trustee Limited transfer authorisations or coastal permits that are Aquaculture Settlement Assets (except where the proposed transfer is to a company that is wholly owned by the Trust as an Iwi Aquaculture Organisation);

must be approved by not less than 75% of the Adult Members of Rongomaiwahine who are entitled to vote and actually cast a valid vote in accordance with the voting procedures set out in Schedule 1 and no such resolution shall be passed unless notice in respect of those resolutions has been given in accordance with the Maori Commercial Aquaculture Claims Settlement Act 2004.

- (c) In the case of a resolution not described in clauses 6.1(a), (b) a resolution shall be passed if more than 50% of the Adult Members of Rongomaiwahine who are entitled to vote actually cast a vote in favour of the resolution in accordance with the procedure determined and published by the Trustees and in the absence of the Trustees publishing the procedure by a show of hands at the General Meeting.

## 7. GENERAL MEETINGS OF IWI AND REPORTING

### Reporting Responsibilities

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

- (a) its own performance; and
- (b) the performance of any:
- (i) Asset Holding Company;
  - (ii) Fishing Enterprise;
  - (iii) joint venture or other entity that conducts business using the Settlement Quota or Income Shares; and
  - (iv) any other corporate entity (not including those referred to in clauses (i) to (iii) above),

in accordance with the provisions of this clause 7.

### Trust to hold an Annual General Meeting

7.2 Each year the Trust must hold a General Meeting at which it provides an opportunity for the Members of Rongomaiwahine to consider:

- (a) **Annual Report:** the annual report for the previous financial year, made available not less than 20 Working Days before the meeting, that reports against the objectives set out in the Annual Plan for the previous year, including:
- (i) information on the steps taken by the Trust to increase the number of Registered Members;
  - (ii) a comparison of the Trust's performance against the objectives set out in the Annual Plan, including:
    - (aa) changes in the value of the Trust Fund; and
    - (bb) profit distribution;
  - (iii) the annual audited Financial Report, prepared in accordance with generally accepted accounting practice, and accounting separately for Settlement Cash Assets;
  - (iv) a report giving information of the sales and exchanges of Settlement Quota in the previous year, including:
    - (aa) the quantity of Settlement Quota held by all Asset Holding

- Companies at the beginning of that year;
- (bb) the value of Settlement Quota sold or exchanged in that year;
- (cc) the identity of the purchaser or other party to the exchange;
- (dd) any transaction with Settlement Quota that has resulted in a registered interest by way of caveat or mortgage being placed over the Settlement Quota;
- (ee) the Settlement Quota interests that have been registered against the Quota shares of the Trust;
- (ff) the value of Income Shares sold, exchanged, or acquired; and
- (v) a report on the interactions of the Trust in fisheries matters:
  - (aa) with other entities within Rongomaiwahine;
  - (bb) with other Mandated Iwi Organisations;
  - (cc) with Te Ohu Kai Moana Trustee Limited; and
- (vi) any changes made under section 18 of the Act to constitutional documents of the Trust or those of its Asset Holding Companies; and
- (b) **Annual Plan:** an annual plan for the next financial year, that must include:
  - (i) the objectives of the Annual Plan;
  - (ii) the policy of the Trust in respect of the sales and exchanges of Settlement Quota;
  - (iii) any changes in that policy from the policy for the previous year;
  - (iv) any proposal to change the constitutional documents of any Corporate Entity or Subsidiary that is a fishing company;
- (c) **Asset Holding Company Annual Report:** in relation to every Asset Holding Company that receives Settlement Quota and Income shares (or other settlement assets), and in relation to any enterprise established by the Trust under clause 8.2 to conduct fishing operations utilising annual catch entitlement from the Settlement Quota, to harvest, process or market fish, or be involved in any joint venture for those purposes (each referred to in this clause 7.2 as an "enterprise") an annual report on:
  - (i) the performance of that enterprise;
  - (ii) the investment of money of that enterprise;
  - (iii) the annual plan of that enterprise, including:
    - (aa) the key strategies for the use and development of Rongomaiwahine's fisheries assets;
    - (bb) the expected financial return on those assets;
    - (cc) any programme to:
      - 1 manage the sale of annual catch entitlements derived from the Settlement Quota; or
      - 2 reorganise the Settlement Quota held by that enterprise by buying or selling Settlement Quota in accordance with the Act; and
- (d) any proposal to change the constitutional documents of any Asset Holding Company.

### 7.3 General Meetings of Members of Rongomaiwahine

- (a) **Annual General Meeting:** Each General Meeting must be:
- (i) in the case of the first General Meeting, held before the date referred to in clause 4.1(c); and
  - (ii) no more than 18 months apart.
- (b) **Special Meeting:** A General Meeting, called a Special Meeting, must be convened by the Trustees on the written request of:
- (i) the chairperson of the Trustees (or the deputy-chairperson if the chairperson is indisposed); or
  - (ii) not less than 50% of the Trustees; or
  - (iii) not less than thirty Adult Registered Members;
- provided that no meeting may be convened to consider:
- (iv) disposal of Income Shares (in accordance with section 70 of the Act);
  - (v) a request to Te Ohu Kai Moana Trustee Limited to treat Quota as Settlement Quota (in accordance with section 159 of the Act);
  - (vi) disposal of Settlement Quota (in accordance with section 162 of the Act); or
  - (vii) a request for rationalisation of Settlement Quota (under section 172(3) of the Act),
- unless the Trustees have resolved to:
- (viii) seek approval of the Adult Members of Rongomaiwahine (under section 70);
  - (ix) obtain the approval of the Adult Members of Rongomaiwahine (under section 159);
  - (x) obtain the prior approval of the Adult Members of Rongomaiwahine (under section 162); or
  - (xi) obtain the prior approval of the Adult Members of Rongomaiwahine (in accordance with section 172 of the Act),
- as the case may be, and
- (xii) the request states the objects for which the Special Meeting is required and is signed (including counterparts) by those requesting the Special Meeting; and
  - (xiii) the Special Meeting is held within 30 Working Days from the date the request was received by the Secretary.
- (c) **Notice of General Meeting:** Members of Rongomaiwahine shall be given not less than 30 Working Days notice of a General Meeting (including, to avoid doubt, a meeting to consider the matters in clause 7.2, or any meeting at which any of the matters in paragraphs (iv) to (vii) of clause 7.3(b), or any ratification of, or changes to, this Deed or amend the constitution of any Asset Holding Company in accordance with the requirements of sections 17 or 18 of the Act (as the case may be), are to be or are actually considered or voted on, in accordance with this Deed and otherwise in accordance with the requirements of the Act.

- (d) **Quorum:** No business shall be transacted at a General Meeting unless a quorum is present. The quorum at a General Meeting is:
- (i) 50% or more of the Trustees; and
  - (ii) Ten Adult Registered Members.
- (e) **Adjourned meeting:** If a quorum is not present within one hour of the time appointed for the start of a General Meeting the meeting is to stand adjourned until the same hour at the same place 20 Working Days following the adjournment of that meeting unless the Trustees otherwise determine.
- (f) **Chairperson:** The chairperson or, if the chairperson is unavailable, the deputy-chairperson, will preside over and have control of every General Meeting. If there is no chairperson or deputy-chairperson present at the time appointed for holding a General Meeting, or if either of those persons is unwilling to preside over the meeting, the Trustees present will choose one of their number to substitute as chairperson for that meeting.

**Information must be made available in writing**

- 7.4 Information referred to in clause 7.1 must be made available on request in writing by any Member of Rongomaiwahine.
- 7.5 Any Adult Registered Member may request in writing a copy of the Deed and a copy will be provided subject to such reasonable charges as the Trustees require.

**No derogation from purposes**

- 7.6 Clause 7 shall not derogate from the provisions of clause 3.4.

**8. ASSET HOLDING COMPANY AND FISHING ENTERPRISE**

**Trust must hold an Asset Holding Company**

- 8.1 The Trust must ensure that it has at least one Asset Holding Company and, to the extent and for so long as required by the Act, subject to the proviso in clause 7.3 and the provisions of clause 6.1(a)(ii) and clause 6.1(a)(iii), that Asset Holding Company is wholly owned by the Trust and performs the functions and complies with the requirements set out in sections 16 and 17 of the Act, which at the date of this Deed are that the Asset Holding Company:
- (a) must be and remain wholly owned and controlled by the Trust;
  - (b) must not permit more than 40% of its Directors to be Trustees;
  - (c) must have constitutional documents that have been approved by a simple majority of the Trustees as complying with the requirements of the Act;
  - (d) must have constitutional documents that have been ratified by a resolution passed by a majority of not less than 75% of the Trustees, whether or not present at the meeting at which that resolution is proposed;
  - (e) must receive and hold, on behalf of the Trust, for so long as they are to be retained, all Settlement Quota and Income Shares allocated by Te Ohu Kai Moana Trustee Limited to, or otherwise acquired by, Rongomaiwahine, under the Act;
  - (f) must provide dividends solely to the Trust;

- (g) must not undertake fishing or hold a fishing permit;
- (h) must not enter into any transactions relating to or affecting the Income Shares it holds unless the Trust has complied with its obligations under this Deed including without limitation clause 7.3 and sections 69 to 72 of the Act;
- (i) must not enter into any transactions relating to or affecting the Settlement Quota it holds unless the Trust has complied with its obligations under this Deed including without limitation clause 7.3 and sections 161 to 176 of the Act;
- (j) in its function of receiving and holding Settlement Quota and Income Shares is bound by all the requirements specified for Mandated Iwi Organisations in relation to those matters in the Act;
- (k) may establish one or more Subsidiaries to be its Subsidiary Asset Holding Companies;
- (l) may transfer to any such Subsidiary Asset Holding Company some or all of the assets received under clause 8.1(e); and furthermore:
- (m) any Subsidiary Asset Holding Company established under the preceding clauses:
  - (i) must be and remain wholly owned by the Asset Holding Company that established it;
  - (ii) must receive and hold, on behalf of the Asset Holding Company, Settlement Quota and Income Shares transferred to it by the Asset Holding Company under clause 8.1(I);
  - (iii) must provide dividends solely (but indirectly) to the Trust;
  - (iv) must not enter into any transactions relating to or affecting the Income Shares it holds unless the Trust has complied with its obligations under sections 69 to 72 of the Act;
  - (v) in its functions of receiving and holding Settlement Quota and Income Shares is bound by all the requirements specified for Mandated Iwi Organisations in relation to those matters in the Act;
  - (vi) may establish one or more Subsidiaries to be its Subsidiary Asset Holding Companies which it shall ensure complies with the obligations imposed on it in this clause 8.1; and
  - (vii) must not undertake fishing or hold a fishing permit,
 but the Asset Holding Company and its Subsidiaries may undertake any other activity or hold any other assets.

### **Establishment of Fishing Enterprise**

- 8.2 If the Trust wishes to establish its own fishing operation, utilising annual catch entitlement from its Settlement Quota, to harvest, process or market fish, or to be involved in a joint venture for those purposes, it must establish an enterprise which is separate from, but responsible to, the Trust to undertake those operations, which must not be the Asset Holding Company or a Subsidiary that receives the Settlement Quota.

### **Requirements of constitution**

- 8.3 The constitution of every Asset Holding Company or Fishing Enterprise or a Subsidiary of any of them must require that Company, Fishing Enterprise or

Subsidiary to:

- (a) hold its assets and all accretions to those assets whether of a capital or revenue nature on trust for the benefit of the Charitable Purposes of the Trust, such purposes to be promoted by the payment of dividends or other revenue or capital distributions directly or indirectly to the Trust;
- (b) present an annual plan and statement of corporate intent to the Trust;
- (c) report annually to the Trust;
- (d) have its accounts audited,

and may provide for the Trust to appoint up to two Trustees as Directors of that Asset Holding Company or Fishing Enterprise or Subsidiary, as the case may be, provided however that at no time may the Trustees comprise more than 40% of the total number of Directors of that Company or Fishing Enterprise or Subsidiary.

### **Commercial Aquaculture Activities**

- 8.4 If the Trust wishes to undertake commercial aquaculture activities (as that term is used in the Maori Commercial Aquaculture Claims Settlement Act 2004), it must establish an enterprise which is separate from, but responsible to, the Trust to undertake those activities, which may be the Asset Holding Company that receives the Settlement Quota and Income Shares.

## **9. DISPUTES PROCEDURE**

### **Disputes under the Act and General Disputes**

- 9.1 (a) If any dispute shall arise between a Member of Rongomaiwahine and the Trust, (other than a dispute provided for in clauses 9.1(b) or 9.3), and the parties are unable, within a reasonable time, to resolve the dispute, they must, acting in good faith, endeavour to agree on a process for resolving the dispute. Should the parties fail to reach agreement on the process to resolve a dispute relating to matters arising under the Act, that dispute shall be determined in accordance with Part 5 of the Act.
- (b) Any dispute of a general nature, being a dispute not covered by Part 5 of the Act, shall be referred to mediation, by a mediator to be agreed by the disputing parties, or failing agreement within 10 Working Days, to be appointed by the Registrar of the Maori Land Court or its successor. Should the matter not be resolved by mediation then the Trustees shall reconsider the decision, however any such re-consideration shall then be binding upon the parties.
- 9.2 The provisions of clause 9.1 shall not derogate from the rights or obligations of the Trust or any Member of Rongomaiwahine pursuant to the Trustee Act 1956 or any other Act or provision of law or equity.

### **Registration Disputes**

- 9.3 If the Trustees make a decision under clause 5.7 to either not register a person or to remove a person from the Members' Register, they must:
- (a) refer the matter for recommendation to a Committee, (established by the Trust, or appointed by the Trustees under this clause) and comprising three Rongomaiwahine kaumatua whom the Trustees consider are mature persons or elders knowledgeable in Rongomaiwahine whakapapa and

recognised as such by Members of Rongomaiwahine;

- (b) consider the recommendation of the Membership Committee under clause 9.3(a) and any determination of the Membership Committee made pursuant to a request under clause 5.6(d); and
  - (c) notify the person concerned of their decision, and, if requested by that person, of the principal reasons for that decision.
- 9.4 If the person concerned disputes that decision, that person may exercise their rights under section 180(1)(m) of the Act.

### **Proceedings of the Membership Committee**

- 9.5 The Membership Committee shall provide the person concerned, and any representative that person appoints, the opportunity to attend a meeting of the Membership Committee and present the applicant's account of why he or she should be registered or remain, on the Members' Register, as the case may be. Members of the Membership Committee shall have the discretion to take into account their own knowledge and such other matters as the Membership Committee considers will assist it in making a determination. The Membership Committee must also inform the person concerned of those other matters and take into account any submissions or information provided by that person on those matters.

### **Determination**

- 9.6 The determination of the Trustees on the registration of the person concerned shall be final and binding on that person and the Trust, subject to the provisions of section 180(1)(m) of the Act.

## **10. WINDING UP OF TRUST**

- 10.1 If at any time the Trustees decide that for any reason it is no longer practicable or desirable to carry out the purposes of the Trust the Trustees may decide to wind up the Trust and to vest the assets of the Trust in such one or more charitable bodies in New Zealand for Charitable Purposes in such manner, upon such terms, and in such proportions as the Trustees may decide, provided that:
- (a) any such vesting must comply with the Act;
  - (b) a resolution supporting the winding up of the Trust must be put and passed by a majority of 75% of the Members of Rongomaiwahine who are entitled to vote and actually cast a valid vote in accordance with the voting procedures set out in Schedule 1 and no such resolution shall be passed unless Public Notice in respect of that resolution has been given; and
  - (c) if the Trust is incorporated under the Charitable Trusts Act 1957 the assets of the Trust shall be disposed of in accordance with the provisions of that Act.

## **11. ALTERATION OF TERMS OF DEED**

### **Changes to the Deed**

- 11.1 The Trustees have power to amend, revoke or add to the provisions of the Deed provided that:

- (a) no amendment may be inconsistent with the Act;
- (b) no amendment may be made earlier than two years after the date on which the Trust is recognised by Te Ohu Kai Moana Trustee Limited as the Mandated Iwi Organisation for Rongomaiwahine if the amendment relates to any matter provided for by or under the Act unless the amendment is required as a consequence of a rule made or amended under section 25 of the Act;
- (c) an amendment is only promoted if a resolution that the amendment is for the collective benefit of all Members of Rongomaiwahine is put and passed at a General Meeting in accordance with clause 6.1;
- (d) notwithstanding the terms of this Deed, no amendment to this Deed shall be made, and if purported to be made shall be of no legal effect, if the consequence of that amendment is to prejudice in a material manner the Trust's entitlement to charitable status under the law of New Zealand, or its entitlement to an income tax exemption under the Income Tax Act 2004 in respect of income derived by it. Prior to any resolution to amend this Deed being placed before Members of Rongomaiwahine competent advice shall be obtained by the Trustees confirming that the proposed amendments will not jeopardise the charitable status of the Trust or its entitlement to an income tax exemption on income derived by it.

#### **Changes to constitutions of Corporate Entities**

- 11.2 To the extent any proposal for the amendment of the constitutional documents of the Asset Holding Company relates to a matter provided for in the Act, such amendment:
- (a) must not be made earlier than two years after the date on which the Trust is recognised by Te Ohu Kai Moana Trustee Limited as the Mandated Iwi Organisation for Rongomaiwahine unless the amendment is required as a consequence of a rule made or amended under section 25 of the Act;
  - (b) must be consistent with the Act;
  - (c) may only be promoted if the amendment is put and passed at a General Meeting in accordance with clause 6.1; and
  - (d) must not amend the requirement in clause 8.3(a) in a manner which would jeopardise the charitable status of a Corporate Entity.
- 11.3 Any Adult Member of Rongomaiwahine (including a Trustee) may put forward in writing proposals for changes to this Deed for consideration by the Trustees and the Trustees shall consider that proposal where they are satisfied that, in accordance with clause 5.5, the person is a Member of Rongomaiwahine.

#### **Notification to Members of Rongomaiwahine**

- 11.4 Any amendment or proposal under clauses 10, 11 or 12 must be notified to Members of Rongomaiwahine in the Trust's next communication to them.

### **12. RESETTLEMENT**

#### **Power to resettle**

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

- (a) any such settlement or resettlement must comply with the Act;
- (b) the resettlement is upon trust for the benefit of all Members of Rongomaiwahine;
- (c) the resettlement may only be promoted if a resolution supporting it is put and passed at a General Meeting by a majority of 75% of the Members of Rongomaiwahine who are entitled to vote and actually cast a valid vote in accordance with the voting procedures set out in Schedule 1 and no such resolution shall be passed unless Public Notice in respect of that resolution has been given;
- (d) the resettlement is upon trusts for Charitable Purposes.

### **13. MAJOR TRANSACTIONS**

13.1 The Trust must not enter into a Major Transaction unless that Major Transaction:

- (a) has been approved by a majority of Adult Members of Rongomaiwahine who vote at a General Meeting for which notice has been properly given under clause 13.2; or
- (b) is contingent upon approval by a majority of Adult Members of Rongomaiwahine who vote at a General Meeting and the Major Transaction is subsequently approved by Special Resolution at a General Meeting for which notice has been properly given under clause 13.2; and
- (c) otherwise complies with the requirements of the Act.

#### **Notice to Members of Rongomaiwahine**

13.2 At least 30 Working Days before any General Meeting, at which a resolution shall be voted on in accordance with clause 13.1, the Trust must give Public Notice of:

- (a) the fact that the Trustees want to enter a Major Transaction;
- (b) the availability of Voting Papers for Adult Members of Rongomaiwahine unable to attend the General Meeting and the date by which and address to which completed Voting Papers must be sent in order to be validly cast;
- (c) the date, time and venue of the General Meeting at which the resolution will be put before the Members of Rongomaiwahine; and
- (d) the availability, on written request to the Trust, of full particulars (excluding any Confidential Information) regarding the Major Transaction..

**SIGNATURE**

**Signed by Trustee:**

**Witnessed by:**

\_\_\_\_\_  
Signature of trustee

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of trustee

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

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Signature of trustee

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Signature of witness

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Name of trustee

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Occupation

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Signature of witness

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Signature of witness

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Signature of trustee

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Signature of witness

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Signature of trustee

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Name of trustee

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Signature of witness

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Occupation

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City/town of residence

**SCHEDULE 1****PART A: Election Processes****Time of Elections**

1. The Trustees must arrange and conduct an election of Trustees in accordance with the electoral provisions set out in this Schedule 1 and in a manner consistent with the electoral provisions in Schedule 1 of the Rongomaiwahine Iwi Trust Deed, at such times as shall ensure that:
  - (a) the first election of Trustees shall have been held at such time and shall ensure that the final result of the first election is declared not later than the date referred to in clause 4.1 of the Deed; and
  - (b) no person who is an elected Trustee under this Deed shall hold office for a period longer than 4 years without facing re-election, however retiring Trustees shall be eligible for re-election. To ensure orderly rotation of Trustees, the Trustees will retire by rotation as follows:
    - (i) Trustees elected on 16 December 2018 shall all retire on the date that a further election is conducted simultaneously with the election of the First Elected Trustees of the Rongomaiwahine Iwi Trust, being within four months of the Tatau Tatau unit trust model being ratified;
    - (ii) At the end of the second AGM, half of the Trustees for the time being or the number nearest to half will retire from office and the remaining Trustees will serve their full four year term;
    - (iii) The Trustees to retire from office shall be determined by agreement among the Trustees, but if the Trustees cannot agree, then the order shall be determined by lot, provided that no more than one Trustee shall be drawn by lot from each Marae that has elected a representative to the Trust.

**Eligible votes for Elections**

2. All Adult Members of Rongomaiwahine shall be eligible to vote in the election of Trustees and any votes cast as per this Schedule 1 shall be received:
  - (a) by Voting Paper (not proxy) at a General Meeting; and
  - (b) by Voting Paper received by post before 5pm on the working day prior to the General Meeting.

**Nominations for Trustee**

3. The Trust must, no later than 3 months prior to the General Meeting at which the election of Trustees will be held, publicly notify Members of Rongomaiwahine that nominations for the position of Trustee may be lodged. Any such nomination must include the written signature of both the candidate and the nominator and may not be withdrawn after it has been received. The nomination must:
  - (a) contain details of the nominee's full name, address and contact number;
  - (b) include a declaration signed by the nominee that declares that:
    - (i) the nominee is not a person who is precluded from holding office

as a Trustee on the basis of one or other of these matters specified in clause 4.2 of the Deed; and

- (ii) the nominee is endorsed by one of the seven Marae, and such declaration must be signed by the chairperson of the Marae Trustees which has endorsed the nomination;
  - (iii) the nominee agrees to fulfil the role of a Trustee of the Rongomaiwahine Iwi Trust in accordance with the terms of that Trust;
- (c) be accompanied by:
- (i) a brief statement containing details of experience and objectives relevant to the position of Trustee; and
  - (ii) a declaration from the chairperson of the Marae Trustees which has supported the nomination confirming that support.

**Time for Nominations**

4. Nominations for the position of Trustee may only be made by Adult Registered Members and must be received at the office of the Trust no later than 1 month after the notice of nominations in clause 3, with an election to be called by giving not less than 30 Working Days notice.

**PART B: All Votes**

**Notice of Voting and General Meeting**

5. Any vote taken under clause 6.1(a) and (b) of this Deed must be publicly notified not less than 30 Working Days before the date of the vote. If the vote is to be at a General Meeting, the notice procedures must comply with those specified in the Act, which at the date of this Deed are:
- (a) Public Notice that includes:
    - (i) the date, time, venue and agenda of the General Meeting, the place where explanatory documents may be viewed or obtained, and any other information specified in the Act;
    - (ii) where relevant advice that a vote is to be taken to ratify or amend the constitutional documents of the Trust;
    - (iii) advice on the method by which the vote will be counted;
    - (iv) where relevant, the matter or issues on which the vote is to be taken; and
  - (b) Private Notice to every Adult Member of Rongomaiwahine who has requested such from the Trust in writing, that gives:
    - (i) the information in the preceding sub-paragraph of this Schedule;
    - (ii) a copy of the Voting Paper;
    - (iii) the address and return date for the Voting Paper; and

- (c) Private Notice to every Adult Registered Member if there is to be a vote taken to ratify the constitutional documents of the Trust that gives the information in sub paragraphs 5(a)(i) to (iii) and 5(b)(ii) to (iii).

#### **Valid votes**

- 6. The conduct of a vote of Members of Rongomaiwahine at every General Meeting taken under clauses 6.1(a), 6.1(b), 10.1 and 12.1 of this Deed must provide that:
  - (a) in order for a vote to be validly cast, the person casting it must:
    - (i) be a Registered Member, cast their vote on a Voting Paper on which the Trustees have recorded the registration number of the Registered Member; or
    - (ii) where the person is not registered at the time of the vote, complete a Registration Form which shall be attached to and form part of the Voting Paper; and
  - (b) no vote cast under either paragraph 2 or paragraph 6(a) of this Schedule 1 shall be finally counted unless the details provided on the Voting Paper (except the ancillary information) are correct and the affiliation of the voter to Rongomaiwahine has been confirmed either:
    - (i) because that person was an Adult Registered Member at the time his or her vote was cast; or
    - (ii) if that person applied at the time that his or her vote was cast to become an Adult Registered Member, because that person's registration was accepted in accordance with clause 5.6,
    - (ii) if that person applied at the time that his or her vote was cast to become an Adult Registered Member, because that person's registration was accepted in accordance with clause 5.6,
  - (c) any vote cast under clause 6.1(c) shall be cast by a show of hands at the General Meeting provided that the Trustees have not published an alternative voting procedure pursuant to clause 6.1(c). However those exercising such a vote may be called upon by the Trustees to prove their affiliation to Rongomaiwahine and that they are over 18 years of age.

#### **Secret Ballots**

- 7. All votes shall be conducted so as to ensure that:
  - (a) the manner in which a vote is cast shall be known to the returning officer or persons assisting the returning officer, but not to others;
  - (b) the returning officer and those persons shall undertake to keep that information confidential; and
  - (c) the Voting Papers are destroyed by the returning officer after the date of completion of the final count under clause 6(b), plus a period of one month thereafter.