

DEED

Ngati Koata Trust

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DEED dated

2011

PARTIES: Matthew Hippolite, George Elkington, Melanie McGregor, Jeanette Katene, Ora Kohe, Celia Hawea, Ngawai Webber

INTRODUCTION

- A. This Deed amends the previous charter of Ngati Koata Trust and adds additional purposes which among other things, is to act as the Mandated Iwi Organisation of Ngati Koata for the purpose of the Māori Fisheries Act 2004, and to act as the Iwi Aquaculture Organisation for the purpose of the Māori Commercial Aquaculture Claims Settlement Act 2004.
- B. This Deed sets out the functions and purposes, and provides for the control, governance and operation of Ngati Koata Trust.

TRUST TERMS

1. INTERPRETATION

Definitions

- 1.1 In this Deed, unless the context otherwise requires:

Act means Māori Fisheries Act 2004.

Adult Member means a Member of Ngati Koata who is over the age of 18 years.

Adult Registered Members means Adult Members who are registered on the Members Register and who can vote at General Meetings.

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

Asset Holding Company means a company established by the Trust, in accordance with clause 3.4, and which for the time being would be a company 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 Purposes 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.

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 Ngati Koata.

Corporate Entity includes the Asset Holding Company and any Subsidiary of it, 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 the Corporate Entity.

Fishing Enterprise means a fishing operation established by Ngati Koata Trust 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 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 Ngati Koata 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 Ngati Koata.

Iwi Aquaculture Organisation has the meaning given to it in the Māori 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 20% 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 20% 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 20% of the value of the Trust Fund before the transaction;
- (d) The disposition of, or an agreement to dispose of, whether contingent or not, Income Shares or Settlement Quota by the Trust to Te Ohu Kai Moana Trustee Limited or an entity within the Te Ohu Kai Moana Group or another Mandated Iwi Organisation under the Act; or
- (e) A transaction or series of transactions, or an agreement 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:
 - (i) the sale of Income Shares or Settlement Quota by the Trust; or
 - (ii) Ngati Koata or the Trust being disentitled for a period of more than 5 years to:
 - (aa) the income from the Income Shares; or
 - (bb) the income from the ACE arising from the Settlement Quota; or
 - (cc) the control or use of the ACE arising from the Settlement Quota,

but does not include:

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

- (g) Any acquisition or disposition of Property by the Trust from or to any company which is wholly owned by the Trust; or
- (h) 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; or
- (i) Any transfer from the Crown as a Treaty Settlement.

provided however that:

- (j) 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 20% of the value of the Trust Fund for the purpose of securing the repayment of money or the performance of an obligation; and
- (k) For the purposes of paragraphs (a) to (c), the value of the Trust's Assets shall be calculated based on the value of the assets of the Trust Iwi Group and in assessing the value of any contingent liability regard must be had to all its circumstances that the Trustee knows, or ought to know, affect, or may affect, the value of the contingent liability;

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

Members of Ngati Koata means persons who affiliate to Ngati Koata through descent from a primary ancestor of Ngati Koata, (the identity of such primary ancestor shall be determined pursuant to clause 5 or, if necessary, pursuant to clause 10)

Membership Committee means the committee appointed under clause 10.2.

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

Ngati Koata means the Iwi comprising every person who is descended from a primary ancestor of Ngati Koata.

Private Notice means a notice-

- (a) sent by any means that is private to the recipient; and
- (b) complies with Kaupapa 8 of Schedule 1.

Public Notice means a notice that-

- (a) is 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 8 of Schedule 1.

Registered Member means any member of Ngati Koata who is entered in the Members' Register.

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

Secretary means any person appointed under clause 4.22 to perform general secretarial and administrative functions for the Trust.

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

Settlement Quota means the quota shares within the meaning of the Act that are allocated and transferred to the Asset Holding Company on behalf of Ngati Koata Trust Inc.

Subsidiary means any Subsidiary (as defined by section 5 of the Companies Act 1993) of a Corporate Entity and includes any person or persons (other than a Subsidiary as so defined) that is controlled by a Corporate Entity and includes a separate enterprise that is responsible to the Mandated Iwi Organisation, as that term is used in section 32(3) of the Māori Commercial Aquaculture Claims Settlement Act 2004.

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

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

Te Pataka a Ngati Koata Trust and "Runanga" means the entity established by Ngati Koata to receive certain Treaty Settlement Assets.

Tikanga means the customary values and practices of Ngati Koata.

Trust means Ngati Koata 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 3.4.

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 and which 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 application in accordance with clause 5.3 of this deed.

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 recognised by this Deed is Ngati Koata Trust.

3. KAUPAPA/PURPOSES

Purposes

- 3.1 The purposes for which the Ngati Koata Trust is established are to receive, hold, manage and administer the Trust Fund for every charitable purpose benefiting Ngati Koata whether it relates to the relief of poverty, the advancement of education or religion or any other matter beneficial to the Ngati Koata community .

Principles

- 3.2 Subject to clause 3.1, the Trust shall:
- (a) protect the Rangatiratanga of Ngati Koata.
 - (b) protect preserve and sustainably manage the taonga within the Ngati Koata Rohe.
 - (c) identify and protect Waahi Tapu areas of Ngati Koata and areas of significance within the Ngati Koata rohe.
 - (d) promote and enhance Ngati Koata commitment to the terms of the Treaty of Waitangi.
 - (e) support the improvement of the social and economic welfare of Ngati Koata, by promoting improved health, the pursuit of education, and long term employment.
 - (f) support the cultural needs of Ngati Koata.
- 3.3 In the event of any conflict between clauses 3.1 and 3.2, the provisions of clause 3.1 shall prevail.

Other Purposes

- 3.4 Incidental to, and to give effect to the purposes in clause 3.1, the Trustees shall:
- (a) directly receive and hold, on behalf of Ngati Koata on the trusts set out in clause 3.1, settlement assets allocated and grants made to Ngati Koata by Te Ohu Kai Moana Trustee Limited, other than assets referred to in section 16(1)(c) of the Act, which other assets are to be transferred to an Asset Holding Company;

- (b) receive distributions from Te Putea Whakatupu Trustee Limited and Te Wai Māori 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 function 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 Ngati Koata 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) clause 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 Ngati Koata in relation to aquaculture claims and 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 the Iwi, irrespective of where those members reside, including:
 - (i) directly receive and hold, on behalf of Ngati Koata Settlement Assets allocated to Ngati Koata by Te Ohu Kai Moana Trustee Limited in

accordance with the Māori Commercial Aquaculture Claims Settlement Act 2004; and

- (ii) enter into agreements with other iwi aquaculture organisations in relation to the allocation of Settlement Assets;
- (i) if Ngati Koata determine, directly receive and hold, on behalf of Ngati Koata on the trusts set out in clause 3.1, 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.
- (k) An iwi aquaculture organisation must not undertake commercial aquaculture activities (as that term is used in section 32(3) of the Māori Commercial Aquaculture Claims Settlement Act 2004) except through a separate commercial enterprise that is responsible to Ngati Koata Trust.

Strategic Governance

3.5 The Trust must exercise strategic governance over:

- (a) its Asset Holding Companies, any Subsidiary of an Asset Holding Company, 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 Ngati Koata;
 - (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 Trust's Asset Holding Companies or their Subsidiaries; and
 - (bb) reorganise the Settlement Quota held by Asset Holding Companies or their Subsidiaries, 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 3.5 or any other provision of this Deed prevent the Trust or any Subsidiary of the Trust 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

3.6 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 clause 15, 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 The Trust must have 7 Trustees, of which, 4 Trustees must be Adult Members of Ngati Koata Trust. All Trustees must be over 18 years of age and represent the interests of all Members of Ngati Koata, irrespective of where those Members reside.
- 4.2 All Trustees must be elected by Adult Members of Ngati Koata in accordance with Schedule 1 of this Deed, except that the first Trustees shall be those persons who have signed this Deed as parties, and those first Trustees shall remain in office until their term expires and elections are held in accordance with Schedule 1 to this deed.

Election of Alternates

- 4.3 Two (2) Adult Registered Members of Ngati Koata (not having been elected Trustees) shall be elected Alternates in accordance with Schedule 1 of this Deed to represent the interests of all Iwi Members should a Trustee for any reason be unable to perform their duties as Trustee.

Time of Elections

- 4.4 Where the number of Trustees of Ngati Koata descent falls below 4 or where the total number of Trustees falls below 5, the following provisions apply:

(a) Ordinary Vacancies

Where the office of Trustee is to cease in accordance with clause 4.6(a) the Trustees must hold a General Meeting for the purpose of electing a new Trustee or Trustees before or upon the cessation of the term of office for that Trustee or Trustees, pursuant to the provisions in the Schedule 1 to this Deed.

(b) Extraordinary vacancies

Where a Trustee ceases to hold office in accordance with clause 4.6(b) to 4.6(g) (or for any other reason apart from that contained in clause 4.6(a)) Trustees may appoint an Alternate (elected in accordance with clause 4.3) to the office of Trustee, provided that the composition of Trustees complies with clause 4.1. However, where such appointment would offend clause 4.1 the Trustees shall hold a General Meeting for the purpose of electing a new Trustee or Trustees in order that the composition of Trustees complies with clause 4.1 of this Deed, such election is to be conducted pursuant to the provisions in the Schedule 1 to this Deed.

- 4.5 No person shall hold the office of Trustee for more than three years. However retiring Trustees are eligible for re-election in accordance with the provisions of this Deed.

Cessation of office of Trustee

- 4.6 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 or 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
- (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; or
- (g) dies.

4.7 The Trustee concerned shall cease to hold office:

- (a) in a case where sub-paragraph 4.6(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 4.6(b) applies from the date the notice of retirement shall have been delivered to the Trust;
- (c) in the case where sub-paragraph 4.6(c) applies from the date of the first meeting of Trustees after that Trustee's third consecutive absence without leave; and

4.8 in cases where sub-paragraphs 4.6(d) to 4.6(g) 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. 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 election 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 4.6(a)) shall continue to act until that vacancy has been filled.

Powers of Trustees

4.9 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 and Income Shares and Settlement Assets.
- (c) accordingly, 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 4.9;
- (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.

4.10 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 Ngati Koata 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 4.16) 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 Ngati Koata and in any website, letterhead, formal written contract or printed publications of the Trust.

Meetings of Trustees

- 4.11 The Trustees shall meet to conduct business at such intervals as the Trustees may decide, but not less frequently than 4 times in each year. The Trustees may invite to such meeting whomever the Trustees may decide will assist with their deliberations.
- 4.12 Except as expressly provided otherwise by this Deed any matter requiring decision at a meeting of the Trustees shall be decided by a simple majority of the Trustees personally present and voting on the matter.
- 4.13 In the event of an equality of votes the Chairperson shall not have a second or casting vote.
- 4.14 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.
- 4.15 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.
- 4.16 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.
- 4.17 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 4.16, 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.
- 4.18 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 4.18 as to meetings of the Trustees shall apply to such meetings provided the following conditions are met:
- (a) each Trustee shall be entitled to notice of such a meeting and to be linked by electronic means for the purposes of the meeting;
 - (b) 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;
 - (c) at the commencement and conclusion of the meeting the Chairperson must call upon each Trustee to acknowledge their attendance;
 - (d) 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;
 - (e) 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.
- 4.19 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. A minute of the proceedings of any meeting

by telephone or other electronic means of communication shall be sufficient evidence of the observance of all necessary formalities if the minute of the meeting signed by the Chairperson of the meeting shall contain a certificate to that effect.

Chairperson, Deputy Chairperson and Secretary

- 4.20 The Trustees shall elect one Trustee to act as Chairperson from year to year.
- 4.21 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.
- 4.22 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.

Delegation of powers

- 4.23 The Trustees may delegate in writing to any committee of any Trustee, 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:
 - (a) the Trustees may not delegate strategic governance; and
 - (b) in the case of any entity appointed under clause 4.10(d) make available a Trustee to discharge a chief executive's duties, the delegation shall be personal to the person provided by that entity in that capacity
- 4.24 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;
- 4.25 The Trustees may revoke wholly or partly any delegation of the powers of the Trustees at any time;
- 4.26 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;
- 4.27 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.

Accounts and Audit:

- 4.28 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;
- 4.29 The Trustees shall cause true accounts for each financial year to be kept in such manner as the Trustees may decide 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; and
- 4.30 Nothing in clauses 4.28 and 4.29 shall derogate from any other obligations of the Trustees in respect of accounts and audits.

Reliance on Advice

- 4.31 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 Ngati Koata 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) committee of Trustees appointed and acting in accordance with clause 4.23.
- 4.32 Clause 4.31 applies only if the Trustee:
- (a) acts in good faith;
 - (b) makes proper inquiry where the need for inquiry is indicated by the circumstances; and
 - (c) has no knowledge that such reliance is unwarranted.

Disclosure of Interest

- 4.33 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

- 4.34 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 Subsidiary of the Trust;
 - (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/Hapu/Whanau

- 4.35 Notwithstanding clauses 4.33 and 4.34, no Trustee will be interested in a matter where that Trustee is a member of a Iwi/Hapu/Whanau and where his or her interest is not different in kind from the interests of other members of that Iwi/Hapu/Whanau.

Recording of Interest

- 4.36 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 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

- 4.37 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);
- (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 that Trustee's connection with that entity is in any way attributable to that Trustee's connection with the Trust;

provided that:

- (e) 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 4.10(d), the provisions of that clause have been complied with;
- (f) 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:
 - (i) the amount thereof received by each Trustee or any such firm or entity;
 - (ii) the nature of the reimbursement and the nature and extent of the services rendered or time expended;
 - (iii) the method of calculation of the reimbursement, remuneration or charge; and
- (g) in the case of an appointment referred to in clause 4.10(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.

4.38 Subject to clause 4.37, 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 company by which any business of the Trust is carried on;
- (c) a settlor or a trustee of any trust that is a shareholder of any company by which any business of the Trust is carried on;
- (d) any associated person (as defined in section OD 7 of the Income Tax Act 1994) of either a director, or any person referred to in clauses 4.33 to 4.36,

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 4.38 shall be void.

4.39 The Trustees shall require that a clause to the same effect as clause 4.33 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

4.40 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.

Incorporation

4.41 The Trustees may at any time apply for incorporation under Part II of the Charitable Trusts Act 1957 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.

4.42 Upon incorporation under the Charitable Trusts Act 1957 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.

4.43 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 NGATI KOATA

Members' Register of Ngati Koata

5.1 The Trustees must:

- (a) have, and maintain in a current state, a register of Members of Ngati Koata:

- (i) that includes the name, date of birth, and contact details of every Member of Ngati Koata who applies for registration;
 - (ii) that is available for inspection by Members of Ngati Koata 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 the Ngati Koata entered in that register; and
- (b) make ongoing efforts to register all Members of Ngati Koata on the Members' Register.

5.2 The Trustees may enter in the Members' Register any existing member of Ngati Koata 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 necessarily being the official Ngati Koata Trust Registration form made by:
 - (i) Adult members, on their own behalf or by their legal guardian at the time of the application; and
 - (ii) other members of Ngati Koata, who were not Adult Members of the Iwi 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 Ngati Koata by an Adult Member 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, on their own behalf or by their legal guardian; and
- (b) other Members of Ngati Koata, who are not Adult Members of the Iwi, by their parent or legal guardian on their behalf; and
- (c) other Members of Ngati Koata by an Adult Member 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 official Ngati Koata Trust Registration form.

5.4 Any Adult Member, at or at any time after the time of, application for registration as a Registered Member may request in writing that they wish 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 Subsidiary 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 Ngati Koata

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 an application has been made (either in accordance with clause 5.3 and lodged with the office of the Trust or on a Voting Paper stating their name, date of birth and such details as are required by the Trustees to enable the Trustees to contact that person); and
- (b) who in the reasonable opinion of the Trustees affiliates to Ngati Koata through descent from a primary ancestor of Ngati Koata.

5.6 The Trustees:

- (a) may require any person seeking registration as a Member of Ngati Koata to provide evidence verifying his or her affiliation to Ngati Koata through descent from a primary ancestor of Ngati Koata 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 Ngati Koata through descent from a primary ancestor of Ngati Koata 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 Ngati Koata; and
- (d) without limiting the foregoing, may request the Membership Committee to:
 - (i) determine who is the primary ancestor, or are primary ancestors, of Ngati Koata; and
 - (ii) determine the Tikanga of Ngati Koata by which Whāngai are to affiliate to Ngati Koata by descent from a primary ancestor of Ngati Koata.

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 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 register, the person concerned may dispute that decision of the Trustees, and clause 10 shall apply.

Registration not Necessary

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

De-registration by Member of Ngati Koata

- 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 registered Trust office.

Notice Not Necessary

- 5.11 It shall not be necessary for the Trust to provide Private Notice to Members of Ngati Koata where the trustees believe on reasonable grounds (and have evidence supporting that belief), that the Members' contact details are not current.

6. VOTING PROCEDURE

- 6.1 The Trustees must determine the procedures which shall govern the conduct of all voting and elections provided for in this Deed. Those procedures must comply with the provisions of Schedule 1.

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 the reporting responsibilities in relation to:
- (a) its own performance; and
 - (b) the performance of:
 - (i) the Asset Holding Company;
 - (ii) the Fishing Enterprise;
 - (iii) any joint venture or other entity that conducts business using the Settlement Quota or Income Shares;
 - (iv) any Corporate Entity,

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 Ngati Koata 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 Members of Ngati Koata; and
 - (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's assets; and
 - (bb) profit distribution; and
 - (iii) the annual audited financial report, prepared in accordance with generally accepted accounting practice, and accounting separately for settlement cash assets; and
 - (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 the Asset Holding Company of the Trust at the beginning of that year; and
 - (bb) the value of Settlement Quota sold or exchanged in that year; and
 - (cc) the identity of the purchaser or other party to the exchange; and
 - (dd) any transaction with Settlement Quota that has resulted in a registered interest by way of caveat or mortgage being placed over the quota; and
 - (ee) the Settlement Quota interests that have been registered against the quota shares of the Trust; and
 - (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 the Ngati Koata; and
 - (bb) with other Mandated Iwi Organisations; and
 - (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 or any Subsidiaries of the 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; and
 - (ii) the policy of the Trust in respect of the sales and exchanges of Settlement Quota; and
 - (iii) any changes in that policy from the policy for the previous year; and

- (iv) any proposal to change the constitutional documents of any fishing company owned by the Trust; and
- (c) **Asset Holding Company Annual Report:** in relation to every Asset Holding Company of the Trust or any Subsidiary of an Asset Holding Company that receives settlement assets, and in relation to any enterprise established by the Trust under clause 8.2 to conduct fishing operations utilising annual catch entitled from the Trust's Settlement Quota, to harvest, process or market fish, or be involved in any joint venture for those purposes, (each referred to in clause 7.1 as an "enterprise") an annual report on:
 - (i) the performance of that enterprise; and
 - (ii) the investment of money of that enterprise; and
 - (iii) the annual plan of that enterprise, including:
 - (aa) the key strategies for the use and development of Ngati Koata's fisheries assets;
 - (bb) the expected financial return on those assets;
 - (cc) any programme to:
 - manage the sale of annual catch entitlements derived from the Settlement Quota; or
 - reorganise the Settlement Quota held by that enterprise by buying or selling quota in accordance with the Act; and
- (d) any proposal to change the constitutional documents of any Asset Holding Company, or any of their Subsidiaries

General Meetings of Members of Ngati Koata

7.3 Annual General Meeting: Each General Meeting must be no more than 18 months apart. Notice of a General Meeting must be in accordance with clause 9.

7.4 Special Meeting: A General Meeting, called a Special Meeting, must be convened by the Trustees on the written request of:

- (a) the Chairperson of the Trustees (or the deputy-Chairperson if the Chairperson is indisposed); or
- (b) not less than 50% of the Trustees; or
- (c) not less than 50 Adult Registered Members of Ngati Koata; or
- (d) not less than 10 members of the Kaumatua Council,
provided that no meeting may be convened to consider:
- (e) disposal of Income Shares in accordance with section 70 of the Act;
- (f) a request to Te Ohu Kai Moana Trustee Limited to treat Quota as Settlement Quota in accordance with section 159 of the Act;
- (g) disposal of Settlement Quota in accordance with section 162 of the Act; and

- (h) a request for rationalisation of Settlement Quota under section 172(3) of the Act, unless the Trustees have resolved to:
 - (i) seek approval of the Adult Members of the Iwi under section 70;
 - (j) obtain the approval of the Adult Members of the Iwi under section 159;
 - (k) obtain the prior approval of the Adult Members of the Iwi under section 162; or
 - (l) obtain the prior approval of the Adult Members of the Iwi in accordance with section 172 of the Act, as the case may be; and
 - (m) the request must state the objects for which the Special Meeting is required and be signed (including counterparts) by those requesting the Special Meeting; and
 - (n) notice must be given by the Trustees in accordance with the provisions of clause 9.
- 7.5 **Quorum:** No business shall be transacted at a General Meeting unless a quorum is present. The quorum at a General Meeting is:
- (a) 50 % or more of the Trustees; and
 - (b) 20 Adult Registered Members of Ngati Koata.
- 7.6 **Adjourned meeting:** If a quorum is not present within one hour of the time appointed for the start of a General Meeting:
- (a) 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.
- 7.7 **Chairperson:** The Chairperson or, failing him or her, 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 any of their number to substitute as Chairperson for that meeting.
- 7.8 **Resolution:** A resolution shall be passed at a General Meeting, as follows:
- (a) except in the case of resolutions described in clause 7.8(b) and (c), by more than 50% of the Adult Members of Ngati Koata who are entitled to vote and actually cast a vote in accordance with the voting procedures established in accordance with clause 6.1;
 - (b) in the case of a resolution for:
 - (i) ratification of, or changes to, this Deed in accordance with the requirements of sections 17, and 18 as the case may be, of the Act;
 - (ii) disposal of Income Shares in accordance with section 70 of the Act;
 - (iii) Quota to be treated as Settlement Quota in accordance with section 159 of the Act;
 - (iv) disposal of Settlement Quota in accordance with section 162 of the Act; and

- (v) a request for rationalisation of Settlement Quota under section 172 of the Act,

by not less than 75% of the Members of Ngati Koata who are entitled to vote and actually cast a vote in accordance with the voting procedures established in accordance with clause 6.1, but no such resolution shall be passed unless notice in respect of those resolutions has been given in accordance with the Act;

- (c) in the case of a resolution for:

- (i) transfer of authorisations or coastal permits that are settlement assets (except where the proposed transfer is to a company that is wholly owned by the iwi aquaculture organisation); and
- (ii) a request that Te Ohu Kai Moana Trustee Limited transfer authorisations or coastal permits that are settlement assets (except where the proposed transfer is to a company that is wholly owned by the iwi aquaculture organisation);

by not less than 75% of the Members of Ngati Koata who are entitled to vote and actually cast a vote in accordance with the voting procedures established in accordance with clause 6.1, but no such resolution shall be passed unless notice in respect of those resolutions has been given in accordance with the Māori Aquaculture Act;

Information Must Be Made Available in Writing

- 7.9 Information referred to in clause 7.1 must be made available on request in writing by any Member of Ngati Koata.
- 7.10 Any Adult Registered Member of Ngati Koata 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

- 7.11 Clause 7 shall not derogate from the provisions of clause 3.6.

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 that, to the extent and for so long as required by the Act subject to the provisos in clauses 7.3 to 7.8 and the provisions of clause 7.8(b) and clause 7.8(c), 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 have more than 40% of its Directors who are also Trustees elected in accordance with this Deed;
 - (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 Ngati Koata 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 clauses 7.3 to 7.8, 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 clauses 7.3 to 7.8, 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 that Subsidiary some or all of the assets received under clause 8.1(e);
- (m) any Subsidiary established under the preceding clause:
 - (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(l);
 - (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 obligation 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 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 incorporate intent to the Trust;
 - (c) report annually to the Trust; and
 - (d) have its accounts audited;

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

Commercial Aquaculture Activities

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

Other Commercial Entities

- 8.5 For the avoidance of doubt, the Trust may establish such other Corporate Entities as they may require to undertake activities other than those activities referred to in clauses 8.2 and 8.4 on behalf of the Trust.

9. NOTICE TO MEMBERS OF NGATI KOATA

- 9.1 Notice of a General Meeting or Special General Meeting shall be given not less than 15 working days prior.
- 9.2 Where elections are to be held at a General Meeting or Special General Meeting the following notice shall be given for nominations:
- (a) Nominations are to be called not less than 30 working days prior to the General Meeting; and
 - (b) Valid nominations must be received at the office of the Trust no later than 10 working days before the General Meeting at which the election of trustees is to be held.

9.3 Where the Trustees are required to call a Special General Meeting in accordance with clause 7.3 subject to notice given in accordance with clause 9.1 the Special General Meeting shall be held not more than 60 working days after proper notice has been given to or by the Trustees to call the meeting.

9.4 The detail and content of notices, whether public or private, shall be made in accordance with the relevant provisions of this Deed and where required with the Act.

10. DISPUTES PROCEDURE

Disputes Relating to Matters Arising Under the Act

10.1 If any dispute shall arise between Members of Ngati Koata and the Trust, other than a dispute provided for in the following provisions of this clause 10, that dispute shall be determined in accordance with Part 5 of the Act. The provisions of this clause shall not derogate from the rights or obligations of the Trust or any Member of Ngati Koata pursuant to the Trustee Act 1956 or any other Act or provision of law or equity.

Registration Disputes

10.2 If the Trustees shall make a decision under clause 5.7 to either not register a person or to remove a person from the register, they must:

- (a) refer the matter for to a Membership Committee, appointed by the Trustees under this clause and comprising three Ngati Koata Kaumatua whom the Trustees consider are mature persons or elders knowledgeable in Ngati Koata whakapapa and recognised as such by Members of Ngati Koata;
- (b) consider the recommendation of the Membership Committee 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.

10.3 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

10.4 When making a recommendation to the Trustees in relation to clause 10.2, they must apply the provisions of the Act relating to registration of Members of Ngati Koata. The Membership Committee shall provide the person concerned, and any representative that person appoints the opportunity to attend a meeting of the and present their account of why they should be registered or remain, on the Members' Register, as the case may be. The shall have the discretion to take into account the Member's own knowledge and such other matters as the Membership Committee considers will assist it in making a determination. The 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

10.5 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.

11. MAJOR TRANSACTIONS

- 11.1 The Trust must not enter into a Major Transaction unless that Major Transaction:
- (a) has been approved by a majority of 75% at an Annual General Meeting or Special General Meeting for which notice has been properly given under clause 9; or
 - (b) is contingent upon approval by a majority of 75% at an Annual General Meeting or Special General Meeting and the Major Transaction is subsequently approved by Special Resolution at an Annual General Meeting or Special General Meeting for which notice has been properly given under clause 9; and
 - (c) otherwise complies with the requirements of the Act.
- 11.2 The Trust must not enter into a Major Transaction that involves the mortgage or use as collateral of any Settlement Quota.
- 11.3 The Trust must not enter into a Major Transaction within the meaning of paragraph (d) of that definition involving Income Shares or Settlement Quota within two years after the date on which the Income Shares or the first transfer of Settlement Quota, as the case may be, are transferred to the Trust by Te Ohu Kai Moana Trustee Limited.
- 11.4 If approval is obtained in accordance with clause 11.1 for a Major Transaction (within the meaning of that definition as set out in clause 1.1 of this Deed) involving Income Shares or Settlement Quota, the Trust must comply with the provisions of the Act regarding the offer and sale of the Income Shares or Settlement Quota.
- 11.5 Approval may not be obtained for a Major Transaction within the meaning of paragraph (d) of that definition involving unspecified Settlement Quota unless the approval to sell unspecified Settlement Quota is given up to a specified limit that must not exceed 10% of the total value of the Settlement Quota held by the Trust.

12. CONTENT OF NOTICE TO MEMBERS OF NGATI KOATA FOR MAJOR TRANSACTIONS

- 12.1 Where a resolution is proposed in accordance with clause 11 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 Members of Ngati Koata unable to attend the Annual General Meeting or Special 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 Annual General Meeting or Special General Meeting at which the resolution will be put before the Members of Ngati Koata;
 - (d) the availability, on written request to the Trust, of full particulars (excluding any Confidential Information) regarding the Major Transaction; and
 - (e) any further information prescribed by Te Ohu Kai Moana Limited in accordance with the Act.
- 12.2 Notice shall be given in accordance with clause 9.

Income Shares and Settlement Quota

- 12.3 If a resolution proposed in accordance with clause 7.8 relates to a Major Transaction within the meaning of paragraphs (d) or (e) of that definition involving Income Shares, then the Trust must in addition to the matters requiring notice under clause 12.1:
- (a) give Public Notice specifying the approximate proportion of the total value of the Income Shares of the Trust that are affected by the Major Transaction; and
 - (b) give written notice, where required, to every Adult Member of Ngati Koata specifying the number of Income Shares affected by the Major Transaction and a reasonable estimate of the net present value or likely sale price of such Income Shares.
- 12.4 If a Special Resolution proposed in accordance with clause 7.8 relates to a Major Transaction within the meaning of paragraphs (d) or (e) of that definition involving Settlement Quota, then the Trust must in addition to the matters requiring notice under clause 12.1:
- (a) give Public Notice specifying the approximate proportion of the total value of the Settlement Quota of the Trust that is affected by the Major Transaction provided however that:
 - (i) an approval to sell specified Settlement Quota or Settlement Quota approved for sale in accordance with a programme is notified in the Trust's annual plan may be valid for not more than 15 months from the date on which the approval is given; and
 - (ii) an approval to sell Settlement Quota generally up to a specified limit that must not exceed 10% of the total value of the Settlement Quota held by the Trust may be valid for not more than 12 months from the date on which the approval is given;
 - (b) give written notice, where required, to every Adult Member of Ngati Koata specifying the amount of Settlement Quota affected by the Major Transaction and a reasonable estimate of the likely market value of such Settlement Quota.

13. WINDING UP OF TRUST

- 13.1 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 their 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 proposal and the terms of it must be put and passed by a majority of 75% at a General Meeting in accordance with clause 7.8(b); and
 - (c) if the Trust is then incorporated under the Charitable Trusts Act 1957 the assets of the Trust shall be disposed of in accordance with the provisions of that Act.

14. ALTERATION OF TERMS OF DEED

Changes to the Deed

14.1 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 Ngati Koata 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 may only be promoted if a resolution that the amendment is a resolution for the collective benefit of all Members of Ngati Koata is put and passed at a General Meeting in accordance with clause 7.8;
- (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 1994 in respect of income derived by it. Prior to any resolution to amend this Deed being placed before members of the Ngati Koata 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

14.2 To the extent any proposal for the amendment of the constitutional documents of the Asset Holding Company or any Fishing Enterprise relates to a matter provided for in the Act:

- (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 Ngati Koata 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 7.8,

and must not amend the requirement in clause 8.3(a) in a manner which would jeopardise the charitable status of a Corporate Entity.

14.3 Any adult member of the iwi (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 the Ngati Koata.

Notification to Members of Ngati Koata

14.4 Any amendment made pursuant to this Deed must be notified to Members of Ngati Koata in its next communication to them.

15. RESETTLEMENT

Power to Resettle

- 15.1 The Trustees have power at any time or times by deed, to settle or resettlement upon trust in any manner which in the opinion of the Trustees is for the advancement and benefit of the Members of Ngati Koata, 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 Ngati Koata;
 - (c) the resettlement may only be promoted if a resolution supporting it is put and passed at a General Meeting in accordance with clause 7.8;
 - (d) the resettlement is upon trusts for Charitable Purposes.

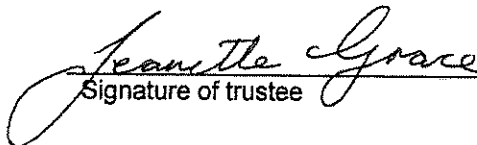
Perpetuities

- 15.2 Any settlement or resettlement under clause 15 must not transgress the rule against perpetuities as it applies to the Trust.

SIGNATURE

Trustee by:

and witnessed by:

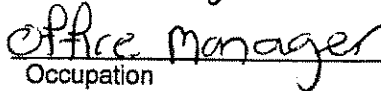


Signature of trustee


 Jeanette Grace



Signature of witness



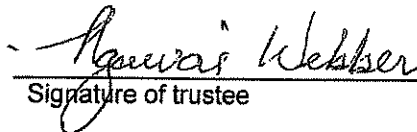
Occupation



City/town of residence


Trustee by:

and witnessed by:

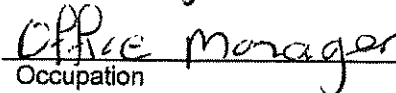


Signature of trustee


 Ngawai Webber



Signature of witness



Occupation



City/town of residence
SIGNATURE

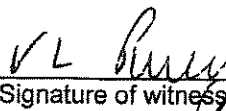
Trustee by:

and witnessed by:

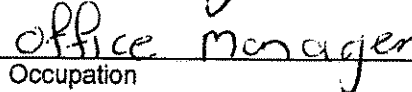


Signature of trustee

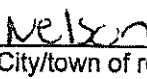
 Celia Hawea



Signature of witness



Occupation




City/town of residence

Trustee by:

and witnessed by:


Signature of trustee

George Elkington


Signature of witness

office manager
Occupation


Nelson

City/town of residence

SIGNATURE

Trustee by:

and witnessed by:


Signature of trustee

Roma Hippolite


Signature of witness

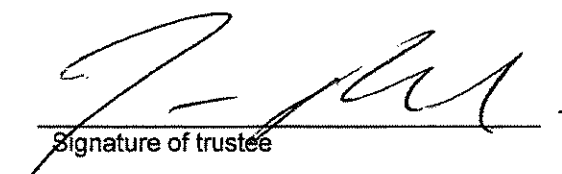
office manager
Occupation

Nelson


City/town of residence

Trustee by:

and witnessed by:


Signature of trustee

Tama Ruruku


Signature of witness

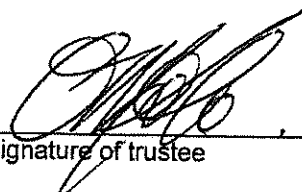
office manager
Occupation

Nelson

City/town of residence

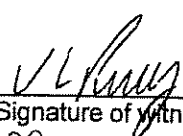
Trustee by:

and witnessed by:

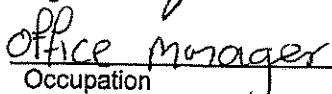


Signature of trustee

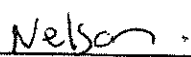
Ora Love-Kohe



Signature of witness



Occupation



City/town of residence

SCHEDULE 1

PART A: Election Processes

Election of Trustees

1. Subject to the rule in clause 4.1 of this Deed, the highest polling nominee and nominees eligible for election under clause 2 of this Schedule 1 shall be elected as Trustee/s.
2. The next highest polling nominee eligible for election as Trustee under Clause 2 of this Schedule 1 shall be elected as an Alternate. Should there not be sufficient nominees to make an appointment of an Alternate, the position shall not be filled.

Time of Elections

3. Subject always to clause 4.4, the Trustees at the date of this amendment shall face re-election until all have faced an election within a period of three years from their date of appointment. The election must occur prior to the expiry of each Trustees term so that:
 - (a) those Trustees appointed in 2003 shall face re-election at the 2006 General Meeting, and then every three years thereafter; and
 - (b) those Trustees appointed in 2004 shall face re-election at the 2007 General Meeting, and then every three years thereafter; and
 - (c) those Trustees appointed in 2005 shall face re-election at the 2008 General Meeting, and then every three years thereafter.

Early Termination of Office by Trustee

4. In the event that a Trustee's position on the Trust Board is vacated prior to the expiration of the Elected Term, an Election to fill the vacant position of Trustee shall be called within 20 working days of the Trustee vacating the office.

Eligible voters

5. All Adult Members shall be eligible to vote on any resolution required by 7.8 of this Deed or the election of Trustees and any votes cast as per this Schedule 1 shall be received:
 - (a) by personal vote (not proxy) at a General Meeting;
 - (b) by postal ballot (including fax) and received before 5pm on the day of the General Meeting.

Nominations for Trustee

6. The Trust must, in accordance with clause 9 of the Deed, publicly notify members of the Ngati Koata that nominations for the position of Trustee of the Trust 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 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 4.6 of the Deed;

- (c) be accompanied by a brief statement containing details of experience and objectives relevant to the position of Trustee.

Time for Nominations

- 7. Valid nominations for the position of Trustee must be received within the time set out in clause 9 of the Deed. However, in the event of the number of nominations being equal to the number of positions available, the nominee/s shall be deemed to be elected under the provisions of this Schedule 1 from the date of the General Meeting.

PART B: All Votes

Procedure

- 8. The procedure determined by the Trustees in respect of any vote, must be publicly notified in accordance with clause 9 and, if the vote is to be at a General Meeting of Ngati Koata, 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) advice that a vote is to be taken to ratify or amend the constitutional documents of the Mandated Iwi Organisation;
 - (iii) advice on the method by which the vote will be counted, and
 - (b) Private Notice to every Adult Registered Member 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; and
 - (iii) the address and return date for the Voting Paper.
 - (c) Private Notice to every Adult Registered Member if there is to be a vote taken to ratify the constitutional documents of the Mandated Iwi Organisation that gives the information in sub paragraphs 8(a)(i) to 8(a)(iii).

Valid votes

- 9. The conduct of a vote of Members of the Ngati Koata at every General Meeting must provide that:
 - (a) in order for a vote to be validly cast, the person casting it must:
 - (i) where the person is already registered as an Iwi member, record the membership number on the Voting Paper; or
 - (ii) where the person is not registered at the time of the vote, also complete a registration application in the official Ngati Koata Trust Registration form which shall be attached to and form part of the Voting Paper;
 - (b) No vote cast under either paragraph 2 or paragraph 9(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 Ngati Koata has been confirmed either:

- (i) because that person is an Adult Registered Member at the time they cast their vote; or
- (ii) if that person has applied at the time that their vote was cast, to become an Adult Registered Member, because their registration was accepted in accordance with clause 5.6.

except that a provisional result, disclosing the number of such persons and counting their votes for provisional purposes only may be declared at any time.

Secret Ballots

10. 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) that the returning officer and those persons shall undertake to keep that information confidential; and
- (c) that the Voting Papers are destroyed by the returning officer after the date of completion of the final count under paragraph 9(b), plus a period of one month thereafter.