

**AMENDED AND RESTATED DEED
OF TRUST OF NGĀTI APA KI TE RĀ
TŌ CHARITABLE TRUST**

Subject to IRD, Charities Commission and Te Ohu
Kai Moana Trustees Limited approval

CONTENTS

1. INTERPRETATION	1
2. ESTABLISHMENT OF TRUST	4
3. KAUPAPA/PURPOSES	4
4. APPOINTMENT AND POWERS OF TRUSTEES, AND MANAGEMENT OF THE TRUST	6
5. REGISTER OF BENEFICIARIES OF NGĀTI APA KI TE RĀ TŌ	14
6. VOTING PROCEDURE AND RIGHTS	16
7. GENERAL MEETINGS OF IWI AND REPORTING	16
8. ASSET HOLDING COMPANY AND FISHING ENTERPRISE	21
9. DISPUTES PROCEDURE	23
10. WINDING UP OF TRUST	24
11. ALTERATION OF TERMS OF DEED	24
12. RESETTLEMENT	25
SCHEDULE 1	28

DEED dated 11 August 2013, amended on 12 May 2016, amended and consolidated on 3 September 2017 and 26 July 2026.

INTRODUCTION

- A. This Deed establishes Ngāti Apa ki te Rā Tō Charitable Trust to act, amongst other things, as the Mandated Iwi Organisation of Ngāti Apa ki te Rā Tō 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. In [insert month of AGM or SGM] Adult Registered Beneficiaries and the Trustees of the Trust approved the amendment of the terms of this Deed in order to incorporate updates required by the Māori Fisheries Amendment Act 2024.

This Deed sets out the functions and purposes, and provides for the control, governance and operation of Ngāti Apa ki te Rā Tō Charitable Trust.

TRUST TERMS

1. INTERPRETATION

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

"Act" means Māori Fisheries Act 2004.

"Adult Beneficiary" means a Beneficiary of Ngāti Apa ki te Rā Tō who is over the age of 18 years.

"Adult Registered Beneficiaries" means Adult Beneficiaries who are registered on the Beneficiaries' Register.

"AFL Group" means Aotearoa Fisheries Limited and its subcompanies.

"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 3.2, 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.

"Beneficiaries of Ngāti Apa ki te Rā Tō" means persons who affiliate to Ngāti Apa ki te Rā Tō through direct tribal descent (by birth or as Whāngai as defined) from Ngāti Apa ki te Rā Tō.

"Beneficiary Committee" means the committee appointed under clause 9.2.

"Beneficiaries' Register" means the register of Beneficiaries of the Ngāti Apa ki te Rā Tō held and maintained by the Trust in accordance with clause 5.

"Board" means the Trustees acting as a Board.

"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 Ngāti Apa ki te Rā Tō.

"**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**" mean directors or trustees, as the case may be, of the Corporate Entity.

"**Fishing Enterprise**" means a fishing operation established by Ngāti Apa ki te Rā Tō 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 Year**" means

- (a) for the accounting period beginning 1 April 2027 and ending 30 September 2027;
(b) for all subsequent accounting periods, "Income Year" means the period beginning 1 October of one calendar year and ending 30 September in the subsequent year.

~~any year or accounting period beginning 1 April of one calendar year and ending on 31 March or any date adopted by the Trustees;~~

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

"**Iwi**" means Ngāti Apa ki te Rā Tō.

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

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

"**Members of the Ngāti Apa ki te Rā Tō Trust**" has the meaning given in the Ngāti Apa ki te Rā Tō Trust Deed.

"**Ngāti Apa ki te Rā Tō**" has the meaning given in the Ngāti Apa ki te Rā Tō Trust Deed.

"**Ngāti Apa ki te Rā Tō Group**" has the meaning given in the Ngāti Apa ki te Rā Tō Trust Deed.

"**Ngāti Apa ki te Rā Tō Trust Deed**" means the Ngāti Apa ki te Rā Tō Trust Deed dated 28 October 2010 (as amended or restated from time to time).

"**Ordinary Share**" has the meaning given to it in the Act.

"**Private Notice**" means a notice:

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

"**Public Notice**" means a notice that:

Commented [VR1]: A change of balance date to 30 September & income year to 1 October to 30 September would allow the Annual General Meeting (AGM) to be held in February or March. With the AGM held in the summer months it is anticipated that more members will travel to and participate in the AGM. Before the balance date and income year can be changed to end on 30 September, an interim balance date of 31 March 2027 and income year 1 April 2027 to 30 September 2027 are required to be adopted. The reason the income year is being shortened rather than lengthened is due to the term requirements for trustees. Currently, trustees are elected for 3 year terms at the AGM which must be held within 6 months after the end of each income year. It is not possible to extend Trustee terms beyond 3 years. An extension of the income year and associated delay in hold an AGM would lead to some trustees' terms expiring before the AGM.

- (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 4 of Schedule 7 of the Act.

"Registered Beneficiary" means any member of Ngāti Apa ki te Rā Tō who is entered in the Beneficiaries' Register.

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

"Secretary" means any person appointed under clause 4.5 to perform general secretarial and administrative functions for the Trust.

"Settlement Assets" has the same meaning as that term in the Māori 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 Ngāti Apa ki te Rā Tō Trust 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 (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 Ohu Kai Moana Trustee Limited" means the company of that name formed under the Act.

"Tikanga" means the customary values and practices of the Ngāti Apa ki te Rā Tō.

"Trust" means Ngāti Apa ki te Rā Tō Charitable 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 and which shall record the Beneficiary number of the voter, or in the case of a voter without a registration number, shall have a duly completed registration application in the form set out in Schedule 2 attached to and forming part of that Voting Paper.

"Whāngai" means those persons who do not affiliate to Ngāti Apa ki te Rā Tō (Te Waipounamu) by descent but who are adopted by a Beneficiary of Ngāti Apa ki te Rā Tō in accordance with the Tikanga of the Ngāti Apa ki te Rā Tō, such Tikanga to be determined in accordance with clause 5 or, if necessary clause 9. In any case Whāngai must be a Māori.

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

1.2 Interpretation of Schedules: 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.

1.3 **Statutes:** 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.

1.4 **General References:** 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.

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

2. ESTABLISHMENT OF TRUST

2.1 **Acknowledgement of Trust:** 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 Ngāti Apa ki te Rā Tō Charitable Trust.

3. KAUPAPA/PURPOSES

3.1 **Purposes:** The purposes for which Ngāti Apa ki te Rā Tō Charitable Trust is established are to receive, hold, manage and administer the Trust Fund for every charitable purpose benefiting Ngāti Apa ki te Rā Tō whether it relates to the relief of poverty, the advancement of education or religion or any other matter beneficial to the community of Ngāti Apa ki te Rā Tō irrespective of where those beneficiaries reside and the community generally.

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

- (a) directly receive and hold, on behalf of Ngāti Apa ki te Rā Tō on the trusts set out in clause 3.1, settlement assets allocated and grants made to Ngāti Apa ki te Rā Tō 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 Pūtea 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:

(1) harbour quota under section 143 of the Act; and

(2) 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 Ngāti Apa ki te Rā Tō (for example, by attending, speaking, and voting at meetings) as contemplated by the Act;

(h) act on behalf of Ngāti Apa ki te Rā Tō in relation to aquaculture claims and settlement assets under the Māori Commercial Aquaculture Claims Settlement Act 2004, in respect of which the Trustees must act for the benefit of all beneficiaries of the Iwi, irrespective of where those beneficiaries reside, including:

(i) directly receive and hold, on behalf of Ngāti Apa ki te Rā Tō Settlement Assets allocated to the Ngāti Apa ki te Rā Tō 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 the Ngāti Apa ki te Rā Tō determine, directly receive and hold, on behalf of the Ngāti Apa ki te Rā Tō on the trusts set out in clause 3.1, any other assets including but not limited to 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.

3.3 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 the Ngāti Apa ki te Rā Tō Trust.

3.4 **Strategic governance:** The Trust must:

- (a) exercise strategic governance over its Asset Holding Companies, any Subsidiary of an Asset Holding Company, and any Fishing Enterprise;
- (b) direct the exercise of the rights of a shareholder in Aotearoa Fisheries Limited held by any of its Asset Holding Companies or their Subsidiaries; and
- (c) exercise strategic governance over the process to examine and approve annual plans that set out:
 - (i) the key strategies for the use and development of fisheries assets of Ngāti Apa ki te Rā Tō;
 - (ii) the expected financial return on those assets;
 - (iii) any programme to:
 - (1) manage the sale of annual catch entitlements derived from the Settlement Quota held by the Trust's Asset Holding Companies or their Subsidiaries; and
 - (2) 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 3.4 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.

- 3.5 No non-charitable objects and purposes:** 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

- 4.1 Election of Trustees:** The Trust must have a maximum of 6 trustees. Those trustees shall be the same trustees as are from time to time elected as trustees pursuant to the Ngāti Apa ki te Rā Tō Trust Deed executed on 28 October 2010 (PSGE).

- 4.2 Powers of Trustees:** 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 Māori Commercial Aquaculture Claims Settlement Act 2004, the acquisition and disposition of Settlement Quota and Ordinary 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 Income 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 4.2;
- (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 Income 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 Income 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;
- (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;
- (i) the Trustees may authorise the sale of Settlement Quota by the Asset Holding Company, or Subsidiary of the Asset Holding Company, provided that:
 - (i) such sale is approved in accordance with clause 7.3(j)(iii)(4); and
 - (ii) the Settlement Quota is sold to another Mandated Iwi Organisation or an entity within the AFL Group pursuant to section 161 of Act and no other entity.

4.3 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 Ngāti Apa ki te Rā Tō Trust.

- (c) Any individual may be appointed as an officer or employee of the Trust but no Trustee may be appointed as an employee without the approval of the Board first obtained.
- (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 4.11) 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 Beneficiaries of Ngāti Apa ki te Rā Tō and in any website, letterhead, formal written contract or printed publications of the Trust.

4.4 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 (6) times in each year and at any time decided by the Chairperson of the Trustees. The Trustees may invite to such meeting 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 by a simple majority of the Trustees personally present and voting on the matter.
- (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 three (3) Trustees may at any time give written notice convening a meeting of the Trustees. Such notice shall be hand-delivered, posted or sent by facsimile or by electronic form to each Trustee at least five (5) Business Days before the date of the proposed meeting. The notice shall state the date, time and place of the meeting and, in sufficient terms, the nature of the business to be transacted.
- (f) The requirement for notice of a meeting may be waived if all the Trustees who are at the time entitled to receive notice of the meeting give their written consent to such a waiver prior to or at the meeting.
- (g) No business shall be transacted at any meeting of Trustees other than the business expressly referred to in the notice calling the meeting.

- (h) Subject to clause 4.4(g), no deficiency in the giving of notice for any meeting of Trustees shall otherwise invalidate such meeting or the proceedings at such meeting.
- (i) The quorum for a meeting of Trustees shall be four (4) of the Trustees who, for the time being, have been elected or otherwise holding office under clause 4.1.
- (j) The Trustees may act notwithstanding any vacancy in their body so long as the number of Trustees holding office is not less than the number fixed as a quorum. If and for so long as the number of Trustees holding office is less than the number fixed as a quorum, the continuing Trustees may act only for the purpose of advising of the vacancy or vacancies, and for no other purpose.
- (k) All acts done by any meeting of the Trustees or any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of such Trustee or person co-opted to any committee, or that they were disqualified, be valid as if every such person had been duly appointed and was qualified to act.
- (l) If any meeting of Trustees becomes so unruly or disorderly that in the opinion of the Chairperson, the business of the meeting cannot be conducted in a proper and orderly manner, or if any meeting in the opinion of the Chairperson becomes unduly protracted, the Chairperson may, and without giving any reason, adjourn the meeting and may direct that any uncompleted item of business of which notice was given and which, in his or her opinion, requires to be voted upon, be put to the vote without discussion.
- (m) For the purposes of these rules a teleconference meeting between a number of Trustees or committee who constitute a quorum shall be deemed to constitute a meeting of the Trustees or the committee members (as the case may be). All the provisions in these rules relating to meetings shall apply to teleconference meetings so long as the following conditions are met:
 - (i) all of the Trustees or committee members for the time being entitled to receive notice of a meeting shall be entitled to notice of a teleconference meeting and to be linked for the purposes of such a meeting. Notice of a teleconference meeting may be given on the telephone;
 - (ii) throughout the teleconference meeting each participant must be able to hear each of the other participants taking part;
 - (iii) at the beginning of the teleconference meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part; and
 - (iv) a participant may not leave the teleconference meeting by disconnecting his or her telephone or other means of communication without first obtaining the Chairperson's express consent. Accordingly, a participant shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the teleconference meeting unless he or she leaves the meeting with the Chairperson's express consent.
- (n) Minutes of the proceedings of all meetings of the Trustees shall be recorded in a book of all decisions taken and business transacted 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 contains a certificate to that effect. Where minutes of the proceedings at a meeting of the Trustees have been made in accordance with the provisions of this clause then, until the contrary is proved, the meeting shall be deemed to have been properly convened and its proceedings to have been properly conducted.

4.5 Chairperson, Deputy Chairperson and Secretary: The Chairperson shall be the same Chairperson as is from time to time elected as Chairperson pursuant to the Ngāti Apa ki te Rā Tō Trust Deed.

4.6 Delegation of powers:

- (a) The Trustees may delegate in writing to any 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 4.3(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;
- (b) Any person 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 to which any powers of the Trustees have been delegated may conduct that person's affairs as that person 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.

4.7 Delegations to committees by Trustees:

- (a) The Trustees may from time to time as they think expedient appoint one or more Trustees to be a committee for making any inquiry on such terms as the Trustees may by resolution direct and any committee so appointed may co-opt, for the purposes of consultation and advice, persons who are not Trustees, provided that a Trustee shall chair any such committee.
- (b) All committees appointed under shall report to the Trustees in respect of their activities and such reports shall, unless a direction is made to the contrary by the Trustees:
 - (i) Be provided on a monthly basis: and
 - (ii) Contain details of the activities of the committee since the last such report.
- (c) Subject to the provisions of this Deed, any committee established by the Trustees may co-opt any person to be a member of that committee and otherwise regulate its procedure as it sees

fit provided that the committee must notify the Trustees of all persons co-opted to the committee.

4.8 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 Income 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
- (c) Nothing in this clause 4.8 shall derogate from any other obligations of the Trustees in respect of accounts and audits.

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

- (a) an employee of the Ngāti Apa ki te Rā Tō 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 4.7.

4.10 Clause 4.9 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.

4.11 Disclosure of Interest: 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.

4.12 Definition of Interested Trustee: A Trustee will be interested in a matter if the Trustee:

- (a) is a party to, or will derive a material financial benefit from that matter;
- (b) has a material financial interest in another party to the matter;
- (c) is a director, officer or trustee of another party to, or person who will or may derive a material financial benefit from the matter, not being a party that is another member of the of Ngāti Apa ki te Rā Tō Group;

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

4.13 **Interests in common with Ngāti Apa Ki Te Rā Tō:** Notwithstanding clauses 4.11 and 4.12, no Trustee will be interested in a matter where that Trustee is a Beneficiary of Ngāti Apa ki te Rā Tō and where his or her interest is not different in kind from the interests of other Beneficiaries of Ngāti Apa ki te Rā Tō.

4.14 **Recording of Interest:** A disclosure of interest by a Trustee shall be recorded in the Interest Register and minute book of the Trust (including the nature and the extent of monetary value of that interest). 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 Trustees, the name of any iwi of which he or she is a member or beneficiary, 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.

4.15 **No private pecuniary profit:** 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 (excluding 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:

- (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 4.3(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:
 - (1) the amount thereof received by each Trustee or any such firm or entity;

- (2) the nature of the reimbursement and the nature and extent of the services rendered or time expended;
- (3) the method of calculation of the reimbursement, remuneration or charge; and
- (iii) in the case of an appointment referred to in clause 4.3(d), the full written terms and conditions thereof have been made available for inspection at the office of the Trust, by any Registered Member who makes written request for the same.

4.16 Subject to clause 4.15, 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 4.11 to 4.14,

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 4.16 shall be void.

4.17 The Trustees shall require that a clause to the same effect as clause 4.11 of this Deed be included in the constitution of every Asset Holding Company or Fishing Enterprise or any subsidiary of any of them.

4.18 **Appointment and removal of Custodian Trustee:** 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, or otherwise to act pursuant to the provisions of section 67 of the Trusts Act 2019, 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.

4.19 **Incorporation:**

- (a) 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.
- (b) 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.
- (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 BENEFICIARIES OF NGĀTI APA KI TE RĀ TŌ

5.1 The Trustees must:

- (a) have, and maintain in a current state, a register of Beneficiaries of Ngāti Apa ki te Rā Tō;
 - (i) that includes the name, date of birth, and contact details of every member of Ngāti Apa ki te Rā Tō who applies for registration;
 - (ii) that is available for inspection by Beneficiaries of Ngāti Apa ki te Rā Tō 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 Ngāti Apa ki te Rā Tō entered in that register; and
- (b) make ongoing efforts to register all Beneficiaries of Ngāti Apa ki te Rā Tō on the Beneficiaries' Register.

5.2 The Trustees may enter in the Beneficiaries' Register any existing member of Ngāti Apa ki te Rā Tō whose details are already held by the Trustees where:

- (a) the details held by the Trustees fulfil the requirements of Kaupapa 5 of the Māori Fisheries Act 2004; and
- (b) the particulars were acquired by the Trustees as a result of an application on a form (not being Schedule 2 of this Deed) made by:
 - (i) Adult Beneficiaries and Whāngai, on their own behalf or by their legal guardian at the time of the application; and
 - (ii) other members of Ngāti Apa ki te Rā Tō, who were not Adult Beneficiaries 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 Ngāti Apa ki te Rā Tō by an Adult Beneficiary 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 Beneficiaries' Register may be made by:

- (a) Adult Beneficiaries and Whāngai, on their own behalf or by their legal guardian;
- (b) other Beneficiaries of Ngāti Apa ki te Rā Tō, who are not Adult Beneficiaries of the Iwi, by their parent or legal guardian on their behalf; or
- (c) other Beneficiaries of Ngāti Apa ki te Rā Tō by an Adult on their behalf who, in the opinion of the Beneficiary Committee, stands in the stead of a parent or as a representative of that person.

in each case that application must be completed on the form set out in Schedule 2.

5.4 Any Adult Beneficiary, 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 Ordinary Shares or Settlement Quota (as applicable); or
- (d) the conversion of Quota into Settlement Quota.

5.5 **Registration as a Beneficiary of the Ngāti Apa ki te Rā Tō:** Subject to clauses 5.6 and 5.7, the Trustees must enter in the Beneficiaries' 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 Ngāti Apa ki te Rā Tō through direct descent from a primary ancestor of Ngāti Apa ki te Rā Tō.

5.6 The Trustees:

- (a) may require any person seeking registration as a Beneficiary of Ngāti Apa ki te Rā Tō to provide evidence verifying his or her affiliation to Ngāti Apa ki te Rā Tō through descent from a primary ancestor of Ngāti Apa ki te Rā Tō or of any other matter referred to in clause 5.5 before that person's registration is entered in the Beneficiaries' 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);
- (b) may require any person who is entered in the Beneficiaries' Register to provide evidence verifying his or her affiliation to Ngāti Apa ki te Rā Tō through descent from a primary ancestor of Ngāti Apa ki te Rā Tō and any other matter referred to in clause 5.5;
- (c) may consult with the Beneficiary Committee in relation to any application for registration, or continued registration as a Beneficiary of Ngāti Apa ki te Rā Tō; and
- (d) without limiting the foregoing, may request the Beneficiary Committee to advise who is/are the primary ancestor, or are primary ancestors, of Ngāti Apa ki te Rā Tō.

5.7 **Trustees may decline to register, or remove a person from the Beneficiaries' Register:** 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 Beneficiaries' 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 Beneficiaries' Register, the Trustees may decline to register, or remove that person from the register, as the case may be.

- 5.8 **Process when registration declined or removed:** 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 9 shall apply.
- 5.9 **Registration not necessary:** To avoid doubt, it shall not be necessary, in order to be considered a Beneficiary of Ngāti Apa ki te Rā Tō for the purposes of clause 3.1, for a Beneficiary of Ngāti Apa ki te Rā Tō to be registered in accordance with this clause 5.
- 5.10 **De-registration by Beneficiary of Ngāti Apa ki te Rā Tō:** To avoid doubt, a Registered Beneficiary 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.
- 5.11 **Notice not necessary:** It shall not be necessary for the Trust to provide Private Notice to Beneficiaries of Ngāti Apa ki te Rā Tō where the Trustees believe on reasonable grounds (and have evidence supporting that belief), that the Beneficiaries' contact details are not current.
- 5.12 **Single Register:** To avoid doubt, the register of Beneficiaries of Ngāti Apa ki te Rā Tō and the register of Members of the Ngāti Apa ki te Rā Tō Trust may be constituted by a single register in accordance with Kaupapa 5 of the Māori Fisheries Act.

6. VOTING PROCEDURE AND RIGHTS

- 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. To avoid doubt, the Trustees may follow the procedures set out in the Fourth Schedule to the Ngāti Apa ki te Rā Tō Trust Deed in relation to matters requiring a resolution passed by no less than 75% of the Beneficiaries of Ngāti Apa ki te Rā Tō under this Trust Deed, with such necessary changes as required for the purposes of this Trust Deed.
- 6.2 **Voting Rights:** Each Adult Beneficiary has the opportunity, at intervals not exceeding three (3) years, to participate in the election of one (1) or more Trustees.
- 6.3 All Adult Beneficiaries of the Iwi have voting rights:
- (a) in elections for the appointment of one (1) or more of the Trustees or other officeholders of the Trust in accordance with the constitutional documents of the Trust, including this Trust Deed; and
 - (b) on amendments to this Deed; and
 - (c) on the recognition of a new Mandated Iwi Organisation in place of the Trust; and
 - (d) on any other matter specified in this Deed as a matter on which they have voting rights.

7. GENERAL MEETINGS OF IWI AND REPORTING

- 7.1 **Reporting Responsibilities:** 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 Ordinary Shares;
- (iv) any Corporate Entity,

in accordance with the provisions of this clause 7.

7.2 Trust to hold an Annual General Meeting: Each year, the Trust must hold a General Meeting at which it provides an opportunity for the Beneficiaries of Ngāti Apa ki te Rā Tō to consider:

- (a) **Annual Report:** The annual report for the previous Income Year, which must be prepared within five months after the end of that Income Year, and made available not less than 20 Working Days (upon request to the Board's office) 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 Beneficiaries of Ngāti Apa ki te Rā Tō; and
 - (ii) a comparison of the Trust's performance against the objectives set out in the annual plan, including:
 - (1) changes in the value of the Trust's assets; and
 - (2) 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:
 - (1) the quantity of Settlement Quota held by the Asset Holding Company of the Trust at the beginning of that year; and
 - (2) the value of Settlement Quota sold or exchanged in that year; and
 - (3) the identity of the purchaser or other party to the exchange; and
 - (4) any transaction with Settlement Quota that has resulted in a registered interest by way of caveat or mortgage being placed over the quota; and
 - (5) the Settlement Quota interests that have been registered against the quota shares of the Trust; and
 - (6) the value of Ordinary Shares sold, exchanged, or acquired; and
 - (v) a report on the interactions of the Trust in fisheries matters:
 - (1) with other entities within the Ngāti Apa ki te Rā Tō; and
 - (2) with other Mandated Iwi Organisations; and
 - (3) with Te Ohu Kai Moana Trustee Limited; and
 - (4) with Aotearoa Fisheries Limited,

- (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 to be prepared no later than one month before the commencement of each Income Year in respect of that Income 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 the acquisition of shares in Aotearoa Fisheries Limited; 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 the 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:
 - (1) the key strategies for the use and development of the fisheries assets of Ngāti Apa ki te Rā Tō;
 - (2) the expected financial return on those assets;
 - (3) any programme to:
 - A. manage the sale of annual catch entitlements derived from the Settlement Quota; or
 - B. 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.

7.3 General Meetings of Beneficiaries of Ngāti Apa ki te Rā Tō

- (a) **Annual General Meeting:** Each General Meeting must be no later than six calendar months after the end of each Income Year, and in any event no more than 15 months after the date of the last General meeting of the Trust.
- (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 and the deputy Chairperson for the time being of the Trust); or
- (ii) any three (3) Trustees; or
- (iii) 10 percent of Adult Registered Beneficiaries.

Any such request shall specify in writing the subject matter of the meeting and the specific agenda items proposed for such meeting provided that no meeting may be convened to consider:

- (iv) disposal of Ordinary Shares in accordance with section 69 of the Act;
- (v) a request to Te Ohu Kai Moana Trustee Limited to treat Settlement Quota in accordance with section 159 of the Act;
- (vi) disposal of Settlement Quota in accordance with clause 4.2(i); and

unless the Trustees have resolved to:

- (vii) seek approval of the Adult Beneficiaries of the Iwi for the purpose of the disposal of Ordinary Shares under section 69;
- (viii) obtain the prior approval of the Adult Beneficiaries of the Iwi under clause 4.2(i), as the case may be.

- (c) **Notice of General Meeting:** Beneficiaries of Ngāti Apa ki te Rā Tō shall be given not less than 21 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 (vi) of clause 7.3(b), or any ratification of, or changes to, this Deed 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) **Special Meeting limited to notified business:** No business shall be transacted at any Special Meeting other than the business expressly referred to in the notice calling that meeting.
- (e) **Invalidation:** The accidental omission to give notice to, or a failure to receive notice of a General Meeting by a Registered Beneficiary does not invalidate the proceedings at that meeting.
- (f) **Deficiency of notice:** Subject to clause 7.3(e), a deficiency or irregularity in a notice of any General Meeting will not invalidate anything done at the meeting if:
 - (i) the deficiency or irregularity is not material; and
 - (ii) the Adult Registered Beneficiaries who attend the meeting agree to waive the deficiency or irregularity.
- (g) **Quorum:** No business shall be transacted at a General Meeting unless a quorum is present. The quorum at a General Meeting is 25 Adult Registered Beneficiaries of Ngāti Apa ki te Rā Tō and at least four (4) Trustees present in person.

- (h) **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. Notice of the reconvened meeting shall be given by the Trustees to the Adult Registered Beneficiaries of Ngāti Apa ki te Rā Tō not less than fourteen (14) days before the meeting is held. The new meeting will be held again at the same time and in the same place as the adjourned meeting. If a quorum is not present within one hour from the time appointed for that adjourned meeting, the Adult Registered Beneficiaries of Ngāti Apa ki te Rā Tō present together with at least 4 trustees will constitute a quorum.
- (i) **Chairperson:** The Chairperson or, if the Chairperson is not present at the time appointed for holding a General Meeting, 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, the Trustees present will choose any of their number to substitute as Chairperson for that meeting.
- (j) **Resolution:** A resolution shall be passed at a General Meeting, as follows:
- (i) every Adult Beneficiary of Ngāti Apa ki te Rā Tō present shall have one vote;
 - (ii) except in the case of resolutions described in clause 7.3(j)(iii) and (iv), by more than 50% of the Adult Beneficiaries of Ngāti Apa ki te Rā Tō who are entitled to vote and actually cast a vote in accordance with the voting procedures established in accordance with clause 6.1;
 - (iii) in the case of a resolution for:
 - (1) 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;
 - (2) disposal of Ordinary Shares in accordance with section 69 of the Act;
 - (3) a declaration for Quota to be treated as Settlement Quota in accordance with section 159 of the Act; and
 - (4) disposal of Settlement Quota in accordance with clause 4.2(i),
 by not less than 75% of the Beneficiaries of Ngāti Apa ki te Rā Tō 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;
 - (iv) in the case of a resolution for:
 - (1) 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
 - (2) 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 Beneficiaries of Ngāti Apa ki te Rā Tō 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 Commercial Aquaculture Claims Settlement Act 2004.

7.4 Information must be made available in writing:

- (a) Information referred to in clause 7.1 must be made available on request in writing by any Beneficiary of Ngāti Apa ki te Rā Tō.
- (b) Any Adult Registered Beneficiary of Ngāti Apa ki te Rā Tō may request in writing a copy of the Deed, and a copy will be provided subject to such reasonable charges as the Trustees require.

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

7.6 Minutes: The Trust shall keep a proper record in a minute book of all decisions taken and business transacted at every General Meeting.

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

7.8 Minutes to be evidence of proper conduct: Where minutes of a General Meeting have been made in accordance with this clause then, until the contrary is proven, the meeting shall be deemed to have been properly convened and its proceedings to have been conducted properly.

7.9 No derogation from purposes: Clause 7 shall not derogate from the provisions of clause 3.5.

8. ASSET HOLDING COMPANY AND FISHING ENTERPRISE

8.1 Trust must hold an Asset Holding Company: 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 proviso in clause 7.3 and the provisions of clause 7.3(j)(iii) and clause 7.3(j)(iv), 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, for the avoidance of doubt the Asset Holding Company:

- (a) must be and remain wholly owned and controlled by the Trust, or another Mandated Iwi Organisation of Ngāti Apa ki te Rā Tō if all of the shares of the Asset Holding Company have been transferred under section 18E of the Act;
- (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 Ordinary Shares allocated by Te Ohu Kai Moana Trustee Limited to, or otherwise acquired by Ngāti Apa ki te Rā Tō under the Act (including, without limitation, settlement assets transferred to the Asset Holding Company under sections 18B(5)(b)(ii) and 18E(1)(b) and 18E(3));
- (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 Ordinary 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 and 167 and kaupapa 11 of Schedule 7 of the Act;
- (j) in its function of receiving and holding Settlement Quota and Ordinary 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 clause (k):
 - (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 Ordinary 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 Ordinary Shares it holds unless the Trust has complied with its obligation under sections 69 to 72 of the Act as if it were the Asset Holding Company;
 - (v) in its functions of receiving and holding Settlement Quota and Ordinary Shares is bound by all the requirements specified for Mandated Iwi Organisations in relation to those matters in the Act as if it were the Asset Holding Company;
 - (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.

8.2 **Establishment of Fishing Enterprise:** 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.

8.3 **Requirements of constitution:** 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 of that Company, 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 or trustees of that Company, Fishing Enterprise or subsidiary.

8.4 **Commercial Aquaculture Activities:** 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 Ordinary Shares.

9. DISPUTES PROCEDURE

9.1 **Disputes relating to matters arising under the Act:** If any dispute shall arise between Beneficiaries of Ngāti Apa ki te Rā Tō and the Trust, other than a dispute provided for in the following provisions of clause 9, 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 Beneficiary of Ngāti Apa ki te Rā Tō pursuant to the Trusts Act 2019 or any other Act or provision of law or equity.

9.2 **Registration Disputes:** If the Trustees shall take a decision under clause 5.7 to not register a person, or to remove a person from the register, they must:

- (a) refer the matter to a Beneficiary Committee, appointed by the Trustees under this clause and comprising three persons whom the Trustees consider are mature persons or Kaumātua knowledgeable in Ngāti Apa ki te Rā Tō whakapapa and recognised as such by Beneficiaries of Ngāti Apa ki te Rā Tō;
- (b) consider the recommendation of the Beneficiary Committee and any determination of the Beneficiary Committee made pursuant to a request under clause 5.6(c); and

- (c) notify the person concerned of their decision, and, if requested by that person, of the principal reasons for that decision.

9.3 If the person concerned disputes that decision, that person may exercise their rights under section 180(1)(m) of the Act.

9.4 **Proceedings of the Beneficiary Committee:** When making a recommendation to the Trustees in relation to clause 9.2, the Beneficiary Committee must apply the provisions of the Act relating to registration of Beneficiaries of Ngāti Apa ki te Rā Tō. The Beneficiary Committee shall provide the person concerned, and any representative that person appoints the opportunity to attend a meeting of the Beneficiary Committee and present their account of why they should be registered or remain, on the Beneficiaries' Register, as the case may be. The Beneficiary Committee shall have the discretion to take into account the Beneficiary Committee Member's own knowledge and such other matters as the Beneficiary Committee considers will assist it in making a determination. The Beneficiary 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.

9.5 **Determination:** 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 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 7.3(j)(iii); 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.

11. ALTERATION OF TERMS OF DEED

11.1 **Changes to the Deed:** 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 Ngāti Apa ki te Rā Tō which relates to a 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 Beneficiaries of Ngāti Apa ki te Rā Tō is put and passed at a General Meeting in accordance with clause 7.3(j);
- (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 Beneficiaries of the Ngāti Apa ki te Rā Tō 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.

11.2 Changes to constitutions of Corporate Entities: 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 it:

- (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 Ngāti Apa ki te Rā Tō 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 7.3(j),

and 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 Beneficiary (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 Ngāti Apa ki te Rā Tō.

11.4 Notification to Beneficiaries of Ngāti Apa ki te Rā Tō: Any amendment or proposal under clauses 10, 11 or 12 must be notified to Beneficiaries of Ngāti Apa ki te Rā Tō in its next communication to them.

12. RESETTLEMENT

12.1 Power to settle: 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 Beneficiaries of Ngāti Apa ki te Rā Tō, 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 Beneficiaries of Ngāti Apa ki te Rā Tō;
- (c) the resettlement may only be promoted if a resolution supporting it is put and passed at a General Meeting in accordance with clause 7.3(j);
- (d) the resettlement is upon trusts for Charitable Purposes.

12.2 **Perpetuities:** Any settlement or resettlement under clause 12.1 must not transgress the rule against perpetuities as it applies to the Trust.

12.3

SCHEDULE 1

PART A: All Votes

1. **Notice of Voting and General Meeting:** The procedure determined by the Trustees in respect of any vote, must be publicly notified not less than 21 calendar days before the date of the vote and, if the vote is to be at a General Meeting of Ngāti Apa ki te Rā Tō 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) In the case of election for Trustees, a public notice that includes the information contained in paragraph 1(a)(i);
 - (c) 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 with the Beneficiary number recorded on it; and
 - (iii) the address and return date for the Voting Paper; and
 - (d) 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 1(a)(i) to (iii).
 - (e) In the case of a General Meeting required by section 18B(4) (which relates to recognition of a new Mandated Iwi Organisation in place of the Trust) of the Act, the meeting must be notified by both:
 - (i) public notice that includes the information contained in paragraph 1(a)(i) to (iii); and
 - (ii) private notice that includes the information contained in paragraph 1(c).
2. Voting may be by voice or on a show of hands. The chairperson of the meeting may also demand a poll on a resolution either before or after any vote, which among other things, requires the Registered Beneficiaries to verify their eligibility by a process directed by the chairperson of the meeting.