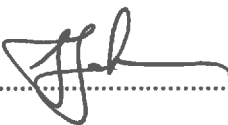


**TE TATAU O TE ARAWA CHARITABLE
TRUST**

TRUST DEED

**I, Arapeta Tahana, one of the Trustees,
certify that this is a correct copy of the original Trust Deed**


.....

WESTPAC HOUSE
430 VICTORIA STREET
PO BOX 258, DX GP20031
HAMILTON 3240
NEW ZEALAND
PH: 07 839 4771
www.tomwake.co.nz

**TOMPKINS
WAKE
LAWYERS**

PARTIES

Potaua BIASINY-TULE
Kingi BIDDLE
Rene MITCHELL
Roku MIHINUI
Arapeta TAHANA
Waereti TAIT ROLLESTON
all of Rotorua, Trustees ("Interim Trustees")

BACKGROUND

- A. The Trustees are all members of Te Arawa iwi and hapū ("Te Arawa"). Te Arawa were the first inhabitants of the Rotorua District several hundred years ago. As such Te Arawa have a deep connection and commitment to the Rotorua District, including its environment, economy and its people.
- B. The Interim Trustees wish to declare a charitable trust known as Te Tatau O Te Arawa Charitable Trust which will have as its objectives the objects described in clause 3 below.
- C. The Trustees have received an anonymous donation of \$100.00 to establish the Trust and it is anticipated that further money, property and investments may from time to time be paid or transferred to the Trust ('Property').
- D. The Trustees wish to set out and define the Trust and the conditions upon which the Trustees hold the Property and assets vested in them in their capacity as Trustees.

OPERATIVE PART:**1. DECLARATION OF TRUST****1.1 Declaration**

The Trustees acknowledge and declare that they stand possessed of the Trust Fund on and subject to the trusts and objects expressed in this Deed with the powers detailed in this Deed or authorised by law.

1.2 Name

The name of the Trust shall be **Te Tatau O Te Arawa Charitable Trust** or such other name as the Trustees may from time to time resolve.

2. CONSTRUCTION**2.1 Interpretation**

- (a) Words importing the singular shall include the plural and vice versa and words importing one gender shall include all other genders and the following terms or

expressions shall, unless the context otherwise requires, have the following meanings or definitions

- (b) Headings in this Deed are intended for location and reference purposes and shall not be looked to in the construction or interpretation of this Deed.

2.2 Definitions

- (a) "Charitable Purpose" means every purpose which in accordance with the law of New Zealand is charitable;
- (b) "Community Organisation" means any trust, Board or institution established for Charitable Purposes within New Zealand and not carried on for private pecuniary profit of any individual, and which operates to benefit people in the Rotorua District;
- (c) "Council" means the Rotorua District Council (known as Rotorua Lakes Council);
- (d) "Interim trustees" means the persons who have signed this deed as Trustees
- (e) "Te Arawa Individual" means any person aged 18 or over and enrolled on the Te Arawa Lakes Trust register as a Te Arawa individual
- (f) "Te Arawa Lakes Trust register" means the database of persons of Te Arawa descent maintained by the Te Arawa Lakes Trust, or any other register or database of persons accepted by the board as being of Te Arawa descent
- (g) "Te Arawa Stakeholder" means any Te Arawa Iwi / Hapū authority, Te Arawa rūnanga, Te Arawa Marae, Te Arawa land trust or incorporation, or Pan-Te Arawa entity, which has been established for the benefit of Te Arawa Individuals;
- (h) "Trust" means the trusts established by this Deed;
- (i) "Trustees" means:
 - (i) pending incorporation of the Trust as a Board, the Trustees herein described (including the Interim Trustees); and
 - (ii) following incorporation, unless the context requires otherwise, the Board itself and not its individual members;
- (j) "Trust Board" and "Board" mean the Board constituted pursuant to this Deed
- (k) "Trust Fund" means:
 - (i) the Property; and
 - (ii) any property (real and personal) wherever situated, whenever acquired by the Trustees in any manner whatsoever for the purposes of the Trust; and
 - (iii) the moneys, property and investments from time to time representing such property including the income therefrom.

3. OBJECTS

3.1 Primary objects

The Trustees shall hold the Trust Fund, in perpetuity, for all or any of the following charitable purposes or objects (each being independent of any other) at all times being restricted to operation within New Zealand and generally within the Rotorua District. The Trust is established to carry out the following aims and objects:

- (a) To provide support, whether financial or otherwise, for Community Organisations and for any Charitable Purpose.
- (b) To advance the interests of Te Arawa whānui in the Rotorua District and throughout Aotearoa.
- (c) To practice Te Arawa tikanga.
- (d) To benefit the Rotorua community by providing a forum to:
 - (i) Engage and connect regularly with Te Arawa whānui (including but not limited to Te Arawa Stakeholders) to:
 - A. obtain the views, aspirations and opinions of Te Arawa whānui;
 - B. gain an understanding of collective, current and historic issues affecting Te Arawa;
 - C. identify significant opportunities for Te Arawa whānui, be they educational, cultural or otherwise of benefit to the Te Arawa community; and
 - D. be openly and transparently accountable to Te Arawa whānui
 - (ii) Effectively represent Te Arawa whānui at Council and at any other strategic level / forum as deemed appropriate by Te Arawa whānui; and
 - (iii) Advocate for the cultural, economic, environmental, spiritual, and social wellbeing of Te Arawa whānui.
- (e) To benefit the Rotorua community by partnering with Council to assist its decision-making and other processes, exercise of functions, and exercise of powers, including to:
 - (i) Help Council meet its Rotorua 2030 vision commitment to effectively partner with Te Arawa;
 - (ii) advance the interests of Te Arawa in the Rotorua District by putting forward to the Council nominations of Board members to sit on Council committees as required by the Council from time to time
 - (iii) Improve the delivery of Council's legal and statutory obligations to Māori;
 - (iv) Strengthen Te Arawa and Māori participation in Council decision-making;

- (v) Identify strategic opportunities to work closely together for the betterment of Rotorua District; and
 - (vi) Build iwi capacity and capability to partner with local government.
- (f) To do any act or thing incidental or conducive to the attainment of any of the above objects.

3.2 Additional objects

The Trustees in addition to the aims and objects set out in clause 3.1 may:

- (a) Support and assist, financially or otherwise, other charitable organisations, bodies, groups, trusts, incorporated or not, whose objectives are similar to those of the Trust and or whose existence could be deemed by the Trustees to be a help and benefit to the Trustees in achieving the objectives of the Trust
- (b) Make provision for and support such charities and charitable purposes as the Trustees in their absolute discretion shall from time to time think fit.
- (c) Carry on any other object which is capable of being conveniently carried on in conjunction with the foregoing objects which directly or indirectly advances the objects of the Trust or any of them.
- (d) Own, provide or maintain any facility, property or corporate entity to meet or satisfy any or all of the objects referred to in clause 3.1.
- (e) To generally do all such acts matters and things to enter into and make such arrangements as are incidental to or conducive to the attainment of any or all of the objects of the Trust.

3.3 Directions

For the benefit of the implementation of the objects of the Trust:

- (a) The Trustees are to exercise the powers, authorities and discretions in respect of the Trust as widely as possible and with the minimum of restriction or limitation,
- (b) It is intended that this Trust will qualify for an income tax exemption, under sections CW41 and CW42, and donee status under sub-part LD of the Income Tax Act 2007 (or any re-enactment of those provisions).

3.4 Limitations

To ensure that the Trust secures, and retains, approval as a registered charity, the following limitations shall apply to the application of the terms of this Deed:

- (a) No part of the income or the capital of the Trust Fund shall be paid or directly or indirectly transferred by way of profit to any Trustee,
- (b) No part of the Trust Fund shall be applied for the benefit of any person or organisation outside of New Zealand, and

- (c) On the winding up of the Trust no Trustee shall be permitted to personally benefit directly or indirectly,

but nothing in these provisions shall prevent any payment to any such person for:

- (i) services rendered, or
- (ii) goods supplied, or
- (iii) by way of interest on monies borrowed, or rent for premises let or leased to the Trust:

if that payment can be made without causing the income of the Trust, or any part of it, which would otherwise be exempt from income tax, to become liable for income tax.

3.5 No settlor

The Trustees record that:

- (a) There is no identified settlor of the Trust (by virtue of receipt of the Property as an anonymous gift), and
- (b) In all other respects the Trust is intended to be flexible.

4. TRUSTEES

4.1 All Powers at Law

In carrying out the trusts contained in this Deed:

- (a) The Trustees shall have the powers of a natural person (including powers to delegate, borrow, guarantee and indemnify) in respect of the Trust Fund,
- (b) The Trustees shall be entitled to exercise those powers as if they were the absolute owners of the Trust Fund.

4.2 No Limitation

The Trustees:

- (a) Shall have no limitation on the exercise of their powers except as provided in this Deed, and
- (b) Shall not be liable for any loss if it is considered that they have not acted 'prudently' in the exercise of their powers, notwithstanding any statutory provision or rule of law to the contrary.

5. TRUST BOARD

5.1 Establishment

There is established by this Deed a Board to be known as **Te Tatau O Te Arawa Charitable Trust Board**.

5.2 Incorporation

In addition to and without limiting the powers contained or implied in this Deed the Board shall have power to apply for incorporation as a Board under Part II of the Charitable Trusts Act 1957 (or any re-enactment of that legislation).

5.3 Interim Trustees

Interim Trustees shall hold office from the date of this deed until 18 December 2015 ("Initial Period"), for the sole purpose of ensuring the initial elections of Trustees are held in accordance with clause 5.6, and to declare the final elections results at the inaugural annual general meeting at which point the Interim Trustees shall vacate their office.

5.4 Membership

- (a) The Board shall comprise the Trustees or any person elected from time to time to hold office as a Trustee of the Trust pursuant to clause 5.6.
- (b) The number of Trustees shall be not less than 9 and not more than 15.

5.5 Composition Of The Board

- (a) The Interim Trustees shall constitute the initial Board, and shall hold office until the results of the first election of Trustees are advised to the inaugural annual general meeting of the Trust.
- (b) The Board shall comprise persons elected in accordance with the provisions of Schedule A, to the intent that the Board be representative of a wide range of Te Arawa Stakeholders and Te Arawa Individuals
- (c) The Interim Trustees shall oversee an election of Trustees to take office by 18 December 2015.
- (d) No person shall be eligible for election to the Board unless that person meets the criteria for membership set out in Schedule A:
- (e) Confirms his or her willingness to act as Trustee should that person be elected; and
- (f) Has good character and a true reputation for honesty and integrity.
- (g) For the avoidance of doubt, the Interim Trustees are eligible for election as Trustees under clause 5.6

5.6 Election of Trustees

The initial election of Trustees shall take place not later than December 2015. Thereafter, elections of Trustees will take place in the same year as local body elections, in each case not later than the date of local body elections. The Trustees (other than mātāwaka / taura here) will be elected in the following manner:

- (a) At least 60 days prior to any Trustee election, an independent election management company shall be engaged as Returning Officer and shall work with the Executive

Officer to develop an agreed election timetable with agreed election parameters, and manage the election process.

- (b) Nominations of candidates for election to the Board must be through the completion of a Te Arawa Partnership Board nomination form which must be delivered to the Executive Officer at any advertised address and by any advertised deadline.
- (c) The Executive Officer shall ensure all nominations are valid, before on sending nominee information to the Returning Officer to develop and manage election material and processes.
- (d) All seats will be voted for "at large", i.e. by all voting age, Te Arawa individuals enrolled on the Te Arawa Lakes Trust register.
- (e) Election Results, subject to objections & appeals, will be published within 24 hours of election count.
- (f) The newly elected Board will be confirmed at a general hui at the conclusion of the objections & appeals period.

5.7 Vacancy

If a Trustee resigns, the next most highly polled nominee for the affected seat may be appointed. Should there be no other nominee a successor may be appointed by a 75% majority of the Trustees. Vacancies that are not the result of a resignation shall be filled by the next most highly polled nominee for the affected seat. Should there be no other nominee the seat must be filled through an election, whether regular or specially-held. A replacement Trustee's term of office is the uncompleted term of the member he or she replaces.

5.8 Term of Office

The term of office for elected Trustees is three years. As the inaugural Board will be elected in 2015 rather than in the 2016 Council election year, the inaugural Board will be expected to serve for up to 3 years and 10 months. New elections thereafter are to be held in the same year as the election of councillors for the Council. Incumbent Trustees are eligible for re-election in subsequent terms, so long as they continue to meet the eligibility criteria set out in clause 5.5.

5.9 Cessation of Trusteeship

- (a) A Trustee remains so until the earliest of the following:
 - (i) he or she becomes disqualified under [paragraph 1(b) of Schedule A] or no longer meets the qualification criteria under clause 5.5;
 - (ii) his or her term of office ends;
 - (iii) he or she dies or becomes incapacitated;

- (iv) he or she resigns; or
- (v) he or she is expelled under the provisions of clause 5.10.
- (vi) he or she fails to attend more than 3 Board meetings in a 12 month period without prior consent of the Board..

(b) A member may resign as a Trustee by giving 1 weeks' prior notice to the Board.

5.10 **Complaints**

The Board may establish, review and implement a complaints policy and procedure, subject to approval by members via a majority resolution.

5.11 **Records**

Upon every appointment, re-appointment, retirement or cessation of office of any Trustee the Board shall cause an entry to that effect to be recorded in the minute book of the Trust.

6. **Executive Officer**

6.1 The Board shall appoint or employ an Executive Officer (or similar role) upon such terms and remuneration as the Board may determine.

7. **Finance**

7.1 The Board may establish, review and implement financial policies, subject to approval by members via a majority resolution.

7.2 The Executive Officer shall ensure the keeping of such books of account as may be necessary to provide a true record of the Board's financial position, report on the Board's financial position to each Board meeting, and present an annual Statement of Accounts (Income and Expenditure Account and Balance Sheet) to the Annual General Meeting together with a budget for the next financial year.

7.3 The Board shall maintain bank accounts in the name of the Board.

7.4 Any payments made by the Board, must be signed by two duly authorised members of the Board or by the Executive Officer and one duly authorised member of the Board.

7.5 All money received on account of the Board shall be banked within seven days of being received.

7.6 All accounts paid or for payment shall be submitted to the Board for approval of payment.

7.7 The Board's financial year shall commence on 1 July of each year and end on 30 June in the following year.

8. **Audit**

8.1 Accounts of the trust shall be audited if required by resolution of the Board. Any auditor shall be a Chartered Accountant who shall not be:

- (a) a member of the Trust Board; or,

- (b) associated with a member of the Board using the definition of associated person outlined in Part YB of the Income Tax Act 2007 (or any re-enactment of that section).

8.2 An auditor may be appointed at any time by Board resolution.

9. MEETINGS

9.1 Board Meetings

- (a) A quorum will be eight (8) members
- (b) The acts and decisions of the Board shall not be deemed to be invalid by reason of the fact that the number of members of the Board is less than the number required by this Deed.
- (c) The Board must confirm a Chair and Deputy Chair by their second meeting. The Chair, and in his or her absence the Deputy Chair is responsible for chairing all Board meetings and shall be responsible for the conduct of meetings of the trust board according to the terms of this deed and the law relating to the administration of charitable trusts.
- (d) the Chair and Deputy Chair shall each hold office until the next following election, unless they are sooner removed from office by a special resolution of the Board
- (e) The Board shall determine at their first official meeting whether all future board meetings are to be open to the public.
- (f) Members shall receive a meeting pack electronically no later than five (5) working days prior to the meeting, and are required to read the reports, consider the associated recommendations and participate in the discussions during the meeting.
- (g) The Board will aim to reach a consensus as its primary decision making tool. However, if deemed necessary, the Chair may call for a decision to be made through majority vote.
- (h) The Board will convene at least 6 board meetings per year.
- (i) Notice of each meeting of the Board shall be given to all members of the Board by the Executive Officer posting or emailing a letter containing a copy of such notice and addressed to each member of the Board at his or her last known address in New Zealand at least five (5) working days prior to the date appointed for such meeting. The notice requirements may be waived with the approval (to be recorded in the minutes of such meeting) of not less than three (3) members of the Board personally present at such meeting.

9.2 General Meetings

- (a) A quorum for general meetings will be eight board members plus thirty percent of Te Arawa Stakeholders on Te Tatau o Te Arawa's stakeholder register.

- (b) If within half an hour from the time appointed for a general meeting a quorum is not present, the meeting will stand adjourned to the same day in the next week at the same time and place, or to such other day and time and place as notified to Members. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, those present will constitute a quorum
- (c) All General Meetings shall be chaired by the Chairperson or in the Chairperson's absence by the Deputy-Chairperson or in the absence of both of them by some other Board member elected for the purpose by the meeting, and any such chairperson shall have a deliberative but not a casting vote.
- (d) Votes shall be exercised as follows:
 - (i) At General Meetings voting shall be by voices or by show of hands.
 - (ii) All questions (other than those requiring a special resolution) shall be determined by a simple majority of those present and voting at the General Meeting.
- (e) The results of any election of Trustees conducted in accordance with the terms of these rules shall be binding on the board. Any other resolution of the annual general meeting shall be of an advisory nature only, and shall not be legally binding on or enforceable against the Trustees who continue to have the obligation to act in a fiduciary manner for the benefit of the trust
- (f) Annual General Meeting (AGM)
 - (i) The Trust shall in each calendar year convene an Annual General Meeting (AGM) of its members
 - (ii) The AGM shall be held on such date as the Board determines
 - (iii) The AGM shall be specified as such in the notice convening it
 - (iv) The ordinary business of the AGM shall be to:
 - A. Confirm the minutes of the last preceding AGM and of any special general meeting held since that meeting
 - B. Receive from the Board an annual report
 - C. Receive and consider the statement of financial accounts;
 - D. Elect the Board Officers – i.e. the Chair and Deputy Chair; and
 - E. Consider motions of which notice has been given
 - (v) Any Te Arawa Stakeholder wishing to give notice of any motion for consideration at the Annual General Meeting shall forward written notice of the same to the Executive Officer not less than three weeks before the date

of the meeting. The Board may consider all such notices of motion and provide recommendations to members in respect thereof.

- (vi) At least 10 working days before any AGM the Executive Officer shall either post, or email, to all Te Arawa Individuals and Te Arawa stakeholders, and publish on the Trust's website and facebook page, or publish in a newspaper circulating in the Rotorua District, written notice of the date and place of the AGM, and of the business to be conducted at the AGM. The failure for any reason of any Member to receive such notice shall not invalidate the meeting or its proceedings.
- (vii) The AGM shall be in addition to any other general meetings that may be held in the same year
- (g) **Special General Meeting (SGM)**
 - (i) All General Meetings other than the AGM shall be known as SGMs.
 - (ii) 3 SGMs must be convened each calendar year for the purpose of engaging with registered Te Arawa Stakeholder beneficiaries
 - (iii) The Executive Officer and the Chair shall each have the power to convene any additional SGM where the Board thinks it is necessary to discuss and have deliberated any significant matter of interest to Te Arawa whānui
 - (iv) The SGMs shall be held on such date as the Board determines
 - (v) Notice of any SGM shall be sent to every Stakeholder Member at the postal address or email address held in the Register of Te Arawa Stakeholder Beneficiaries at least 7 days before the meeting shall be held, and the notice shall state the place, date, time and any special business to be transacted.

9.3 Review Meeting

There will be at least two (2) Annual Review meetings between the Board and the Council which shall be an open discussion on the progress of the relationship.

9.4 Meeting Regulations

(a) **Questions**

Questions arising at any meeting of the Board shall be determined by a majority of votes of the Board members present and eligible to vote on the question (except where this Deed provides to the contrary) and in any case of an equality of votes the Chairperson shall not have a second or casting vote. Where it is provided that any question be determined by special resolution of the Board that question shall be deemed to have been determined in favour of the affirmative if not less than three quarters of the Board members present and eligible to vote on the question vote in favour of the affirmative. The Chairperson shall not have a second or casting vote in respect of any question to be determined by special resolution.

(b) **Minutes**

The Board shall cause minutes to be duly entered in the minute book provided for that purpose recording details of all matters considered by the Board at each meeting together with details of all decisions made and resolutions, whether passed or lost. Any minute of any meeting of the Board if purporting to be signed by the Chairperson of such meeting or by the Chairperson of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes.

(c) **Resolutions**

A resolution in writing signed by all the members of the Board for the time being shall be valid and effectual as if it had been passed by a meeting of the Board duly convened and held. Such a resolution may consist of several like documents each signed by one or more members.

(d) **Telephone and/or Video Conferences**

The contemporaneous linking by telephone, video, and/or computer of a number of members constituting a quorum shall be able to constitute a meeting of the Board so long as:

(i) All the members of the Board have received notice of the meeting which may be given by telephone, video, and/or computer.

(ii) Each member of the Board taking part can hear the others at the commencement of the meeting and so acknowledges.

(e) **Leave of Absence**

The Board may grant a member leave of absence from time to time for such period or periods as the Board may think fit.

(f) **Altering Regulations**

The Board may from time to time make, alter, vary, add to and revoke such regulations as the Board may from time to time think fit in respect of or in any way relating to, meetings of the Board and of Boards and proceedings at any such meetings of the Board or Boards.

9.5 **Functions, Powers and Duties of the Board**

(a) **Scope**

The Board shall:

(i) Have the government, control, direction and management of and responsibility for application of the Trust Fund and from time to time to make, amend and rescind rules and regulations for the conduct, management and administration of the Trust Fund and for all other similar matters necessary or proper to give effect to the objects of the Trust.

(ii) Carry out, effect and perform the objects according to law and as provided in this Deed.

(iii) From time to time appoint or employ any employee upon such terms and remuneration as the Board may determine.

- (iv) Do all such other things as not being contrary to law and not prohibited by this Deed shall or may be necessary or desirable for the carrying out and performance of the objects.
- (v) Do all such other things as shall be necessary or desirable in order to comply with the provisions of the Charitable Trusts Act 1957 (or any replacement legislation governing the conduct of charitable trusts) in their relation to the Trust

10. Registered Office

The Board shall have a registered office which shall be at such place as appointed from time to time by special resolution of the Board and the Board shall (in the case of incorporation under the Charitable Trusts Act 1957) give notice of the place of such registered office to the Registrar of Incorporated Societies as and when required.

11. Execution of documents

11.1 Upon incorporation under the provisions of the Charitable Trusts Act 1957 (or any replacement legislation governing the conduct of charitable trusts) the Board shall acquire and adopt a Common Seal which shall be kept in the custody of the Executive Officer or such other person as shall be appointed by the Board and shall only be used by the authority of the Board and every instrument to which the Seal is affixed shall be so affixed in the presence of two (2) members who shall also affix their signatures to every document or instrument so sealed.

11.2 As regards third parties the Common Seal shall be deemed to have been duly affixed, if the affixing thereof purports to be attested by two (2) members of the Board and that notwithstanding any invalidity in the appointment of any member or any irregularity in the meeting at which the same is authorised and/or affixed or in any other matter connected with the affixing of the same and as regards third parties the signature of the persons purporting to attest the affixing of the Common Seal shall be sufficient evidence that these persons are members of the Trust Board.

11.3 Documents shall be executed for the Board pursuant to a resolution of the Board:

- (a) By affixing the Common Seal witnessed by the Chairperson or Vice-Chairperson and countersigned by some other member of the Board, or
- (b) Where the document is not required by statute to be executed under common seal, by the Chairperson or Vice-Chairperson and some other member of the Board signing on behalf of the Board.

12. INTERPRETATION AND AMENDMENT

12.1 Interpretation

The Board may obtain and act upon the opinion of any Barrister practising in the High Court of New Zealand in relation to these presents (as to interpretation or otherwise) or any other document or statute or as to the administration of the trusts hereof without being liable to

any of the persons beneficially interested in respect of any act done by the Board in accordance with such opinion. However, nothing in this clause shall prohibit the Board from applying to any Court of competent jurisdiction, if the Board should think fit to do so.

12.2 **Amendment**

The Board, by supplemental Deed approved by a special resolution of the Trustees, may make any alteration or addition to the terms and provisions of this Deed provided that the Trust Fund and income arising from the Trust Fund must always be held for Charities and charitable purposes according to the law of New Zealand.

12.3 **Implementation**

Once the provisions in 14.2 above have been satisfied, the Trustees can effect the approved variation or variations by supplemental deed executed by all of the Trustees for the time being and the Board under Common Seal.

12.4 **General**

All acts by the Board or by a person acting as a Trustee shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Trustee or person acting or that they or any of them were for any reason disqualified be as valid as if such person had been duly appointed and was qualified to be a Trustee.

13. **PERSONAL INTEREST**

13.1 **No Private Pecuniary Profit**

No private pecuniary profit shall be made by any person from the Trust Fund, 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 Trustees may pay reasonable and proper remuneration to any officer or servant of the trustees (whether a trustee or not) in return for services actually rendered to the Trustees;
- (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 firm or entity of which that trustee is a member, employee or associate in connection with the affairs of the Trustee.
- (d) Any trustee may retain any remuneration properly payable to that trustee by any company or undertaking with which the trustee may be in any way concerned or involved for which that trustee has acted in any capacity whatsoever, notwithstanding that trustee's connection with that company or undertaking is in any way attributable to that trustee's connection with the Trust.

13.2 **Trustees to Comply with Restrictions**

Trustees, in determining all reimbursements, remuneration and charges payable in terms of clause 13.1 above shall ensure that the restrictions imposed by clause 13.3 below, are strictly observed **PROVIDED ALWAYS** that any trustee shall not be able to determine or

materially influence in anyway whatsoever any income, benefit or advantage that they may receive as a result of their employment by the Board and such persons shall not participate in any proceedings by which such income, benefit or advantage is being determined.

13.3 Recipient Not to Influence Benefit

Notwithstanding anything contained or implied in this Deed, any person:

- (a) Who is a trustee of the Trust or any trust which carries on business for or on behalf of or for the benefit of the Trust; or
- (b) Who is a shareholder or director of any company by which a business is carried on, on behalf of or for the benefit of the Trust; or
- (c) Who is a trustee of a trust that is a shareholder of a company by which a business is carried on, on behalf of or for the benefit of the Trust; or
- (d) Where that person and a trustee or shareholder or director as set out above are associated persons (as defined in Part YB Income Tax Act 2007 (or any re-enactment of that section)), of any settlor, trustee, shareholder or director;

shall not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence in any way (except as allowed by section CW42 Income Tax Act 2007 (or any re-enactment of that section)) the determination of the nature or the amount of any benefit or advantage or income of, or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person.

13.4 Professional Services

A person who in the course of and as part of the carrying on of his/her business of a professional public practice shall not, by reason only of his/her rendering professional services to the Trustees or to any company by which any business of the Trustees is carried on, be in breach of the terms of this clause.

13.5 Interested Trustees

Interested trustees/board members means a trustee who is or may be in any other capacity whatsoever interested or concerned directly or indirectly in any property or undertaking in which the Board is or may be in any way concerned or involved. An interested trustee/board member shall disclose the nature and extent of that trustee's interest to the other trustees and shall not take any part whatsoever in any deliberations of the trustees concerning any matter in which that trustee is or may be interested other than as a trustee of the trust.

14. TRUSTEES' LIABILITY

14.1 Liability

No member of the Board acting or purporting to act in the execution of the trusts of these presents shall be liable for any loss not attributable to his or her own dishonesty or to the wilful commission or omission by him or her of any act known by him or her to be a breach of trust and in particular, no member of the Board shall be bound to take or be liable for failure to take any proceedings against a fellow member of the Board for any breach or alleged breach of trust committed by such fellow member of the Board nor shall any

member be under any personal liability in connection with the affairs of the Trust, its administration or any business transaction entered into on behalf of the Trust.

14.2 Indemnity

In addition and without prejudice to the statutory provisions in relation to the indemnity of Trustees it is hereby declared that the members of the Board for the time being shall not be charged answerable or accountable:

- (a) For the acts, deeds, defaults, receipts, payments or disbursements of the other or others of them or his or their delegates,
- (b) For any further sum or sums of money or other property of the Trust than such as shall actually come to the hands of and be received by them respectively, notwithstanding that they or any or either of them shall give or sign or join or concur in giving or signing any receipt or receipts for the sake of conformity,
- (c) For the insufficiency, defect or failure of any banker, broker, solicitor, accountant, auctioneer, agent or other person, firm, company, Board, association, corporation or Bank in whose hands any part or parts of the Trust Fund or other property shall, or may at any time or times, hereafter happen to be, by them or any one of them, placed or lodged for any purpose or who may be allowed to receive the same in the course of the execution of the trusts of this Deed,
- (d) For any defect, insufficiency in the title or evidence of title to any property which the Trustees shall own, or purchase, or on the security of which they may lend money under or by virtue of the trusts, powers and provisions herein contained notwithstanding title may have been accepted by the solicitor to the Trustees on their behalf,
- (e) Where lending money on leasehold or sub-leasehold security, for dispensing wholly or partially with the investigation or production of the title of any lessor or sub-lessor,
- (f) For any deficiency or depreciation in value of any property in or upon which the said trust moneys or any part thereof may have been invested,
- (g) For any loss or damage which shall or may happen to all or any of the Trust Fund,
- (h) For any loss or damage which may arise from any business, property, investment or security for the time being subject to the trusts of this Deed,

and if any member of the Board shall pay over or cause or permit any fellow member or members of the Board to receive any sum or sums of money in order and to the intent that the same may be applied by such fellow member or members of the Board for the purposes of this Deed it shall not be incumbent on the member of the Board making such payment or causing or permitting such receipt to see or enquire into the application of the said moneys or to ascertain the truth or accuracy of any representation made by his fellow member or members of the Board concerning the same nor shall the member of the Board who shall make default in any of the particulars aforesaid be responsible for any loss which shall arise to the Trust. This exemption from legal responsibility shall not affect the right of any

member of the Board to call for accounts or to enquire into the transactions of his co-trustees or fellow members of the Trust Board.

15. VARIATION OF THE RULES

15.1 The Board may resolve to vary these rules at a Board meeting of which seven days notice has been given to all members specifying the variation/s proposed provided that the variation complies with the Charitable Trust Act 1957.

15.2 The Board must file a certified copy of the variation/s with the New Zealand Companies Office within one month of the Board resolution to vary the rules.

15.3 When filing such a variation, the document must be certified to be a true copy by one of the Trustees:

16. WINDING UP

16.1 If at any time the objects of the Board shall fail; or,

(a) If for any reason the purpose of the Trust shall become wholly frustrated and incapable of being carried out, or

(b) If at any time the Board shall by special resolution resolve that in its opinion the Trust be wound up,

then the Board shall be wound up accordingly and the Trust fund distributed after payment of all liabilities and expenses, to such organisation or organisations within the Rotorua District which have charitable objects of a similar nature to the objects of this Trust as directed by unanimous resolution of the Board and upon such terms and conditions as the Board shall think fit. The Board will require the recipient(s) of the Trust Fund to provide an acknowledgement that it/they will hold funds that are tagged for specific purposes for such purposes. If the Board is unable to reach a unanimous resolution, then the Trust fund will be distributed as directed by the High Court acting pursuant to Section 27 of the Charitable Trusts Act 1957 (or any re-enactment of that section), provided that no resolution to wind up and no resolution to distribute the Trust Fund in accordance with the foregoing shall be effective until that resolution has been confirmed by unanimous resolution of the Trust Board.

EXECUTED AS A DEED this 18th day of DECEMBER 2015

By the Trustees

Potaua BIASINY-TULE: 

Kingi BIDDLE: K. Biddle

Rene MITCHELL: R.K. Mitchell

Roku MIHINUI: Ramihini

Arapeta TAHANA: 

Waereti TAIT ROLLESTON: Waereti Rolleston

In the Presence of:

Witness signature: 

Witness name: Steve Chadwick

Occupation: Mayor

Location: Potomua Lakes Council

SCHEDULE A
Eligibility for appointment as Trustee

1. Trustee Qualification

- (a) To qualify as a Trustee, a person must
 - (i) Be a natural person; and
 - (ii) Consent to being appointed to the Board; and
 - (iii) Live in the Rotorua District; and
 - (iv) Be enrolled on the Te Arawa Lakes Register, or any other register adopted by the Trust in substitution for it; and
 - (v) Not be disqualified under 1(b);
 - (vi) Sign the letter of commitment (as set out in Schedule B), and provide such other information relevant to the member's involvement with the Trust as the Board may require; and
 - (vii) agree that when acting in relation to their Membership they will conform with the rules and tikanga of the Trust

- (b) **The following persons are disqualified from being members:**
 - (viii) A person who is under 18 years of age;
 - (ix) A person who is an undischarged bankrupt;
 - (x) A person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, or the Financial Markets Conduct Act 2013, or the Charities Act 2005;
 - (xi) a person in respect of whom a personal order has been made under the Protection and Personal Property Rights Act 1988 that reflects adversely on the person's –
 - A. competence to manage his or her own affairs in relation to his or her property; or
 - B. capacity to make of to communicate decisions relating to any particular aspect or aspects of his or her personal care or welfare;
 - (xii) a person who has been convicted of any serious offence, including (without limitation) any offence against children, domestic violence or fraud, dishonesty or any offence for which the penalty could have been imprisonment for a period in excess of one year;

- (xiii) Any person who has been the subject of a Child Youth and Family investigation pursuant to the Children, Young Persons and Their Families Act 1989, of which the finding was substantiated abuse of a child or young person by that person
- (xiv) a current member of Parliament;
- (xv) a current Rotorua District councillor or current Rotorua District Council Community Board Member; or

2. **Board membership**

The Board will consist of members elected from individuals nominated from the following Te Arawa Stakeholder groups:

- (a) Rangatahi – up to 2 Trustees;
- (b) Pūkenga Kōeke/Kaumātua – up to 1 Trustee;
- (c) Ngāti Whakaue – up to 2 Trustees;
- (d) other Te Arawa iwi – up to 6 Trustees;
- (e) Land trusts and incorporations – up to 2 Trustees;
- (f) Pan Te Arawa entities – up to 1 Trustee; and
- (g) In the future an additional Trustee position may be made available for mātāwaka / taura here (Māori from other Iwi, resident in Rotorua).