

Trust Deed

of

Ngāti Koata Trust

Mandated Iwi Organisation and Iwi Aquaculture Organisation

Executed as a Deed in 2006, amended in 2009, 2010, 2017, & restated & amended 2021

Ngāti Koata Trust Deed

16 October 2021

CONTENTS

BACKGROUND	5
1 INTERPRETATION OF TRUST TERMS	6
Definitions	6
Statute References	11
General References	11
Deed Headings	11
Deed Schedules	11
2 ESTABLISHMENT OF TRUST	12
3 KAUPAPA	12
Principles	12
Other Kaupapa	12
Strategic Governance	14
No Non-charitable Objects and Purposes	14
4 APPOINTMENT OF TRUSTEES	14
Number of Trustees	14
Term of Office (including for Replacement Trustee)	15
Time of Elections	16
Ineligibility, or ceasing, to be a Trustee	16
Chairperson, Deputy Chairperson, and Secretary	17
Trustee-Director	17
5 DUTIES AND POWERS OF TRUSTEES	18
Mandatory Duties	18
Default Duties	18
Powers	19
Management of the Trust	19
Management Appointments	20
Trustee Remuneration	20
Meetings of Trustees	20
Keeping Minutes	22
Delegation of powers	22
Keeping Accounts and Holding Audits	22
Reliance on Professional and Other Advice	23
Liability and Indemnity of Trustees	23
Conflicts and Disclosures of Interests	24
Definition of Conflicted/Interested Trustee	24
Interests in common with Iwi	24
Disclosure of Interest	24

Ngāti Koata Trust Deed

Recording an Interest (Interest Register)	25
No Private Pecuniary Profit (or financial gain)	25
Restrictions on Interested Persons	26
Appointment and Removal of Custodian Trustee	26
Incorporation	27
6 NGĀ TIKANGA O TE OHU A NGĀTI KOATA (CODE OF CONDUCT)	27
7 REGISTER OF MEMBERS OF NGĀTI KOATA	27
The Members' Register	27
Appointment of a Komiti Whakapapa	28
Registering as a Member of Ngāti Koata	28
Declining to Register or Remove a Person from the Members' Register	29
Process When Registration Declined or Removed	29
Where Registration is not Necessary	29
De-registration by Member of Ngāti Koata	29
Where Private Notice to a Member is not Necessary	30
General	30
8 GENERAL MEETINGS AND REPORTING	30
Special General Meeting	30
Annual General Meeting	31
Purpose of Annual General Meeting	31
Reporting Responsibilities	31
Annual Report	31
Annual Plan	32
Five-Year Plan	32
Asset Holding Company Annual Report	33
Notice of General Meeting	33
Voting Procedure	34
Quorum	34
Adjourned Meeting	34
Chairperson	34
Resolution	34
Minutes	35
Making Information available	35
Clause 8 to be consistent with Kaupapa of this Trust	36
9 ASSET HOLDING COMPANY AND FISHING ENTERPRISE	36
Establishing an Asset Holding Company	36
What an Entity's Constitution requires	37
Appointments of Directors	38
Establishing a Fishing Enterprise	38
Commercial Aquaculture Activities	38

Ngāti Koata Trust Deed

Other Commercial Entities	39
10 MAJOR TRANSACTIONS	39
Giving Notice of Major Transactions	39
Income Shares and Settlement Quota	40
11 DISPUTES RESOLUTIONS PROCEDURES	40
General Disputes	40
Registration Disputes (Komiti Whakapapa)	41
Proceedings	42
Determination	42
Disputes under the Māori Fisheries Act 2004	42
12 WINDING UP OF TRUST	42
13 RESETTLEMENT	43
14 AMENDING THIS DEED	43
Proposals to Amend Deed	43
Giving Notice of Amendments	44
Changes to Constitutions of Corporate Entities	44
SCHEDULE 1 – ELECTIONS AND VOTING	47
PART A: Election Processes	47
Election of Trustees	47
Nominations for Trustee	47
Time for Nominations	47
PART B: All Votes	48
Voting Procedure	48
Trustees to comply with the Voting Procedure	48
Returning Officer Appointment and Responsibilities	48
Timing of votes	49
Eligible voters	49
Valid votes	49
Secret Ballots	49
Counting votes (for Elections)	50
Notifying Election Results	50
Counting votes (other than for Elections)	50
SCHEDULE 2 – GOVERNANCE REVIEW	52
Terms of Reference and Scope of the Review	52
Information Required	52
Review Report	53
Consideration of Review Report	53
SCHEDULE 3 – NGĀ TIKANGA O TE OHU A NGĀTI KOATA (Code of Conduct)	54

Ngāti Koata Trust Deed

Original DEED dated 2006

PARTIES: Kyle Rae Edmonds, Hori Turi Elkington, Pene Wahanui Hemi, Frank Jarom Hippolite, Nadia Cheryl Keogh, Melanie Hinekohu McGregor, Thomas Mark Speers

BACKGROUND

- A. The Ngāti Koata Trust was established on 2 March 2006. It was created by a document known as the 'trust deed' that evolved from a template provided by Te Ohu Kaimoana Trustee Limited. The Trust has charitable status and is incorporated under the Charities Act 1957.
- B. The original Deed replaced the Charter of the former Ngāti Koata nō Rangitoto ki te Tonga Trust to allow, among other things, for the Trust to act:
- as the Mandated Iwi Organisation of Ngāti Koata for the purpose of the Māori Fisheries Act 2004 to receive Te Tiriti o Waitangi fisheries settlements; and
 - as the Iwi Aquaculture Organisation for the purpose of the Māori Commercial Aquaculture Claims Settlement Act 2004 to receive aquaculture settlements.
- C. This Deed amends and restates the previous trust deed of the Ngāti Koata Trust dated 23 September 2017. The amendments to this Deed were approved as being amendments for the collective benefit of all Members of Ngāti Koata by a resolution put and passed at a General Meeting in accordance with clause 8.23(b)(ii) on 16 October 2021, in line with clause 14 of this Deed.
- D. The Trust is connected, and inherently linked, to Te Pātaka a Ngāti Koata Trust, which is the trust established by Ngāti Koata to receive Settlement Assets for the settlement of historical grievances held for breaches by the Crown of Te Tiriti o Waitangi. The Trustees of this Trust will also be Trustees of Te Pātaka a Ngāti Koata Trust.
- E. The Trust also acts as the overarching governance entity of Te Ohu a Ngāti Koata on behalf of Ngāti Koata.
- F. This Deed sets out the functions and kaupapa (purposes), and provides for the control, governance, and operation of the Ngāti Koata Trust.

Ngāti Koata Trust Deed

1 INTERPRETATION OF TRUST TERMS

Definitions

1.1 In this Deed, unless the context otherwise requires:

Act means, unless otherwise stated, Māori Fisheries Act 2004.

Adult Member means a Member of Ngāti Koata who is 18 years or over.

Adult Registered Members means Adult Members who are registered on the Members Register.

Ancestor/Tupuna of Ngāti Koata means:

(a) Koata; and

(b) any individual who exercised customary rights predominantly in the Ngāti Koata area of interest at any time after 6 February 1840 by virtue of being descended from Koata, including the descendants of Koata who are identified on the Tūpuna List.

Annual Plan means the annual plan of the Trust prepared in accordance with clause 8.7.

Annual Report means the annual report of the Trust prepared in accordance with clause 8.5.

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

Asset Holding Company means a corporate entity established by the Trust under clause 3.4, and which meets the requirements for a company defined in the Act as an Asset Holding Company and includes any subsidiary of the Asset Holding Company.

Charitable Purposes means every purpose within New Zealand which in accordance with the laws of New Zealand 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.

Common Seal means an official seal being an ink or rubber stamp used by the Trustees to seal formal documents to indicate that the Trustees approve the contents of a document.

Confidential Information means any information which a majority of the Trustees considers on reasonable grounds is of a commercially or otherwise sensitive nature where its release could be detrimental to the interests of the Iwi or any entity of Te Ohu a Ngāti Koata, and also includes, but not limited to, any information involving personal, private, employment, or other sensitive information where disclosure is inappropriate.

Constitution means a legal document that sets out the rights, powers, and duties of a commercial Corporate Entity, the board, each director, and each shareholder.

Corporate Entity means any company, trust, or other entity or enterprise, including their subsidiaries, wholly owned or controlled directly or indirectly by the Trust. It includes the Asset Holding Company, the Fishing Enterprise, and any of their Subsidiaries, in accordance with clause 9.

Custodian Trustee means a person appointed as a custodian trustee under clause 5.51 who

Ngāti Koata Trust Deed

will holds legal title to the Trust Assets upon the instructions of the Trustees.

Deed means this Deed of the Ngāti Koata Trust and includes any amendments to this Deed made in accordance with this Deed.

Deed of Settlement means the deed dated 21 December 2012 between representatives of Ngāti Koata and the Crown recording the settlement of the historical Te Tiriti o Waitangi claims of Ngāti Koata.

Default Duty has the same meaning given to that term in section 28 of the Trusts Act 2019.

Descended means that a person is descended from another person by:

- (a) birth; or
- (b) legal adoption; or
- (c) Māori customary adoption, or whāngai (excluding those who are whāngai only for short periods) as decided by the whānau of the whāngai, in accordance with Ngāti Koata tikanga, and as confirmed by the Kōmiti Whakapapa if such confirmation is requested by the Trustees.

‘Descent from’ will have the same meaning.

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

Financial Year means the period of 12 consecutive calendar months (or such other period as the Trustees may from time to time designate) ending on 31 March or such other date as may be determined by the Trustees.

Fishing Enterprise means a fishing operation established by Ngāti Koata Trust under clause 9.10 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 8.

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

Iwi means Ngāti Koata.

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

Komiti Whakapapa means the committee appointed under clause 7.4.

Mandatory Duty has the same meaning given to that term in section 22 of the Trusts Act 2019.

Major Transaction means:

- (a) the acquisition of, or an agreement to acquire, whether contingent or not, assets by the Trust or a Corporate Entity the value of which is more than 20% of the value of the Trust Assets before the acquisition; or
- (b) the disposition of, or an agreement to dispose of, whether contingent or not, assets by the Trust or a Corporate Entity the value of which is more than 20% of the value of the Trust

Ngāti Koata Trust Deed

Assets before the disposition; or

- (c) a transaction that has or is likely to have the effect of the Trust or a Corporate Entity acquiring rights or interests or incurring obligations or liabilities, including contingent liabilities, the value of which is more than 20% of the value of the Trust Assets before the transaction; or
- (d) the disposition of, or an agreement to dispose of, whether contingent or not, Income Shares or Settlement Quota by the Trust to Te Ohu Kai Moana Trustee Limited or an entity within the Te Ohu Kai Moana Group or another Mandated Iwi Organisation under the Act; or
- (e) a transaction or series of transactions, or an agreement to transact, whether contingent or not, with a person not entitled to hold Income Shares or Settlement Quota under the Act, including an option, security, mortgage, or guarantee, that could result in:
 - (i) the sale of Income Shares or Settlement Quota by the Trust; or
 - (ii) Ngāti Koata or the Trust being disentitled for a period of more than 5 years to:
 - (aa) the income from the Income Shares; or
 - (bb) the income from the annual catch entitlements arising from the Settlement Quota; or
 - (cc) the control or use of the annual catch entitlements arising from the Settlement Quota,

but does not include:

- (f) any transaction, entered into by a receiver appointed as a result of an instrument creating a charge over all or substantially all of the Trust Assets (whether the Trust Assets are held by the Trust or any Corporate Entity); or
- (g) any acquisition or disposition of property by the Trust or a Corporate Entity from or to any Corporate Entity; or
- (h) any exchange of Settlement Quota for Quota of the same market value that is carried out in accordance with the requirements of the Act and in compliance with any policy of the Trust on quota exchanges that is notified in the Trust's Annual Plan; or
- (i) any transfer from the Crown arising from a Te Tiriti o Waitangi settlement.

provided however that:

- (j) nothing in sub-clause (c) of this definition applies by reason only of the Trust giving, or entering into an agreement to give, a charge secured over assets of the Trust the value of which is more than 20% of the value of the Trust Assets for the purpose of securing the repayment of money or the performance of an obligation; and
- (k) for the purposes of sub-clauses (a) to (c) of this definition, the value of the Trust's Assets will be calculated based on the value of the assets of the Te Ohu a Ngāti Koata and in assessing the value of any contingent liability regard must be had to all its circumstances that the Trustee knows, or ought to know, affect, or may affect, the value of the contingent liability.

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

Ngāti Koata Trust Deed

Member of Ngāti Koata means every individual who is referred to in the definition of Ngāti Koata.

Members' Register means the register of Members of Ngāti Koata held and maintained by the Trust in accordance with clause 7.

Ngāti Koata means:

- (a) the collective group composed of individuals who are descended from Koata and a Tupuna of Ngāti Koata; and
- (b) includes those individuals; and
- (c) includes any whānau, hapū, or group composed of those individuals.

Ngāti Koata area of interest means the area Ngāti Koata has identified and defined in clause 8.10.2 of the Deed of Settlement. It includes the rohe of Ngāti Koata.

Notice means notice as provided in clauses 8.13 to 8.18.

Private Notice means a notice:

- (a) sent by any means that is private to the recipient, including by hand, post, courier, or in electronic form; and
- (b) complies with Kaupapa 4 of Schedule 7 of the Act.

Public Notice means a notice that:

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

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

Registration Form means the form developed by the Trust used to register Members of Ngāti Koata and/or have a members whakapapa verified by the Komiti Whakapapa.

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

Registration Dispute means a dispute between a non-registered member or person removed as a Registered Member and the Trust in respect of their registration. A Registration Dispute will be dealt with under clause 11.10.

Replacement Trustees means the persons elected or appointed under clause 4.4.

Returning Officer means any professional person or corporate entity that is appointed by the Trust to independently verify the results of:

- (a) an election held under Schedule 1; and
- (b) any other vote of the Adult Members.

Returning Officer Assistant means an independent professional person appointed by the

Ngāti Koata Trust Deed

Trustees to assist the Returning Officer.

Secretary means any person appointed under clause 4.12 to perform general secretarial and administrative functions for the Trust.

Senior Manager means a senior manager, who may be a General Manager or a Chief Executive Officer (or a person holding an equivalent title), appointed under clause 5.6 to manage the day-to-day administration of the Trust and any other entity or entities within the Ngāti Koata Group in accordance the terms of the appointment.

Settlement Act means the Ngāti Koata, Ngāti Rarua, Ngāti Tama Ki Te Tau Ihu and Te Ātiawa O Te Waka-a-Māui Claims Settlement Act 2014.

Settlement Assets means Te Tiriti o Waitangi Settlement Assets and all assets received from the Crown under the relevant settlement legislation.

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 Koata Trust by Te Ohu Kai Moana Trustee Limited.

Special Resolution means a resolution passed by a majority of 75% of those present who are entitled to vote and who do vote at a General Meeting.

Subsidiary means:

- (a) any Subsidiary (as defined by section 5 of the Companies Act 1993) of a Corporate Entity and includes any trust or other entity that is controlled by a Corporate Entity;
- (b) a separate enterprise that is owned or controlled by the Trust established under this Deed; and
- (c) a separate enterprise that is responsible to the Mandated Iwi Organisation, as noted in section 32(3) of the Māori Commercial Aquaculture Claims Settlement Act 2004.

Te Kaunihera Kaumātua means a body of kaumātua who may:

- (a) provide advice on cultural matters;
- (b) provide any other advice upon request by the Trustees; and
- (c) as required under the Deed:
 - (i) assist in the Iwi Members' registration process; and
 - (ii) assist in mediating the process of disputes.

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

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

Te Ohu a Ngāti Koata (Ngāti Koata Group) means Ngāti Koata Trust, Te Pātaka a Ngāti Koata Trust, and all other Corporate Entities established by the Trust, and their subsidiaries (if any), and any persons (whether incorporated or not) under the control of any one or more of them, and the custodian trustee (if any).

Te Pātaka a Ngāti Koata Trust means the Post Settlement Governance Entity established by Ngāti Koata to receive certain Te Tiriti Settlement Assets and regulated by the Te Pātaka a

Ngāti Koata Trust Deed

Ngāti Koata Trust Deed.

Te Pūtea Whakatupu Trustee Limited means the company of that name formed under the Act.

Te Wai Māori Trustee Limited means the company of that name formed under the Act.

Tikanga means the customary values and practices of Ngāti Koata.

Trust means Ngāti Koata Trust established by this Deed.

Trust Assets means all the property, assets, and liabilities including income that are from time to time held by the Trustees on the trusts of this Deed whether or not received in the manner described in clause 3.4.

Trust Board means the Board of Trustees of the Ngāti Koata Trust (that includes Te Pātaka a Ngāti Koata Trust) elected or appointed under clause 4.

Trustees means the persons elected or appointed under clause 4 who administer the Trust and its affairs on behalf of the Iwi.

Tūpuna List is a list of Ngāti Koata tūpuna based on Native/Māori Land Court and other records and confirmed by the Trustees.

Voting Paper means a voting paper (including any electronic voting paper) issued in accordance with Schedule 1 and which will record the membership number of the voter, or in the case of a voter without a membership number, will be attached to a duly completed registration application in accordance with clause 7.5.

Whāngai means those persons who may or may not descend from a Tupuna of Ngāti Koata but who are adopted by a Member of Ngāti Koata in accordance with the tikanga of Ngāti Koata. For the avoidance of doubt, non-Māori whāngai have a life interest only.

Working Day means the days Monday through Friday other than any public holiday and from 24 December to 2 January (inclusive), and the anniversary of the province of Marlborough and Nelson.

Statute References

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

General References

- 1.3 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 genders;
- (c) the singular includes the plural and vice versa;
- (d) 'clauses' and 'sub-clauses' are references to clauses and sub-clauses in this Deed;

Ngāti Koata Trust Deed

- (e) 'Schedule' are references to the Schedules of this Deed; and
- (f) the 'Deed' includes its Schedules.

Deed Headings

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

Deed Schedules

- 1.5 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.

2 ESTABLISHMENT OF TRUST

- 2.1 The Trustees acknowledge and declare that they hold the Trust Assets upon the trusts and with the powers set out in this Deed.
- 2.2 The name of the Trust recognised by this Deed is the Ngāti Koata Trust.
- 2.3 The Trust has been established to be the Mandated Iwi Organisation and Iwi Aquaculture Organisation for Ngāti Koata and is the overarching governance entity of Te Ohu a Ngāti Koata on behalf of Ngāti Koata.
- 2.4 The Trust will be governed and administered by the Trustees in accordance with this Deed, and the Trustees will be the representative for Ngāti Koata in all matters relating to the Trust Assets.

3 KAUPAPA

- 3.1 The purposes of the Trust is to receive, manage, administer, and apply the Trust Assets for every charitable purpose benefiting Ngāti Koata whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to all Members of Ngāti Koata irrespective of where those Members reside, in accordance with this Deed.

Principles

- 3.2 Subject to clause 3.1, the Trust will:
- (a) protect the Rangatiratanga of Ngāti Koata.
 - (b) protect preserve and sustainably manage taonga within the Ngāti Koata Rohe.
 - (c) identify and protect Wāhi Tapu areas of Ngāti Koata and areas of significance within the Ngāti Koata Rohe.
 - (d) promote and enhance Ngāti Koata commitment to the terms of Te Tiriti o Waitangi.
 - (e) support the improvement of the social and economic welfare of Ngāti Koata, by promoting improved health, the pursuit of education, and long term employment.

Ngāti Koata Trust Deed

(f) support the cultural needs of Ngāti Koata.

3.3 In the event of any conflict between clauses 3.1. and 3.2, the provisions of clause 3.1 will prevail.

Other Kaupapa

3.4 Incidental to, and to give effect to the kaupapa in clause 3.1, the Trustees will:

(a) directly receive and hold, on behalf of Ngāti Koata on the trusts set out in clause 3.1, Settlement Assets allocated and grants made to Ngāti Koata by Te Ohu Kai Moana Trustee Limited, other than assets referred to in section 16(1)(c) of the Act, which other assets are to be transferred to Te Ohu a Ngāti Koata;

(b) receive distributions from Te Pūtea Whakatapu 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 to ensure that a distribution to the Trust by either of those companies would be within the purposes for which those companies hold their funds and make those distributions, but not in a manner that could adversely affect the charitable status of the Trust;

(c) if relevant, enter into agreements with other Mandated Iwi Organisations in relation to:

(i) claims under section 11 of the Act;

(ii) the allocation of:

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

(bb) freshwater quota under section 148 of the Act;

(d) establish separate companies to undertake fishing and fisheries-related activities, including, but not limited to, any activity related to the seafood industry, including, for the avoidance of doubt, a Fishing Enterprise, and to hold the shares in those companies and any distributions or other benefits resulting from them on the trusts in clause 3.1;

(e) establish one or more Asset Holding Companies that, in each case:

(i) is wholly owned by the Trust,

(ii) is separate to the companies referred to in sub-clause (d) above;

(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 Koata by voting at any meeting convened under:

Ngāti Koata Trust Deed

- (i) clause 1 or clause 6 of Schedule 8 to the Act, to appoint or remove a member or alternate member of Te Kawai Taumata;
 - (ii) section 117 of the Act, implemented in accordance with clause 1 of Schedule 8 to the Act, to appoint a member of a committee of representatives;
- (h) act on behalf of Ngāti Koata 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 Members of Ngāti Koata, irrespective of where those Members reside, including:
- (i) directly receive and hold, on behalf of Ngāti Koata, Settlement Assets allocated to Ngāti Koata by Te Ohu Kai Moana Trustee Limited in accordance with the Māori Commercial Aquaculture Claims Settlement Act 2004; and
 - (ii) enter into agreements with other Iwi Aquaculture Organisations in relation to the allocation of Settlement Assets;
- (i) if Ngāti Koata determine, directly receive and hold, on behalf of Ngāti Koata on the trusts set out in clause 3.1, any other Te Tiriti o Waitangi Settlement Assets; and
- (j) perform other functions provided for, by or under the Act or any other enactment or otherwise, but not if doing so would adversely affect the charitable status of the Trust.
- (k) an Iwi Aquaculture Organisation must not undertake commercial aquaculture activities (as that term is used in section 32(3) of the Māori Commercial Aquaculture Claims Settlement Act 2004) except through a separate commercial enterprise that is responsible to Ngāti Koata Trust.

Strategic Governance

3.5 The Trust must exercise strategic governance over:

- (a) its Corporate Entities, and any Fishing Enterprise; and
- (b) the process to examine and approve annual plans that set out:
 - (i) the key strategies for the use and development of fisheries assets of Ngāti Koata;
 - (ii) the expected financial return on those assets;
 - (iii) any programme to:
 - (aa) manage the sale of annual catch entitlements derived from the Settlement Quota held by the Trust's Asset Holding Companies; and
 - (bb) reorganise the Settlement Quota held by Asset Holding Companies in the buying and selling of Settlement Quota in accordance with the Act,

but not in such a manner as will 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 will this clause 3.5 or any other provision of this Deed prevent Te Ohu a Ngāti Koata from entering into such arrangements with another company or trust as the Trustees will consider necessary or desirable to efficiently and effectively administer, manage or hold its assets

Ngāti Koata Trust Deed

or operations, consistently with the purposes in clause 3.1.

- 3.6 In line with Schedule 2, the Trust will review governance structures, administration and management of Trust Assets and of Te Ohu a Ngāti Koata by way of an assessment report at five yearly intervals after the Settlement Date following the passing of the Settlement Act.

No Non-charitable Objects and Purposes

- 3.7 The objects and purposes of the Trust will not include or extend to any matter or thing which is or will be held or determined to be non-charitable within the laws of New Zealand and the powers and purposes of the Trustees and, without derogating from clause 13, the Trust will be restricted accordingly and limited to New Zealand.

4 APPOINTMENT OF TRUSTEES

Number of Trustees

- 4.1 The Trust must have (at a minimum) 4 Trustees, but may have up to 7 Trustees, of which, 4 Trustees must be Adult Members of Ngāti Koata Trust. All Trustees must be 18 years of age or over and represent the interests of all Members of Ngāti Koata, irrespective of where those Members reside.
- 4.2 All Trustees must be elected by Adult Members in accordance with Schedule 1 (or appointed in accordance with clause 4.4(c)), including the Trustees that signed this amended Deed as Trustees, and those Trustees will remain in office until the earlier of the following:
- (a) the expiry of their term in accordance with clause 4.4(a); or
 - (b) they cease to hold office as Trustees pursuant to clause 4.6.
- 4.3 For the avoidance of doubt, it is intended, subject to the provisions of the respective trust deed, that the Trustees of the Trust will at all times be the same Trustees as those of the Te Pātaka a Ngāti Koata Trust.

Term of Office (including for Replacement Trustee)

- 4.4 The term of each Trustee will be as follows:
- (a) subject to clause 4.4(c), each Trustee will be permitted to hold office for a term of three years from their election, after which they must retire. To clarify, for the Trustees that have signed this amended and restated Deed, their current terms will expire as follows:
 - (i) for those Trustees elected in 2019, their term will expire in 2022;
 - (ii) for those Trustees elected in 2020, their term will expire in 2023; and
 - (iii) for those Trustees elected in 2021, their term will expire in 2024.
 - (b) a person that has retired as a Trustee in accordance with clause 4.4(a) may be eligible for re-election for a further term, provided that:
 - (i) in respect of the Trustees that that were elected at the General Meetings in 2019 and 2020, where those persons have held office as a Trustee for two consecutive terms, they must retire at the completion of their second consecutive term and will

Ngāti Koata Trust Deed

not be eligible for re-election for a period of one calendar year, after which time they will be eligible to be nominated for election;

- (ii) in respect of any other Trustees not described in clause 4.4(b)(i), where those persons have held office as a Trustee for three consecutive terms, they must retire at the completion of their second consecutive term and will not be eligible for re-election for a period of one calendar year, after which time they will be eligible to be nominated for re-election; and
 - (iii) that person meets any eligibility requirements in this Deed to be re-elected as a Trustee;
- (c) where a Trustee is a Replacement Trustee, appointed or elected in accordance with clause 4.5:
- (i) that Trustee will hold office for the remainder of the term of the outgoing Trustee that they have been appointed or elected to replace;
 - (ii) following the expiry of that term, the Replacement Trustee must retire; and
 - (iii) the time that the Replacement Trustee has held office for pursuant to clause 4.4(c)(i) will not constitute a term for the purposes of considering whether a Trustee has served the maximum number of consecutive terms in accordance with clauses 4.4(b)(i) or (ii), as applicable.

Time of Elections

4.5 Vacancies in the office of a Trustee will be filled in accordance with the following provisions:

(a) **Ordinary vacancies**

Where a Trustee retires in accordance with clause 4.4(a) or 4.4(c)(i), the Trustees must hold a General Meeting for the purpose of electing a new Trustee or Trustees before or upon the cessation of the term of office for that Trustee or Trustees, pursuant to the provisions in the Schedule 1 to this Deed.

(b) **Extraordinary vacancies**

Where a Trustee ceases to hold office in accordance with clauses 4.6(b) to (k), the vacancy will be filled as follows:

- (i) where the remainder of the outgoing Trustee's term is less than 6 months, the Trustees may, by resolution, decline to hold an election or appoint a Replacement Trustee for the remainder of the term; or
- (ii) the Trustees may procure the election or appointment of a person (a **Replacement Trustee**) to replace the outgoing Trustee, in the following manner:
 - (aa) in the first instance, the Trustees may appoint the first unsuccessful/next highest polling nominee from the most recent election of Trustees to be the Replacement Trustee, provided that:
 - A. the first unsuccessful/next highest polling nominee from the most recent election of Trustees must consent to their appointment and remain eligible to hold office as a Trustee; and
 - B. the appointment of the first unsuccessful/next highest polling nominee from

Ngāti Koata Trust Deed

the most recent election would not conflict with clause 4.1 requirement for a minimum of four Trustees to be Adult Members of Ngāti Koata Trust; and

C. the first unsuccessful/next highest polling nominee from the most recent election is eligible to be a Trustee under the provisions of this Deed; and

if the first unsuccessful/next highest polling nominee from the most recent election of Trustees is unable to be appointed as a Replacement Trustee for any of the reasons set out in clause 4.5(b)(ii) then the Trustees will conduct an election in accordance with the process set out in Schedule 1 of this Deed.

Ineligibility, or ceasing, to be a Trustee

4.6 A person is ineligible to be a Trustee or will cease to be a Trustee if they:

- (a) retires as a Trustee in accordance with clauses 4.4(a) or 4.4(c)(i); or
- (b) resign as a Trustee by:
 - (i) giving notice in writing to the Trust; or
 - (ii) ceasing to hold office as a Trustee in accordance with this Deed, in which case that person will be deemed to have also resigned as a Trustee; or
- (c) fail or neglect to attend three consecutive meetings of the Trustees without leave or absence, unless it appears to the other Trustees at their first meeting after the last of such absences that there is a proper reason for such non-attendance; or
- (d) becomes of unsound mind, becomes a person in respect of whose affairs subject to a property order made under section 21 or section 30 of the Protection of Personal and Property Rights Act 1988 is made, or otherwise becomes unfit or unable to act as a Trustee; or
- (e) is or becomes a bankrupt who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled; or
- (f) is or has ever been convicted of an offence:
 - (i) where, regardless of the type of offence, that person has been sentenced to imprisonment for a term of two or more years, unless that person has obtained a pardon; or
 - (ii) involving dishonesty as defined in section 2(1) of the Crimes Act 1961; or
 - (iii) an offence under section 373(4) of the Companies Act 1993, unless that person is eligible under the Criminal Records (Clean Slate) Act 2004; or
- (g) is or has ever been disqualified from being a director of a company under the Companies Act 1955 or the Companies Act 1993; or
- (h) is or has been removed as a Trustee of a Trust by Order of a Court on the grounds of breach of trust, lack of competence, or failure to carry out the duties of a trustee satisfactorily; or
- (i) is or has been subject to a compulsory Treatment Order under the Mental Health

Ngāti Koata Trust Deed

(Compulsory Assessment and Treatment) Act 1992; or

(j) is the subject of a Special Resolution passed at a General Meeting removing that individual as a trustee; or

(k) die.

4.7 The Trustees may act notwithstanding any vacancy in their body, but if and so long as the number of Trustees holding office is less than 4, the continuing Trustees may act only for the purposes of increasing the number of Trustees that number in accordance with clause 4.5.

Chairperson, Deputy Chairperson, and Secretary

4.8 The Trustees will elect one Trustee to act as Chairperson from year to year.

4.9 The Trustees may also elect one Trustee to act as Deputy Chairperson either as the need arises or from year to year or for such term of years as the Trustees may decide. In the absence of the Chairperson the Deputy Chairperson will have and may exercise all the powers of, and will perform all the duties, of the Chairperson.

4.10 The Trustees may appoint a non-voting Secretary who may be honorary or may be a full-time or part-time employee of the Trust.

Trustee-Director

4.11 A Trustee may be appointed to a Board of a Corporate Entity established by the Trust pursuant to clause 9.7.

5 DUTIES AND POWERS OF TRUSTEES

Mandatory Duties

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

(a) know the terms of this Deed;

(b) act in accordance with this Deed;

(c) act honestly and in good faith;

(d) hold or deal with the Trust's Assets in furtherance of the Trust's Kaupapa set out at clause 3; and

(e) exercise their powers for a proper purpose.

Default Duties

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

(a) when administering the Trust, exercise the care and skill that is reasonable in the

Ngāti Koata Trust Deed

circumstances, having regard, in particular:

- (i) to any special knowledge or experience that the Trustee has or holds themselves out as having; and
 - (ii) if the person acts as a Trustee in the course of their business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession;
- (b) when exercising any power to invest the Trust's Assets, the Trustee must exercise the care and skill that a prudent person of business would exercise in managing the affairs of others, having regard, in particular:
- (i) to any special knowledge or experience that the Trustee has or that the Trustee holds themselves out as having; and
 - (ii) if the person acts as a Trustee in the course of their business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession;
- (c) not exercise a power of a Trustee directly or indirectly for the Trustee's own benefit;
- (d) consider actively and regularly whether the Trustee should be exercising one or more of the Trustee's powers;
- (e) not bind or commit Trustees to a future exercise or non-exercise of a discretion;
- (f) manage conflicts of interest by ensuring that they declare such interests and follow the process set out at clauses 5.42 to 5.46 immediately upon becoming aware that they are, or may be, interested;
- (g) except as provided for in clauses 5.47 and 5.48, not make a profit from their trusteeship; and
- (h) except as provided for in clauses 5.47 and 5.48, not take any reward for acting as a Trustee.

Powers

5.3 To achieve the purposes of the Trust:

- (a) the Trustees will have in the administration, management, and investment of the Trust Assets 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 Assets as if the Trustees were the absolute owners of and beneficially entitled to the Trust Assets, 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 income Shares and Settlement Assets.
- (c) accordingly, in addition to any specific powers vested in the Trustees by law, in dealing with the Trust Assets or acting as Trustees of the Trust, the Trustees may do anything 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 stated in this Deed, the Trustees may exercise all the powers and

Ngāti Koata Trust Deed

discretions vested in them by this Deed in the absolute and uncontrolled discretion of the Trustees, at such time or times, upon such terms and conditions, and in such manner as the Trustees may decide;

- (e) if any dividend or distribution is received which in the opinion of the Trustees has been paid or made out of profits other than trading profits of the financial year in respect of which the dividend or distribution has been paid or made, the Trustees may decide how much of that dividend or distribution ought to be treated as capital and how much as income of the Trust Assets. Such decision will 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 will 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 5.3;
- (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 kaupapa contained under clause 3;
- (g) if any income of any financial year of the Trust is not paid or applied in accordance with clause 3.1 within 6 months from the end of that financial year the Trustees must accumulate that income, and any income so accumulated must be added to and form part of the capital of the Trust Assets and is subject to the trusts and powers declared in this Deed in respect of the capital of the Trust Assets; and
- (h) the Trustees may at any time pay or apply all or any of the capital of the Trust for any kaupapa contained under clause 3.

Management of the Trust

- 5.4 The Trustees have the absolute management and entire control of the Trust Assets.
- 5.5 The office of the Trust will be at such location as the Trustees may notify the Members of Ngāti Koata in any website, letterhead, formal written contract, other electronic means, or printed publications of the Trust.

Management Appointments

- 5.6 The Trustees may, on such terms as the Trustees determine, employ or contract a Senior Manager to manage the day-to-day administration of the Trust, and any other entity or entities within the Ngāti Koata Group (in accordance the terms of the appointment), including without limitation the implementation of the Trustees' planning, reporting, and monitoring obligations under this Deed.
- 5.7 The Trustees may from time to time:
 - (a) appoint, remunerate and dismiss officers or employees of the Trust, unless, either generally or in a particular case, they will 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 Senior Manager of the Trust; but
 - (b) in accordance with Kaupapa 3 of the Act, Members of Ngāti Koata will have no right to vote in respect of the appointment of employees of the Ngāti Koata Trust appointed in accordance with clauses 5.6 and 5.7.

Ngāti Koata Trust Deed

5.8 A Trustee may not:

- (a) hold the position of Senior Manager of the Trust; or
- (b) be an employee of the Trust or of any Corporate Entity, except where a Trustee is appointed by the Trust Board as a Director on a Corporate Entity; or
- (c) be party to a contract with, or otherwise be paid for services for, the Trust except as otherwise provided for in this Deed.

Trustee Remuneration

5.9 A Trustee or an employee of the Trust may not receive remuneration for services provided to the Trust whether through an incorporated or unincorporated entity or otherwise except in accordance with clause 5.47.

5.10 For the avoidance of doubt:

- (a) a Trustee may be remunerated in accordance with clause 5.47 for such reasonable expenses that they may incur as a Trustee and with such Trustee fees as have been approved by the Trustees and in accordance with this Deed.
- (b) so long as the Trust has an operative policy on koha, payment of reasonable koha paid directly to a Trustee, employee, or Director, or any incorporated or unincorporated entity in which a Trustee, employee, or Director has a direct or indirect interest will not be considered to be a payment for services for the purposes of this Deed.

Meetings of Trustees

5.11 The Trustees will meet to conduct business not less than 4 times in each year. The Trustees may invite to such meeting anyone who will assist with their deliberations. The basis for the attendee's presence will be confirmed by the Trustees at the commencement of the meeting and will be noted in the minutes.

5.12 Meetings of the Trustees will be chaired by the Chairperson, or in the absence of the Chairperson, by the Deputy Chairperson. If the Chairperson and Deputy Chairperson are both absent, the Trustees present will agree on a Trustee to chair the meeting. If there is no consensus, the meeting will be adjourned.

5.13 Except as stated otherwise in this Deed, any matter requiring a decision at a meeting of the Trustees will be decided by a simple majority of the Trustees personally present, or remotely present subject to clause 5.19, and voting on the matter. The procedure for voting will require:

- (a) one Trustee to motion a vote;
- (b) a second Trustee to second that motion;
- (c) once a motion has been seconded, the Trustees will discuss the motion;
- (d) the Chairperson will then ask who is in favour of the motion, and the Secretary will then list the names of those that are in favour in the Minute Book referred to in clause 5.19; and
- (e) if a Trustee requests it, the Secretary will then list those that are not in favour in the Minute Book.

Ngāti Koata Trust Deed

- 5.14 Trustee decision making will be by way of a simple majority. In the event of a tie of votes the Chairperson will not have a second or casting vote.
- 5.15 Except as stated otherwise in this Deed, a resolution in writing signed by all the Trustees will 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 electronic means as determined by the Trustees from time to time will be deemed to have been duly signed by that Trustee.
- 5.16 Any Trustee may at any time give notice convening a meeting of the Trustees. Such notice will be given by letter posted, or sent by electronic means, to each Trustee at least 15 Working Days before the date of the proposed meeting. The notice will state the time and place of the meeting and, in sufficient terms, the nature of the business to be transacted.
- 5.17 The quorum for a meeting of Trustees will be a majority of the Trustees who, for the time being, have been elected or otherwise holding office under clause 4.1.
- 5.18 The contemporaneous linking together of the Trustees by telephone or other electronic means of communication will constitute a meeting of the Trustees. This will apply to remote meetings of the Trustees provided the following conditions are met:
- (a) each Trustee will be entitled to notice of such a meeting and to be linked by electronic means for the purposes of the meeting;
 - (b) each of the Trustees taking part in the meeting must be able to hear each of the other Trustees taking part during the whole of the meeting;
 - (c) at the commencement and conclusion of the meeting the Chairperson must call upon each Trustee to acknowledge their attendance;
 - (d) a Trustee may not withdraw from such a meeting unless that Trustee has previously obtained the express consent of the Chairperson of the meeting to do so;
 - (e) a Trustee will be conclusively presumed to have been present and to have formed part of the quorum of such a meeting at all times during the meeting unless that Trustee has previously obtained the express consent of the Chairperson to withdraw from such a meeting; and
 - (f) any remote meetings of the Trustees will constitute a meeting of the Trustees.

Keeping Minutes

- 5.19 The Trustees will keep a proper record in a minute book of all matters and decisions taken and business transacted at every meeting of the Trustees, including meetings by electronic means of communication.
- 5.20 Minutes of each meeting will be signed by the Chairperson of the meeting at which the minutes are confirmed and will be accepted as correct unless proved otherwise of the matters recorded.
- 5.21 Minutes of each meeting held by electronic means of communication will be sufficient evidence of that meeting and of the observance of all necessary formalities if certified as a correct minute by the Chairperson of that meeting.

Delegation of powers

- 5.22 The Trustees may delegate in writing to any committee of any Trustee(s) or employee who is a

Ngāti Koata Trust Deed

Senior Manager of the Trust, such of the powers of the Trustees as the Trustees may decide, provided that:

- (a) the Trustees may not delegate strategic governance; and
 - (b) such delegation is subject to any restrictions set out in the Trust Act 2019 and the law generally.
- 5.23 Any person or committee acting under delegated power will act in accordance with the terms of this Deed and, in the absence of proof to the contrary, will also be presumed to be acting within the terms of the delegation.
- 5.24 The Trustees may revoke wholly or partly any delegation of the powers of the Trustees at any time.
- 5.25 Subject to any directions given by the Trustees, any person or committee to which any powers of the Trustees have been delegated may conduct their affairs as that person or the committee may decide.
- 5.26 In delegating their powers, the Trustees must:
- (a) provide restrictions or rules on how those powers are to be exercised in accordance with this clause; and
 - (b) in each case, require the delegatee to report to the Trustees on any action or decision taken as delegatee.

Keeping Accounts and Holding Audits

- 5.27 The Trustees will keep an account(s) at such bank(s) as the Trustees may decide. Electronic banking, withdrawals, and authorities will be signed or endorsed, as the case may be, by such person(s) (including in all instances at least one Trustee) as the Trustees may decide.
- 5.28 The Trustees will ensure true accounts for each financial year are kept in such manner as the Trustees may decide of all receipts, credits, payments, assets, and liabilities of the Trust Assets and all such other matters necessary for showing the true state and condition of the Trust.
- 5.29 The accounts of the Trust will be audited at least once a year by a chartered accountant (not being a Trustee) appointed in that capacity by the Trustees.
- 5.30 Nothing in clauses 5.27 to 5.29 will affect any other obligations of the Trustees in respect of accounts and audits.

Reliance on Professional and Other Advice

- 5.31 When exercising their powers or performing their duties, 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 Ngāti Koata Trust whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (b) a professional adviser or expert in relation to matters which the Trustees believe on reasonable grounds to be within the person's professional or expert competence;

Ngāti Koata Trust Deed

(c) committee of Trustees appointed and acting in accordance with clause 5.22.

5.32 Clause 5.31 applies only if the Trustees:

- (a) acts in good faith;
- (b) makes proper inquiry where the need for inquiry is indicated by the circumstances; and
- (c) have no knowledge that such reliance is unwarranted.

Liability and Indemnity of Trustees

5.33 No Trustee (including any former Trustee) will be liable for any loss to the Trust Assets arising from any act or omission of the Trustee or any of the Trustees unless the loss or liability arises from any breach of trust arising from that Trustee's dishonesty, willful misconduct or gross negligence.

5.34 No Trustee will be bound to take, or liable for failure to take, any proceedings against any other Trustee (including any former Trustee) for any breach or alleged breach of trust committed by that other Trustee.

5.35 Any Trustee, officer, or employee of the Trust may be indemnified or have their insurance costs met out of the Trust's Assets against any liability which they incur in defending any civil or criminal proceedings issued because of the actions or omissions of that Trustee, officer or employee in connection with the Trust, where:

- (a) those proceedings do not arise out of any dishonesty, gross negligence or wilful misconduct by the Trustee, officer, or employee; and
- (b) the Trustee, officer or employee was acting in good faith and in a manner that they believed to be in the best interests of the Trust with the object of furthering the Trust's kaupapa as set out at clause 3.

5.36 All indemnities and insurance costs may only be provided to the extent that the Trustees in their discretion think just and equitable.

5.37 All decisions made pursuant to clauses 5.35 and 5.36, to give or approve indemnities or meet or approve any insurance costs will be recorded in the minutes of the meeting of the Trustees at which such a decision was made together with the reasons why such indemnities or insurance costs were thought by them to be just and equitable.

Conflicts and Disclosures of Interests

Definition of Conflicted/Interested Trustee

5.38 A 'conflict of interest' in a matter involving any entity of Te Ohu a Ngāti Koata exists for a Trustee when that Trustee:

- (a) is a party to, or will derive a material financial benefit from, that matter;
- (b) has a material financial interest in another party to the matter;
- (c) is a director, officer, or trustee of another party to, or person who will or may derive a material financial benefit from the matter, not being a party that is wholly owned by the Trust or any Subsidiary of the Trust;

Ngāti Koata Trust Deed

- (d) is the parent, child, grandchild, grandparent, whāngai, partner, spouse, or de factor partner of another party to, or person who will or may derive a material financial benefit from the matter; or
- (e) is otherwise directly or indirectly interested in the matter; or
- (f) the interests or duty of the Trustee in any particular matter otherwise conflicts or might conflict with their duty to the Trust.

5.39 The following interests are not considered a financial interest in a matter:

- (a) remote or insignificant interests of a nature that could not reasonably be regarded as likely to influence the Trustee when carrying out their responsibilities,
- (b) an interest that the Trustee has in common with other Adult Registered Members; and
- (c) Trustee remuneration in that capacity as determined under clauses 5.9 and 5.10.

5.40 A Trustee will not be an interested Trustee simply for the reason of also being a Trustee on Te Pātaka a Ngāti Koata Trust.

Interests in common with Iwi

5.41 Notwithstanding clauses 5.38 and 5.39, no Trustee will be interested in a matter where that Trustee is a Member of Ngāti Koata and where his or her interest is not different in kind from the interests of other members of the Iwi.

Disclosure of Interest

5.42 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 will:

- (a) disclose the nature and extent of that Trustee's interest to the Chairperson and the other Trustees as soon as practicable after becoming aware of such interests; and
- (b) not take part in any deliberations or decisions of the Trustees relating to the matter of the interest unless invited to take part by the Trustees in any deliberations; and
- (c) abstain from voting on the matter and be absent during the meeting from any vote on the matter so as to not unduly influence the voting process in any way or form; and
- (d) be disregarded for the purpose of forming a quorum for any such deliberations or decisions.

5.43 In the event of a dispute as to whether a Trustee is an interested party, or where 50% or more of those forming the Trustees' quorum under clause 5.42 above are prevented from voting on the matter because they have disclosed an interest, the matter will be determined by:

- (a) the Chairperson; or
- (b) where the alleged interested party is the Chairperson the existence of an interest will be determined by the Deputy Chairperson or suitably delegated individual(s) or authority; or
- (c) the Chairperson or non-conflicted Trustees may appoint a suitable individual(s) or authority to determine the dispute.

Ngāti Koata Trust Deed

Recording an Interest (Interest Register)

- 5.44 Immediately upon their appointment as a Trustee, and during their time in office, Trustees must disclose any interest (and the nature and the extent, and, if relevant, the monetary value of that interest) of which that Trustee is or becomes aware that could potentially represent a conflict of interest, including (but not limited to):
- (a) the name of any tribal group or tribal entity of which they are a registered member; and
 - (b) the details of any governance, operational, or Director appointments on bodies outside of the Trust.
- 5.45 Disclosed interest must be entered into the Minute Book of the Trust and the Interest Register of the Trustees.
- 5.46 All disclosed interests will be reported in the Trust's Annual Report.

No Private Pecuniary Profit (or financial gain)

- 5.47 No private pecuniary profit may be made by any person from the Trust in connection with the affairs of the Trust, except that:
- (a) any Trustee may receive full reimbursement for all actual and reasonable costs and 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 their services rendered to the Trust;
 - (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 paid to them by any entity with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatsoever, notwithstanding that that Trustee's connection with that entity is in any way attributable to that Trustee's connection with the Trust;

provided that:

- (e) before any such:
 - (i) reimbursement paid to a Trustee may be regarded as properly incurred; or
 - (ii) remuneration paid to a Trustee may be regarded as reasonable or properly payable; or
 - (iii) any such charges may be regarded as usual; then
 - (iv) the amount of that reimbursement, remuneration or charge must be approved as such by a resolution of Trustees;
- (f) the Trustees disclose in their Annual Report referred to in clause 8.5 next published after payment of that disbursement, remuneration, or charge, in respect of all such reimbursements, remuneration or charges:

Ngāti Koata Trust Deed

- (i) the amount thereof received by each Trustee or any such entity;
- (ii) the nature of the reimbursement and the nature and extent of the services rendered or time expended;
- (iii) the method of calculation of the reimbursement, remuneration, or charge.

Restrictions on Interested Persons

5.48 Subject to clause 5.14, in the exercise of the powers conferred by this Deed, each Trustee in performing any duty or exercise of any discretion as Trustee will ensure that any person who is:

- (a) a Trustee;
- (b) a shareholder or director of any Corporate Entity carrying on any business of the Trust;
- (c) a settlor or a trustee of any trust that is a shareholder of any Corporate Entity carrying on any business of the Trust; or
- (d) any associated person (as defined in Subpart YB of the Income Tax Act 2007) of either a director, or any person referred to in sub-clauses (a) to (c) above;

does not, because 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 or derived by that person, and any payment made to any person in or following breach of this clause 5.48 will be void.

5.49 The Trustees will require that a clause to the same effect as clause 5.48 of this Deed be included in the Constitution of every Corporate Entity.

Appointment and Removal of Custodian Trustee

5.50 The Trustees may at any time by resolution in writing:

- (a) appoint any person or appropriate corporation to be the Custodian Trustee of the Trust Assets, or any part of the Trust Assets, upon the terms of this Deed or any further terms as the Trustees may decide; and
- (b) for the avoidance of doubt, the Custodian Trustee must, when exercising its powers, act in accordance with this Deed.

5.51 The Trustees may at any time by resolution in writing revoke any such appointment.

5.52 The Trustees may pay a fee to the Custodian Trustee.

5.53 The Trustees will inform the Adult Registered Members if a Custodian Trustee is appointed or removed.

Incorporation

5.54 The Trustees are a duly incorporated trust board under Part II of the Charitable Trusts Act 1957, where the powers and discretions conferred upon the Trustees by law or by this Deed will be conferred upon the Trustees as a trust board.

5.55 The Trust will have a common seal which Trustees can affix to any document needing to be signed under their authority. A document can only be attested in the presence of, and

Ngāti Koata Trust Deed

accompanied by the signatures of, two Trustees, and this will be sufficient evidence of authority to affix the seal.

- 5.56 No person dealing with the Trustees will be bound or concerned to see (or inquire as to the authority to affix the common seal) or to inquire as to the authority under which any document was sealed or in whose presence it was sealed.

6 NGĀ TIKANGA O TE OHU A NGĀTI KOATA (CODE OF CONDUCT)

- 6.1 Attached as Schedule 3, a Code of Conduct was approved by a majority vote of Members of Ngāti Koata at the 2019 Annual General Meeting. The Code governs core matters for Te Ohu a Ngāti Koata, including:

- (a) conflicts of interest;
- (b) confidentiality;
- (c) payment by way of koha;
- (d) contracting for services; and
- (e) any other matters that the Trustees consider should be included within the Code.

- 6.2 Any and all amendments to the Code will not come into force until approved by a majority vote of Members of Ngāti Koata at a General Meeting.

7 REGISTER OF MEMBERS OF NGĀTI KOATA

The Members' Register

- 7.1 The Trustees must:

- (a) have, and maintain in a current state, a register of Members of Ngāti Koata:
 - (i) that includes the name, date of birth, and contact details of every Member of Ngāti Koata who applies for registration;
 - (ii) that is available for inspection by Members of Ngāti Koata who can view their own registration details;
 - (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;
 - (iv) that allocates a member registration number to each Member of Ngāti Koata entered in that register.
- (b) make ongoing efforts to register all Members of Ngāti Koata on the Members' Register.

- 7.2 The Trustees may enter in the Members' Register any existing Member of Ngāti Koata whose details are already held by the Trustees where:

- (a) the details were acquired by the Trustees as a result of an application on a form not

Ngāti Koata Trust Deed

necessarily being the official Ngāti Koata Trust Registration form made by:

- (i) Adult Members and whāngai, on their own behalf or by their legal guardian at the time of the application;
 - (ii) other Members of Ngāti Koata, who were not Adult Members at the time of the application, by their parent on their behalf, or by their legal guardian at the time; or
 - (iii) other Members of Ngāti Koata by an Adult Member on their behalf who, in the opinion of the Komiti Whakapapa, stood in the stead of a parent of that person at the time of the application.
- (b) the details held by the Trustees fulfil the requirements of Kaupapa 5 of Schedule 7 of the Act, except that the requirement in clause (b)(iii) of that Kaupapa need not necessarily be fulfilled.
- 7.3 Subject to consent pursuant with the Privacy Act 2020, Members of Ngāti Koata registered on the Ngāti Koata Trust Members' Register will also be registered Members of Te Pātaka a Ngāti Koata Trust.

Appointment of a Komiti Whakapapa

- 7.4 For the main purposes of registration, and subject to clauses 5.23 to 5.27, the Trustees may appoint a Komiti Whakapapa comprising not less than 5 and up to 7 Members of Ngāti Koata, of whom at least 3 will be kaumātua appointed by Te Kaunihera Kaumātua. The kōmiti members will be mature persons or elders knowledgeable in Ngāti Koata whakapapa and recognised as such by Members of Ngāti Koata.

Registering as a Member of Ngāti Koata

- 7.5 An application to be entered in the Members' Register may be made by:
- (a) Adult Members and whāngai, on their own behalf or by their legal guardian;
 - (b) other Members of Ngāti Koata, who are not Adult Members, by their parent or legal guardian on their behalf;
 - (c) other Members of Ngāti Koata by an Adult Member on their behalf who, in the opinion of the Komiti Whakapapa, stands in the stead of a parent of that person; or
 - (d) persons acting under enduring powers of attorney for a Member of Ngāti Koata on their behalf; and
 - (e) in each case that application must be completed on the official Ngāti Koata Trust registration form.
- 7.6 Subject to clauses 7.7 and 7.8, the Trustees must enter in the Members' Register any person:
- (a) by or on behalf of whom an application has been made (either in accordance with clause 7.5 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 Koata through descent

Ngāti Koata Trust Deed

from a Tupuna of Ngāti Koata.

7.7 The Trustees:

- (a) may require any person seeking registration as a Member of Ngāti Koata to provide evidence verifying their affiliation to Ngāti Koata through descent from a Tupuna of Ngāti Koata or of any other matter referred to in clause 7.6 before that person's registration is entered in the Members' Register together with such other information as the Trustees request and the person making the application for registration agrees (but not providing the other information will not be a reason for the Trustees to decline the application for registration); and
- (b) may require any person who is entered in the Members' Register to provide evidence verifying their affiliation to Ngāti Koata through descent from a Tupuna of Ngāti Koata and any other matter referred to in clause 7.6; and
- (c) may consult with the Komiti Whakapapa in relation to any application for registration, or continued registration as a Member of Ngāti Koata; and
- (d) without limiting the foregoing, may request the Komiti Whakapapa to:
 - (i) determine who is the Tupuna, or are Tūpuna, of Ngāti Koata; and
 - (ii) determine the Tikanga of Ngāti Koata by which whāngai are to affiliate to Ngāti Koata.

Declining to Register or Remove a Person from the Members' Register

- 7.8 If the Trustees consider that any information about a person received under clause 7.6(a) or clause 7.7 is not accurate or complete, or that the existing information on the Members' Register is not accurate or complete such that in either case the person concerned does not meet the criteria required by this Deed for entry of that person in the Members' Register, the Trustees may decline to register, or remove that person from the register, as the case may be.

Process When Registration Declined or Removed

- 7.9 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, in which case it will be treated as a Registration Dispute under clause 11.

Where Registration is not Necessary

- 7.10 To avoid doubt, in order to be considered a Member of Ngāti Koata for the purposes of clause 3.1, it will not be necessary for a Member of Ngāti Koata to be registered in accordance with this clause 7.

De-registration by Member of Ngāti Koata

- 7.11 To avoid doubt, a Registered Member may, at any time, request in writing that their registration be removed or terminated. Their registration will be deemed removed at the date on which the written request is received by the Trust office.

Where Private Notice to a Member is not Necessary

- 7.12 If Private Notice sent to an electronic address fails, and the Trustees are aware of the failure,

Ngāti Koata Trust Deed

then the notice must subsequently be sent to the last known physical address of the Adult Registered Member. Where the physical address is no longer current and no further contact details are known of the Member, the Trust has satisfied its obligations under Kaupapa 5(a) of Schedule 7 of the Act.

General

- 7.13 For the avoidance of doubt, and subject to the provisions of the respective trust deed:
- (a) the Komiti Whakapapa appointed under this Deed will be the same Komiti for both the Ngāti Koata Trust and Te Pātaka a Ngāti Koata Trust;
 - (b) the Members' Register for the Ngāti Koata Trust will serve as the Members' Register for both the Ngāti Koata Trust and Te Pātaka a Ngāti Koata Trust; and
 - (c) the Members' registration forms for the Ngāti Koata Trust will serve as a registration form for both the Ngāti Koata Trust and Te Pātaka a Ngāti Koata Trust.

8 GENERAL MEETINGS AND REPORTING

Special General Meeting

- 8.1 A Special General Meeting may be convened as determined by the Trustees and must be convened by the Trustees on the written request of:
- (a) the Chairperson of the Trustees (or the Deputy-Chairperson if the Chairperson is indisposed); or
 - (b) not less than 50% of the Trustees; or
 - (c) not less than 10 members of Te Kaunihera Kaumātua; or
 - (d) not less than 30 Adult Registered Members of Ngāti Koata; or

provided that no meeting may be convened to consider the following actions in accordance with the Act, unless the Trustees have resolved to obtain the prior approval of the Adult Members:

- (e) to dispose of Income Shares under section 70;
- (f) to request Te Ohu Kai Moana Trustee Limited treat Quota as Settlement Quota under section 159;
- (g) to dispose of Settlement Quota under section 162; and
- (h) to a request under section 172 for rationalisation of Settlement Quota under section 172(3);

as the case may be; and

- (i) the request must state the objects for which the Special General Meeting is required and be signed by all those requesting the meeting;
- (j) notice must be given by the Trustees in accordance with clause 8.13.

Ngāti Koata Trust Deed

Annual General Meeting

- 8.2 Annual General Meetings must be held once a year. Notice of a General Meeting must be in accordance with clause 8.14.

Purpose of Annual General Meeting

- 8.3 The Trust must hold an Annual General Meeting which provides an opportunity for the Members of Ngāti Koata to consider an Annual Report, Annual Plan, Asset Holding Company Annual Report, the Five-Year Plan, and any other matter decided by the Trustees.

Reporting Responsibilities

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

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

in accordance with the provisions of this clause 8.

Annual Report

- 8.5 An Annual Report for the previous financial year will be presented to the Annual General Meeting. The report will be made available not less than 20 Working Days before the meeting, and will report against the objectives set out in the Annual Plan for the previous year, including:

- (a) information on the steps taken by the Trust to increase the number of Members of Ngāti Koata;
- (b) a comparison of the Trust's performance against the objectives set out in the Annual Plan, including:
 - (i) changes in the value of the Trust's assets;
 - (ii) profit distribution;
- (c) the annual audited financial report prepared in accordance with generally accepted accounting practice, and accounting separately for settlement cash assets;
- (d) a report giving information of the sales and exchanges of Settlement Quota in the previous year, including:
 - (i) the quantity of Settlement Quota held by the Asset Holding Company of the Trust at the beginning of that year;

Ngāti Koata Trust Deed

- (ii) the value of Settlement Quota sold or exchanged in that year;
 - (iii) the identity of the purchaser or other party to the exchange;
 - (iv) any transaction with Settlement Quota that has resulted in a registered interest by way of caveat or mortgage being placed over the quota;
 - (v) the Settlement Quota interests that have been registered against the quota shares of the Trust;
 - (vi) the value of Income Shares sold, exchanged, or acquired;
- (e) a report on the interactions of the Trust in fisheries matters:
- (i) with other entities within Te Ohu a Ngāti Koata;
 - (ii) with other Mandated Iwi Organisations;
 - (iii) with Te Ohu Kai Moana Trustee Limited;
- (f) any changes made under section 18 of the Act to constitutional documents of the Trust or those of its Asset Holding Companies;
- (h) any changes made to the Code of Conduct governing Te Ohu a Ngāti Koata;
- (i) any remuneration as permitted in accordance with this Deed, and as agreed by the Trustees as reasonable costs, including premiums of indemnity insurance the Trustees may incur; and
- (j) all conflicts and interests of Trustees as declared in the Interests Register under clause 5.45.

8.6 For the avoidance of doubt, it is intended that the Annual Report of the Trust will include the annual reporting of Te Pātaka Ngāti Koata Trust.

Annual Plan

8.7 An Annual Plan for the next financial year must include:

- (a) the objectives of the annual plan;
- (b) the policy of the Trust in respect of the sales and exchanges of Settlement Quota;
- (c) any changes in that policy from the policy for the previous year; and
- (d) any proposal to change the constitutional documents of any fishing company owned by the Trust.

8.8 For the avoidance of doubt, it is intended that the Annual Plan of the Ngāti Koata Trust will include Te Pātaka Ngāti Koata Trust.

Five-Year Plan

8.9 If a Five-Year Plan has been prepared, it will set out:

Ngāti Koata Trust Deed

- (a) the objectives of the Trust over a 5-year term;
- (b) any long strategies for the utilisation of Trust Assets; and
- (c) such other matters as the Trustees may from time to time determine.

8.10 The Trustees will review the Five-Year Plan before each Annual General Meeting.

8.11 For the avoidance of doubt, it is intended that the Five-Year Plan of the Ngāti Koata Trust will include Te Pātaka Ngāti Koata Trust.

Asset Holding Company Annual Report

8.12 An Annual Report for every Asset Holding Company that receives Settlement Assets, and in relation to any enterprise established by the Trust under clause 9.10 to conduct fishing operations utilising annual catch entitled from the Trust's Settlement Quota, to harvest, process, or market fish, or be involved in any joint venture for those purposes (each referred to in clause 8.4 as an 'enterprise'), will contain:

- (a) the performance of that enterprise;
- (b) the investment of money of that enterprise;
- (c) the annual plan of that enterprise, including:
 - (i) the key strategies for the use and development of Ngāti Koata's fisheries assets;
 - (ii) the expected financial return on those assets;
 - (iii) any programme to:
 - (aa) manage the sale of annual catch entitlements derived from the Settlement Quota; or
 - (bb) 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.

Notice of General Meeting

8.13 Notice of a Special General Meeting will be given not less than 15 Working Days prior.

8.14 Notice of an Annual General Meeting will be given not less than 20 Working Days prior.

8.15 Where elections are to be held at a General Meeting the following notice will be given for nominations:

- (a) Nominations are to be called not less than 40 Working Days prior to the General Meeting; and
- (b) Valid nominations must be received at the office of the Trust no later than 25 Working Days before the General Meeting at which the election of trustees is to be held.

8.16 Where the Trustees are required to call a Special General Meeting in accordance with clause 8.1, subject to notice given under clause 8.13, the meeting will be held not less than 60

Ngāti Koata Trust Deed

Working Days after proper notice has been given to or by the Trustees to call the meeting.

- 8.17 The detail and content of notices, whether public or private, will be made in accordance with the relevant provisions of this Deed and where required with the Act.
- 8.18 Any Adult Member, who is a registered member or has applied for registration, 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
 - (c) the disposal of Income Shares or Settlement Quota; or
 - (d) the conversion of Quota into Settlement Quota.

Voting Procedure

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

Quorum

- 8.20 No business will be transacted at a General Meeting unless a quorum is present. The quorum at a General Meeting is:
- (a) 50 % or more of the Trustees; and
 - (b) 20 Adult Registered Members of Ngāti Koata.

Adjourned Meeting

- 8.21 If a quorum is not present within one hour of the time appointed for the start of a General Meeting, the meeting is to stand adjourned until the same hour at the same place 20 Working Days following the adjournment of that meeting unless the Trustees otherwise determine.

Chairperson

- 8.22 The Chairperson or, failing them, the Deputy-Chairperson, will preside over and have control of every General Meeting. If there is no Chairperson or Deputy-Chairperson present at the time appointed for holding a General Meeting, or if either of those persons is unwilling to preside over the meeting, the Trustees present will choose any of their number to substitute as Chairperson for that meeting.

Resolution

- 8.23 A resolution will be passed at a General Meeting, as follows:
- (a) except in the case of resolutions described in sub-clause (b) and (c) below, by not less than 50% of votes validly cast by the Adult Members in accordance with the voting

Ngāti Koata Trust Deed

procedures under clause 8.19;

(b) in the case of a resolution for:

- (i) a Major Transactions; or
- (ii) 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; or
- (iii) winding up of this Trust; or
- (iv) disposal of Income Shares in accordance with section 70 of the Act; or
- (v) Quota to be treated as Settlement Quota in accordance with section 159 of the Act; or
- (vi) disposal of Settlement Quota in accordance with section 162 of the Act; or
- (vii) a request for rationalisation of Settlement Quota under section 172 of the Act,

by not less than 75% of votes validly cast by the Adult Members in accordance with the voting procedures established under clause 8.19, but no such resolution will be passed unless notice in respect of those resolutions has been given in accordance with the Act;

(c) in the case of a resolution for:

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

by not less than 75% votes validly cast of the Members of Ngāti Koata in accordance with the voting procedures established under clause 8.19, but no such resolution will be passed unless notice in respect of those resolutions has been given in accordance with the Māori Commercial Aquaculture Claims Settlement Act 2004.

Minutes

8.24 Minutes of the proceedings of all meetings within clause 8 will be recorded in a Minute Book to be kept for that purpose by the Secretary and will be signed by the Chairperson of the meeting at which point the minutes are confirmed. Every such minute purporting to be so signed will be accepted as correct unless proved otherwise of the matters recorded.

Making Information available

8.25 Information referred to in clause 8.4 must be made available on request in writing by any Member of Ngāti Koata, including:

- (a) amendments;
- (b) constitutions of Corporate Entities;

Ngāti Koata Trust Deed

- (c) Annual Reports for the preceding 3 years;
- (d) consolidated financial statements;
- (e) the Annual Plan;
- (f) the Five-Year Plan (if one is prepared);
- (g) the Trustees' Minute Book; and
- (h) a Member's own personal details on the Members' Register;

unless it is subject to confidentiality whilst the Trust is in-committee.

- 8.26 Any Adult Registered Member may request in writing for a copy of this Deed or the minutes as set out at clause 8.25 (subject to clause 8.26), and a copy will be provided subject to such reasonable charges as the Trustees require.

Clause 8 to be consistent with Kaupapa of this Trust

- 8.27 Clause 8 will not have any effect on the provisions of clause 3.

9 ASSET HOLDING COMPANY AND FISHING ENTERPRISE

Establishing an Asset Holding Company

- 9.1 The Trust must have at least one Asset Holding Company and, to the extent and for so long as required by the Act subject to clause 8 (particularly clauses 8.23(b) and (c)), that Asset Holding Company is wholly owned by the Trust and subject to the requirements set out in sections 16 and 17 of the Act, which at the date of this Deed are that the Asset Holding Company:
- (a) must be and remain wholly owned and controlled by the Trust;
 - (b) must not have more than 40% of its Directors who are also Trustees elected in accordance with this Deed;
 - (c) must have constitutional documents that have been approved by a simple majority of the Trustees, as complying with the requirements of the Act;
 - (d) must have constitutional documents that have been ratified by a resolution passed by a majority of not less than 75% of the Trustees, whether or not present at the meeting at which that resolution is proposed;
 - (e) must receive and hold, on behalf of the Trust, for so long as they are to be retained, all Settlement Quota and Income Shares allocated by Te Ohu Kai Moana Trustee Limited to, or otherwise acquired by Ngāti Koata under the Act;
 - (f) must provide dividends solely to the Trust;
 - (g) must not undertake fishing or hold a fishing permit;
 - (h) must not enter into any transactions relating to or affecting the Income Shares it holds unless the Trust has complied with its obligations under this Deed, including, without

Ngāti Koata Trust Deed

limitation, clause 8, and sections 69 to 72 of the Act;

- (i) must not enter into any transactions relating to or affecting the Settlement Quota it holds unless the Trust has complied with its obligations under this Deed, including, without limitation, clause 8, and sections 161 to 176 of the Act;
- (j) in its function of receiving and holding Settlement Quota and Income Shares, is bound by all the requirements specified for Mandated Iwi Organisations in relation to those matters in the Act;

9.2 For the avoidance of doubt, and except as expressly provided by this Deed, the Asset Holding Company will be governed by its own Board.

9.3 The Asset Holding Company may establish one or more Subsidiaries which it will ensure complies with the obligations imposed in clause 9.1, and;

(a) may transfer to that Subsidiary some or all of the assets received under clause 9.1(e); and

(b) any Subsidiary established under the preceding clause:

- (i) must be and remain wholly owned by the Asset Holding Company that established it;
- (ii) must receive and hold, on behalf of the Asset Holding Company, Settlement Quota and Income Shares transferred to it by the Asset Holding Company under clause 9.3(a);
- (iii) must provide dividends solely (but indirectly) to the Trust;
- (iv) must not enter into any transactions relating to or affecting the Income Shares it holds unless the Trust has complied with its obligation under sections 69 to 72 of the Act;
- (v) in its functions of receiving and holding Settlement Quota and Income Shares is bound by all the requirements specified for Mandated Iwi Organisations in relation to those matters in the Act;
- (vi) may establish one or more Subsidiaries to be its Subsidiary Asset Holding Companies which it will ensure complies with the obligations imposed on it in this clause 9.1; 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 with the Trust's wishes and in compliance with any statement of corporate intent agreed between them and the Trust.

What an Entity's Constitution requires

9.4 The Constitution of every Corporate Entity (Asset Holding Company, Fishing Enterprise, or a subsidiary of any of them) must require that entity to:

- (a) have or be included in a Statement of Intent;
- (b) report or be included in an annual report to the Trust; and

Ngāti Koata Trust Deed

- (c) have its accounts audited as deemed necessary;
- (d) ensure that in the exercise of the powers provided to them by its Constitution in the carrying on of its business, no Director of that Corporate Entity will be entitled to 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 to be received, gained, achieved, afforded, or derived by that Director, or any related person of them, and any payment made in breach of this clause will be void against that Corporate Entity;
- (e) ensure each Director in the carrying on of the business of that Corporate Entity, will ensure that any person who is:
 - (i) a settlor of the trusts declared in this Deed;
 - (ii) the Ngāti Koata Trust;
 - (iii) a settlor or a trustee of any trust that is a shareholder of that Corporate Entity;
 - (iv) any associated person (as defined in Subpart YB of the Income Tax Act 2007) of either a Director, or any person referred to in sub-clauses (e)(i) to (iii) above,

does not, because of that capacity, in any way (whether directly or indirectly) improperly 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 (other than any benefit or advantage or income received, gained, achieved, afforded, or derived by that person in that person's capacity as trustee in trust for the charitable purposes of the shareholder), and any payment made to any person in those circumstances will be void; and
- (f) may provide, if required by the Trust, for the appointment of up to two Trustees as Directors or trustees, as the case may be, of that Corporate Entity, provided, however, that at no time may the Trustees comprise more than 40% of the total number of Directors or trustees of that entity; and
- (g) must not amend the constitution in a manner which would jeopardise the charitable status of a Corporate Entity where that Corporate Entity is registered under the Charities Act 2005.

Appointments of Directors

- 9.5 The criteria for eligibility and appointment of Directors of a Corporate Entity must:
 - (a) comply with the provisions of the Companies Act 1993; and
 - (b) comply with the provisions of this Deed and or such resolutions relating to eligibility and appointment as may be resolved by the Trust and notified in writing to the Corporate Entity.
- 9.6 The Trustees will appoint by majority decision the Directors of:
 - (a) any Corporate Entity; and
 - (b) any subsidiary of any Corporate Entity that holds any assets transferred by the Trust.
- 9.7 The Trust may appoint up to two Trustees to be Directors on the Board of a Corporate Entity so long as the Trustees comprise no more than 40% of the total number of Directors or trustees of

Ngāti Koata Trust Deed

that Corporate Entity.

9.8 A Trustee appointed as a Director will:

- (a) be required to act in the best interests of the Trust;
- (b) comply with any Trust or Trust Board policy on the position;
- (b) be ineligible to be Chairperson of the Corporate Entity; and
- (c) be deemed to have resigned as a Director upon notice that they are no longer a Trustee of the Trust.

9.9 For the avoidance of doubt, a Trustee will be ineligible to be a manager, employee, or contractor of any Corporate Entity.

Establishing a Fishing Enterprise

9.10 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.

Commercial Aquaculture Activities

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

Other Commercial Entities

9.12 For the avoidance of doubt, the Trust may establish such other Corporate Entities as they require to undertake activities other than those activities referred to in clauses 9.10 and 9.11 on behalf of the Trust.

10 MAJOR TRANSACTIONS

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

- (a) has been approved by a majority of 75% of votes validly cast at a General Meeting for which notice has been properly given under clauses 8.13 and 8.14; or
- (b) is subject to approval by a majority of 75% of votes validly cast at a General Meeting and the transaction is subsequently approved by Special Resolution at a General Meeting for which notice has been properly given under clauses 8.13 and 8.14; and
- (c) otherwise complies with the requirements of the Act.

10.2 The Trust must not enter into a Major Transaction that involves the mortgage or use as collateral of any Settlement Quota.

10.3 The Trust must not enter into a Major Transaction (within the meaning of sub-clause (d) of that

Ngāti Koata Trust Deed

definition) involving Income Shares or Settlement Quota within two years after the date on which the Income Shares or the first transfer of Settlement Quota, as the case may be, are transferred to the Trust by Te Ohu Kai Moana Trustee Limited.

- 10.4 If approval is obtained in accordance with clause 10.1 for a Major Transaction (within the meaning of that definition) involving Income Shares or Settlement Quota, the Trust must comply with the provisions of the Act regarding the offer and sale of the Income Shares or Settlement Quota.
- 10.5 Approval may not be obtained for a Major Transaction (within the meaning of sub-clause (d) of that definition) involving unspecified Settlement Quota unless the approval to sell unspecified Settlement Quota is given up to a specified limit that must not exceed 10% of the total value of the Settlement Quota held by the Trust.

Giving Notice of Major Transactions

- 10.6 Where a resolution is proposed in accordance with clause 10 the Trust must give Public Notice of:
- (a) the fact that the Trustees want to enter a Major Transaction;
 - (b) the availability of Voting Papers for Members of Ngāti Koata unable to attend the General Meeting and the date by which an address to which completed Voting Papers must be sent in order to be validly cast;
 - (c) the date, time, and venue of the General Meeting at which the resolution will be put before the Members of Ngāti Koata;
 - (d) the availability, on written request to the Trust, of full particulars (excluding any Confidential Information) regarding the Major Transaction; and
 - (e) any further information prescribed by Te Ohu Kai Moana Trustee Limited in accordance with the Act.
- 10.7 Notice will be given in accordance with clause 8.13.

Income Shares and Settlement Quota

- 10.8 If a resolution proposed in accordance with clause 8.23(b)(i) relates to a Major Transaction (within the meaning of sub-clauses (d) or (e) of that definition) involving income Shares, then the Trust must in addition to the matters requiring notice under clause 10.6:
- (a) give Public Notice specifying the approximate proportion of the total value of the Income Shares of the Trust that are affected by the transaction; and
 - (b) give written notice, where required, to every Adult Registered Member specifying the number of Income Shares affected by the transaction and a reasonable estimate of the net present value or likely sale price of such Income Shares.
- 10.9 If a Special Resolution proposed in accordance with clause 8.23(b)(i) relates to a Major Transaction (within the meaning of sub-clauses (d) or (e) of that definition) involving Settlement Quota, then the Trust must in addition to the matters requiring notice under clause 10.6:
- (a) give Public Notice specifying the approximate proportion of the total value of the Settlement Quota of the Trust that is affected by the transaction, provided however that:

Ngāti Koata Trust Deed

- (i) an approval to sell specified Settlement Quota or Settlement Quota approved for sale in accordance with a programme notified in the Trust's Annual Plan may be valid for not more than 15 months from the date on which the approval is given;
 - (ii) an approval to sell Settlement Quota generally up to a specified limit that must not exceed 10% of the total value of the Settlement Quota held by the Trust may be valid for not more than 12 months from the date on which the approval is given; and
- (b) give written notice, where required, to every Adult Registered Member specifying the amount of Settlement Quota affected by the transaction and a reasonable estimate of the likely market value of such Settlement Quota.

11 DISPUTES RESOLUTIONS PROCEDURES

General Disputes

- 11.1 Parties involved in any dispute of a general nature between Members of Ngāti Koata and the Trust, other than a dispute concerning the Act or a Registration Dispute, will act in good faith to resolve the dispute informally.
- 11.2 If the parties are unable to resolve the dispute within 30 Working Days, they must, acting in good faith:
- (a) consult and endeavour to resolve the dispute with Te Kaunihera Kaumātua within 15 Working Days of Te Kaunihera receiving notice of the dispute. Te Kaunihera Kaumātua may give recommendations to the parties; or
 - (b) if the parties are unable to resolve the dispute under sub-clause (a), endeavour to agree on a process and timetable for resolving the dispute, including (but not limited to) all or any of the following:
 - (i) further negotiations;
 - (ii) mediation;
 - (iii) determination of the dispute by an independent expert; andbefore proceeding to take any other action, engage in the process agreed to.
- 11.3 A specified decision made under clause 11.2 may be implemented by the decision maker before the expiry of 30 Working Days, but only to the extent that its implementation does not deprive a party that disputes the decision of the benefit of, or any remedy available under, the dispute resolution process set out under clause 11.
- 11.4 A decision may be fully enforced if no party has commenced the dispute resolution process within 30 Working Days after receiving notification of the decision.
- 11.5 If, within 30 Working Days, all parties notified of a decision under clause 11.2 advise the decision maker that they do not wish to invoke the dispute resolution process, that waiver is binding on the parties.
- 11.6 A party may refer the dispute to an Arbitrator from the Arbitrators and Mediators Institute of New Zealand for determination if:
- (a) the parties cannot agree on a dispute resolution process under clause 11.2; or

Ngāti Koata Trust Deed

- (b) the timetable for the dispute resolution process is not being complied with; or
- (c) if they believe that the correct process was not followed under clauses 11.10 and 11.11; or
- (d) the dispute resolution process does not resolve the dispute.

11.7 For the avoidance of doubt, the Trust will only pay for the costs of their participation in a dispute under clause 11, unless otherwise agreed by the parties or determined by the independent expert adjudicating a dispute.

11.8 If a dispute about the validity of an election or appointment process conducted under Schedule 1 cannot be resolved under clause 11, the Trustees will appoint an independent adjudicator to resolve the dispute. Their decision will be final and binding.

11.9 The provisions of this clause 11 will not have any effect on the rights or obligations of the Trust or any Member of Ngāti Koata pursuant with the Act, Trusts Act 2019, or any other Act or provision of law or equity.

Registration Disputes (Komiti Whakapapa)

11.10 If the Trustees make a decision under clause 7.8 to either not register a person or to remove a person from the register, they must:

- (a) refer the matter to the Komiti Whakapapa;
- (b) consider the recommendation of the Komiti and any determination of the Komiti made in response to a request under clause 7.7(d);
- (c) notify the person concerned of their decision, and, if requested by that person, of the principal reasons for that decision.

11.11 If the person concerned disputes a decision:

- (a) that person may exercise their rights under section 180(1)(m) of the Act; or
- (b) the person concerned believes that the correct process was not followed in respect to clauses 11.10 and 11.11, that person may initiate the disputes process set out at clause 11.6; however:

11.12 Any decision made by the Arbitrator may only be made in respect to whether the correct procedure was followed as at clauses 11.10 and 11.13, and as such may only order that those procedures be retried. The Arbitrator may not order that a person be registered or reregistered.

Proceedings

11.13 When making a recommendation to the Trustees in relation to clause 11.10, the Komiti Whakapapa:

- (a) must apply the provisions of the Act relating to registration of Members of Ngāti Koata;
- (b) will provide the person concerned, and any representative that person appoints the opportunity to attend a meeting of the Komiti to present their account, to which new information may also be presented, of why they should be registered or remain on the Members' Register, as the case may be;
- (c) will have the discretion to consider the Member's own knowledge and such other matters (including the tikanga of Ngāti Koata) as the Komiti considers will assist it in making a

Ngāti Koata Trust Deed

determination; and

- (d) must also inform the person concerned of those other matters and consider any submissions or information provided by that person on those matters.

Determination

- 11.14 The determination of the Trustees on the registration of the person concerned will be final and binding on that person and the Trust, but if the person concerned disputes that determination, that person may exercise their rights at clauses 11.11(b) and 11.12, and the provisions of section 180(1)(m) of the Act.

Disputes under the Māori Fisheries Act 2004

- 11.15 Any dispute that arises between Members of Ngāti Koata and the Trust relating to matters arising under the Act will be determined in accordance with Part 5 of the Act.

12 WINDING UP OF TRUST

- 12.1 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 Special Resolution supporting the winding up proposal and the terms of it must be put and passed at a General Meeting in accordance with clause 8.23(b); and
- (c) if the Trust is incorporated under the Charitable Trusts Act 1957, the Trust Assets will be disposed of in accordance with the provisions of that Act.

13 RESETTLEMENT

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

- (a) the resettlement is upon trust for the benefit of all Members of Ngāti Koata;
- (b) the resettlement may only be promoted if a resolution supporting it is put and passed at a General Meeting in accordance with clause 8.23;
- (c) the resettlement is upon trusts for Charitable Purposes; and
- (d) that any such settlement or resettlement must comply with the Act.

14 AMENDING THIS DEED

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

Ngāti Koata Trust Deed

- (a) an amendment is:
 - (i) promoted and passed as a Special Resolution at a General Meeting in accordance with clause 8.23(b); and
 - (ii) it is proposed by an Adult Member in line with clause 14.2;
- (b) no amendment may be inconsistent with the Act;
- (c) 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 Koata if the amendment relates to any matter provided for, by, or under the Act, unless the amendment is required as a consequence of a rule made or amended under section 25 of the Act;
- (d) an amendment may only be promoted if, in accordance with section 18 of the Act, a resolution that the amendment is for the collective benefit of all Members of Ngāti Koata is put and passed at a General Meeting in accordance with clause 8.23(b)(ii);
- (e) notwithstanding the terms of this Deed, no amendment to this Deed will be made, and, if claimed to be made, will be of no legal effect if the consequence of that amendment prejudices 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 2007 in respect of income derived by it; and
- (f) prior to any resolution to amend this Deed being placed before Members of Ngāti Koata, competent advice will, 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.

Proposals to Amend Deed

- 14.2 Any Adult Member (including a Trustee) may submit in writing proposals for changes to this Deed and the Trustees will consider that proposal where they are satisfied that the person is a Member of Ngāti Koata.

Giving Notice of Amendments

- 14.3 Trustees must notify Members of Ngāti Koata of any amendment made to this Deed.

Changes to Constitutions of Corporate Entities

- 14.4 To the extent any proposal for the amendment of the constitutional documents of the Asset Holding Company or any Fishing Enterprise relates to a matter provided for in the Act:
- (a) must not be made earlier than two years after the date on which the Trust is recognised by Te Ohu Kai Moana Trustee Limited as the Mandated Iwi Organisation for Ngāti Koata unless the amendment is required as a consequence of a rule made or amended under section 25 of the Act;
 - (b) must be consistent with the Act;
 - (c) may only be promoted if the amendment is put and passed at a General Meeting of Shareholders; and

Ngāti Koata Trust Deed

(d) must not jeopardise the charitable status of a Corporate Entity.

SIGNATURE

Trustee by:

and witnessed by:

Signature of trustee

Name of Trustee

Signature of witness

Occupation

City/town of residence

Trustee by:

and witnessed by:

Signature of trustee

Name of Trustee

Signature of witness

Occupation

City/town of residence

Trustee by:

and witnessed by:

Signature of trustee

Name of Trustee

Signature of witness

Occupation

City/town of residence

Ngāti Koata Trust Deed

Trustee by:

and witnessed by:

Signature of trustee

Name of Trustee

Signature of witness

Occupation

City/town of residence

Trustee by:

and witnessed by:

Signature of trustee

Name of Trustee

Signature of witness

Occupation

City/town of residence

Ngāti Koata Trust Deed

Trustee by:

and witnessed by:

Signature of trustee

Name of Trustee

Signature of witness

Occupation

City/town of residence

Trustee by:

and witnessed by:

Signature of trustee

Name of Trustee

Signature of witness

Occupation

City/town of residence

Ngāti Koata Trust Deed

SCHEDULE 1 – ELECTIONS AND VOTING

PART A: Election Processes

Election of Trustees

1. Subject to clause 4, this Schedule sets out the provisions for electing Trustees of the Trust.

Nominations for Trustee

2. The Trust must, in accordance with clause 8.15, publicly notify Members of Ngāti Koata that nominations for the position of Trustee of the Trust may be lodged.
3. A nomination must include:
 - (a) the written signature of both the nominee and the nominator;
 - (b) the details of the nominee's full name, address and contact number;
 - (c) whether the nominee is an Adult Registered Member;
 - (d) a declaration signed by the nominee that declares that:
 - (i) the nominee is a person who can hold office as a Trustee on the basis that:
 - (aa) none of the grounds specified in clause 4.6 apply to the nominee; and
 - (bb) the nominee has served the maximum number of consecutive terms without retiring and not stood for election for a period of one calendar year, in a manner consistent with clause 4.4(b)(i) or clause 4.4(b)(ii) (as applicable); and
 - (ii) if the nominee is a Senior Manager, or is an employee, or contractor of the Trust and the nominee is elected as a Trustee, the nominee will do all things necessary to terminate their engagement or employment with the Trust in order to comply with clause 5.8; and
 - (e) a brief statement from the nominee containing details of experience and objectives relevant to the position of Trustee, and/or any other details as directed or required by the Trust.
4. A nomination may not be withdrawn after it has been received.
5. Public notification requesting nominations may be:
 - (a) published in a newspaper generally circulating in the relevant area or areas;
 - (b) published by pānui or other electronic media and means; and
 - (c) in such other manner as the Trustees determine.

Ngāti Koata Trust Deed

Time for Nominations

6. Valid nominations for the position of Trustee must be received within the time set out in clause 8.15. However, in the event of the number of nominations being equal to the number of positions available, the nominee(s) will be deemed to be elected under the provisions of this Schedule 1 from the date of the General Meeting.

PART B: All Votes

Voting Procedure

7. The procedure determined by the Trustees in respect of any vote, must be publicly notified in accordance with clauses 8.13 to 8.18 and, if the vote is to be at a General Meeting of Ngāti Koata, the notice procedures must comply with those specified in the Act:
 - (a) Public Notice that includes:
 - (i) the date, time, venue and agenda of the General Meeting, the place where explanatory documents may be reviewed 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 Trust;
 - (iii) advice on the method by which the vote will be counted;
 - (iv) the procedure for obtaining a voting form; and
 - (v) advice on the method by which the vote will be counted.
 - (b) Private Notice to every Adult Registered Member who has requested such from the Trust in writing, that gives:
 - (i) the information in the preceding sub-paragraph of this Schedule;
 - (ii) a copy of the Voting Paper; and
 - (iii) the address and return date for the Voting Paper.
 - (c) Private Notice to every Adult Registered Member if there is to be a vote taken to ratify the constitutional documents of the Mandated Iwi Organisation that gives the information in sub-paragraphs 7(b)(i) to (iii).

Trustees to comply with the Voting Procedure

8. For the avoidance of doubt the Trustees when undertaking the procedure for voting will comply with the process that has been publicly notified to Members of Ngāti Koata and the provisions of this Deed.

Returning Officer Appointment and Responsibilities

9. The Trustees will appoint a person or election services provider to act as the Returning Officer for the purpose of elections or, where required, for any other formal voting at a General

Ngāti Koata Trust Deed

Meeting, held under this Schedule, provided however that the Returning Officer is not a Trustee, a nominee, an employee of the Trust, or a Member of Ngāti Koata.

10. Under this Schedule, the Returning Officer will be responsible for receiving and counting all votes cast in an election and, where required, for any other formal vote cast at a General Meeting.
11. The Trustees may appoint up to two (2) Returning Officer Assistants to assist the Returning Officer with their task.

Timing of votes

12. Votes must be cast no later than the closing date for voting. Postal votes otherwise validly cast are valid and able to be counted if they are received by the Returning Officer no later than 3 days after the closing date New Zealand Standard time, but only if the envelope containing the voting form is date stamped on or before the date for voting closes.

Eligible voters

13. All Adult Members will be eligible to cast one vote on any resolution required by clause 8.23 or the election of Trustees, and any votes cast on those matters will be received:
 - (a) by personal vote (not proxy) at a General Meeting;
 - (b) by postal or electronic ballot and received before 5pm on the day of the General Meeting.

Valid votes

14. The conduct of a vote of Members of Ngāti Koata at every General Meeting must provide that:
 - (a) in order for a vote to be validly cast, the person casting it must:
 - (i) where the person is already registered as a Member of Ngāti Koata, record the membership number on the Voting Paper; or
 - (ii) where the person is not registered at the time of the vote, also complete a registration application on the official Ngāti Koata Trust registration form which will be attached to and form part of the Voting Paper;
 - (b) No vote cast under (a) above will be finally counted unless the details provided on the Voting Paper (except the ancillary information) are correct and the affiliation of the voter to Ngāti Koata has been confirmed either:
 - (i) because that person is an Adult Registered Member at the time they cast their vote; or
 - (ii) if that person has applied at the time that their vote was cast, to become an Adult Registered Member, because their registration was accepted in accordance with clause 7.6; or
 - (iii) that person has been verified by the Komiti Whakapapa that they affiliate to Ngāti Koata through descent from a Tupuna of Ngāti Koata.

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

Ngāti Koata Trust Deed

Secret Ballots

15. All votes will be organised so that:
- (a) the manner in which a vote is cast will be known to the Returning Officer or persons assisting the Returning Officer, but not to others;
 - (b) that the Returning Officer and those persons will undertake to keep that information confidential; and
 - (c) that the Voting Papers are destroyed by the Returning Officer one month after the date of completion of the final count under paragraph 14(b).

Counting votes (for Elections)

16. On completion of the voting in an election, the Returning Officer will:
- (a) reject as informal:
 - (i) any vote for which there is reasonable cause to believe that the Voting Paper was not prepared by the Trust for the purposes of the election; and
 - (ii) any vote that does not clearly indicate the nominee for which the voter intended to vote; provided that no vote will be rejected as informal by reason of some informality in the manner in which it was dealt with by the voter if the vote is otherwise regular and if the intention of the voter is clearly indicated;
 - (b) then:
 - (i) count the number of votes cast in an election received for each nominee; and
 - (ii) count the number of votes rejected as informal;
 - (c) determine the number of highest polling nominees required to fill all vacancies in the office of Trustee and declare those highest polling nominees as duly elected Trustees; and
 - (d) determine the two next highest polling nominees and declare them as duly elected Replacement Trustees in order of votes; and
 - (e) where there is an equality of votes in an election such that the number of highest polling nominees required to fill all vacancies in the office of Trustee cannot be determined, and where the nominees so tied cannot agree amongst themselves who will be elected as Trustee, the Chairperson, Deputy Chairperson, or other officeholder of the Trust, who is not one of the nominees, will draw lots to determine who is to be elected as Trustee.

Notifying Election Results

17. Within 5 Working Days of the closing date for voting, the Returning Officer will provide the Trustees with a report of the final results of the election, including the number of votes received for each nominee and the number of votes rejected as informal.
18. Within 10 Working Days of the Trustees receiving the report from the Returning Officer, the Trustees will notify Members of the results of an election through the Ngāti Koata Trust website, pānui, and other electronic media declaring the names of the nominees who sought election,

Ngāti Koata Trust Deed

ranking of nominees by the number of votes received, and distinguishing the elected Trustees and Replacement Trustees.

Counting votes (other than for Elections)

19. On completion of the voting on each resolution at a General Meeting, the Returning Officer will:

(a) reject as informal:

- (i) any vote for which there is reasonable cause to believe that it was not prepared by the Trust for the purposes of the General Meeting; and
- (ii) any vote that does not clearly indicate the option for which the voter intended to vote,

provided that no vote will be rejected as informal by reason of some informality in the manner in which it was dealt with by the voter if the vote is otherwise regular and if the intention of the voter is clearly indicated;

(b) then:

- (i) count the number of votes casts in favour of a resolution; and
- (ii) count the number of votes cast against a resolution; and
- (iii) count the number of votes rejected as informal;

(c) determine whether the resolution has been passed or not; and

(d) notify the Members of Ngāti Koata present at the General Meeting of the outcomes of the vote on the resolution.

Ngāti Koata Trust Deed

SCHEDULE 2 – GOVERNANCE REVIEW

1. The Trustees will undertake a governance review of Te Ohu a Ngāti Koata entities on or before the five-year anniversary of the establishment of Te Pātaka a Ngāti Koata Trust and at five-year intervals from thereon.
2. Governance Reviews will be conducted in accordance with the provisions of the Deed and this Schedule.
3. Funding of a Governance Review will be shared equally by Te Ohu a Ngāti Koata entities or in accordance with the requirements of the Trustees.

Appointment of Reviewer

4. For each Governance Review, the Trustees will not later than 6 months before the next Annual General Meeting establish the terms of reference and appointment criteria for an independent reviewer.
5. The Trustees will consult with Te Kaunihera Kaumātua and the boards of all Te Ohu a Ngāti Koata entities in respect to potential candidates for the position of reviewer. The Trustees will however make the final decision as to the appointment.

Terms of Reference and Scope of the Review

6. The terms of reference must include:
 - (a) the date of the commencement of the Governance Review; and
 - (b) the date by which the review report must be presented no later than 3 months after the commencement date.
7. The Governance Review must consider:
 - (a) the performance of each entity in achieving its duties and functions;
 - (b) the ability of each entity to deliver benefits to the beneficiaries or shareholders of Te Ohu a Ngāti Koata;
 - (c) the ability of each entity to contribute to achieving the purposes of Ngāti Koata as defined from time to time by the Trustees in consultation with Te Kaunihera Kaumātua; and
 - (d) whether the interests of Ngāti Koata would be better served by changes to:
 - (i) the structure of Te Ohu a Ngāti Koata; and
 - (ii) the governance arrangements of an entity.

Information Required

8. Information requested by or on behalf of the reviewer must be provided promptly by the person or entity that:
 - (a) has or controls the information; or
 - (b) is contractually entitled to the information; or

Ngāti Koata Trust Deed

(c) can obtain the information by reasonable effort.

Review Report

9. As soon as practicable after conducting a review a reviewer must:
 - (a) prepare a written report that includes the findings and recommendations of the reviewer;
 - (b) present the review report to:
 - (i) the Trustees;
 - (ii) Te Kaunihera Kaumātua; and
 - (iii) each entity under review.
10. Not later than one month after receiving a review report an entity of Te Ohu a Ngāti Koata under review may provide the Trustees with a plan specifying the actions that it intends to take to address the findings and recommendations of the reviewer. The Trustees will upon receipt of a plan, provide a copy to Te Kaunihera Kaumātua for their comment.

Consideration of Review Report

11. At the next General Meeting following the Governance Review, the Trustees will present:
 - (a) the review report;
 - (b) any plan prepared by an entity under review;
 - (c) any comments from Te Kaunihera Kaumātua.
12. Following the General Meeting the Trustees may then resolve:
 - (a) to adopt all or some of the recommendations set out in the review report;
 - (b) to adopt all or part of any plan prepared by an entity;
 - (c) to amend and adopt as amended any of those recommendations.

Ngāti Koata Trust Deed

SCHEDULE 3 – NGĀ TIKANGA O TE OHU A NGĀTI KOATA (Code of Conduct)

Our Tikanga are: Kaitiakitanga, Whanaungatanga, Rangatiratanga, Kotahitanga, Whakatupuranga, Auahatanga, Mātauranga, Manaakitanga, Wairuatanga.

We will demonstrate our tikanga through Tika, Tōkeke, Takohanga, and Matatika.

TIKA (*Fairness*):

We will...

- Treat everyone fairly and with respect
- Be professional and responsive
- Work to make our services responsive to our Iwi
- Strive to make a difference to the wellbeing of our Iwi

TŌKEKE (*Impartiality*):

We will...

- Represent the interests of our Iwi
- Carry out the functions of Te Ohu a Ngāti Koata unaffected by our personal beliefs
- Support our Iwi aspirations through unbiased decision making
- Listen to the voice of the Iwi

TAKOHANGA (*Responsible*):

We will...

- Act lawfully and objectively
- Use resources carefully and only for intended purposes
- Treat information with care and use it only for proper purposes
- Work to improve our performance and efficiency

MATATIKA (*Trustworthy*):

We will...

- Be honest
- Work to the best of our abilities
- Ensure our actions are not affected by our personal interests or relationships
- Never misuse our position for personal gain
- Remain free from coercive obligations or perceived influence
- Avoid situations/involvements that have the potential to bring Te Ohu a Ngāti Koata into disrepute.



Ngāti Koata Trust Deed