

**Trust Deed**

**of**

**Te Pātaka a Ngāti Koata Trust**

**Post-Settlement Governance Entity**

**Executed as a Deed in 2012, amended in 2015, 2017, restated & amended 2021 and 2023**

18 November 2023

# Te Pātaka a Ngāti Koata Trust Deed

## CONTENTS

BACKGROUND .....	5
1 INTERPRETATION OF TRUST TERMS .....	6
Definitions .....	6
Statute References .....	10
General References .....	10
Deed Headings .....	11
Deed Schedules .....	11
2 ESTABLISHMENT OF TRUST .....	11
3 KAUPAPA .....	11
Principles .....	11
Other Kaupapa .....	11
Strategic Governance .....	12
4 APPOINTMENT OF TRUSTEES .....	12
Number of Trustees .....	12
Term of Office (including for Replacement Trustee) .....	13
Time of Elections .....	13
Ineligibility, or ceasing, to be a Trustee .....	14
Chairperson, Deputy Chairperson, and Secretary .....	15
Trustee-Director .....	15
5 DUTIES AND POWERS OF TRUSTEES .....	15
Mandatory Duties .....	15
Default Duties .....	16
Powers .....	16
Management of the Trust .....	17
Management Appointments .....	17
Trustee Remuneration .....	18
Meetings of Trustees .....	18
Keeping Minutes .....	19
Delegation of Powers .....	19
Keeping Accounts and Holding Audits .....	20
Reliance on Professional and Other Advice .....	20
Liability and Indemnity of Trustees .....	21
Conflicts and Disclosures of Interests .....	21
Definition of Conflicted/Interested Trustee .....	21
Interests in Common with Iwi .....	22
Disclosure of Interest .....	22
Recording of Interest (Interest Register) .....	22
No Private Pecuniary Profit (or financial gain) .....	23
Restrictions on Interested Persons .....	23
Appointment and Removal of Custodian Trustee .....	24
6 NGĀ TIKANGA O TE OHU A NGĀTI KOATA (CODE OF CONDUCT) .....	24

# Te Pātaka a Ngāti Koata Trust Deed

7	REGISTER OF MEMBERS OF NGĀTI KOATA.....	24
	The Members' Register .....	24
	Appointment of a Komiti Whakapapa .....	25
	Registering as a Member of Ngāti Koata.....	25
	Declining to Register or Remove a Person from the Members' Register.....	26
	Process when Registration Declined or Removed .....	26
	Where Registration is not Necessary .....	26
	De-registration by Member of Ngāti Koata .....	26
	Where Private Notice to a Member is not Necessary.....	27
	General .....	27
8	GENERAL MEETINGS AND REPORTING.....	27
	Special General Meeting .....	27
	Annual General Meeting.....	27
	Purpose of Annual General Meeting.....	28
	Reporting Responsibilities .....	28
	Annual Report .....	28
	Annual Plan.....	29
	Five-Year Plan .....	29
	Corporate Entity Annual Report.....	29
	Notice of General Meeting .....	29
	Voting Procedure .....	30
	Quorum.....	30
	Adjourned meeting.....	30
	Chairperson .....	30
	Resolution.....	30
	Minutes .....	31
	Making Information available.....	31
	Clause 8 to be consistent with Kaupapa of this Trust .....	31
9	CORPORATE ENTITIES .....	31
	Establishing Entities.....	31
	What an Entity's Constitution requires.....	32
	Appointment of Directors .....	33
10	MAJOR TRANSACTIONS.....	33
	Giving Notice of Major Transactions.....	33
11	DISPUTES RESOLUTION PROCEDURES.....	34
	General Disputes .....	34
	Registration Disputes (Komiti Whakapapa).....	35
	Proceedings .....	35
	Determination.....	35
12	WINDING UP OF TRUST.....	35
13	RESETTLEMENT .....	36
14	AMENDING THIS DEED .....	36

## Te Pātaka a Ngāti Koata Trust Deed

Proposals to Amend Deed.....	36
Giving Notice of Amendments .....	36
SCHEDULE 1 – ELECTIONS AND VOTING.....	43
PART A: Election Processes .....	43
Election of Trustees.....	43
Nominations for Trustee .....	43
Time for Nominations.....	43
PART B: All Votes .....	44
Voting Procedure .....	44
Trustees to comply with the Voting Procedure .....	44
Returning Officer Appointment and Responsibilities .....	44
Timing of votes .....	45
Eligible voters .....	45
Valid votes .....	45
Secret Ballots.....	45
Counting votes (for Elections) .....	46
Notifying Election Results .....	46
Counting Votes (other than for Elections).....	46
SCHEDULE 2 – GOVERNANCE REVIEW .....	48
Terms of Reference and Scope of the Review.....	48
Information Required .....	48
Review Report.....	49
Consideration of Review Report.....	49
SCHEDULE 3 – NGĀ TIKANGA O TE OHU A NGĀTI KOATA (Code of Conduct) .....	50

# Te Pātaka a Ngāti Koata Trust Deed

Original DEED dated 2012

## SETTLORS (Kaumātua):

**Karewa William Arthur, Trihapeti Roberta Campbell, Wahanui Elkington, Terewai Grace, Ruruku Hippolite, Ross Hona Kawharu, Aratangata Kotua, Nohorua Akuhata Kotua, Shirley Lois Naomi MacDonald, Pirihira Paul, Ruru Rene, Tama Hoera Ruruku, Ratapu Nelson Leigh Solomon, Puhanga Tupaea**

## TRUSTEES:

**Adam Hemi Cumming, Kyle Rae Edmonds, Frank Jarom Hippolite, Roma Hippolite, Caroline Palmer, Regan Ngawari Paul, Richard Tainui Robinson**

## BACKGROUND

- A. Ngāti Koata entered into a Deed of Settlement with the Crown on 21 December 2012 to settle the historical Te Tiriti o Waitangi claims of Ngāti Koata in Te Taihū (Top of the South Island).
- B. Established by Deed of trust, the Iwi of Ngāti Koata established Te Pātaka a Ngāti Koata Trust to act as a Post-Settlement Governance Entity for the Iwi to receive and administer Settlement Assets.
- C. The Trust was created by the Settlers who are Members of Ngāti Koata. On behalf of Ngāti Koata, the Settlers started or 'settled' the Trust with a gift of ten dollars to the Trustees to be held on the trusts started by this Deed.
- D. This Deed amends and restates the previous trust deed of the Te Pātaka a Ngāti Koata Trust dated 23 September 2017. The amendments to this Deed were put and passed by a special resolution at a General Meeting on 16 October 2021 and on 18 November 2023 in accordance with clause 8.23(b)(ii) of this Deed.
- E. The Trust is required to exist for 169 years from the date of settlement (21 December 2012) in order to comply with the Right of First Refusal settlement process of any Crown properties offered to Ngāti Koata in accordance with clauses 6.16 and 6.22 of the Deed of Settlement.<sup>1</sup> Under Te Ohu a Ngāti Koata structure approved in 2016, Te Pātaka a Ngāti Koata will only be used to receive any future settlements (including Right of First Refusal assets).
- F. The Trust is connected, and inherently linked, to the Ngāti Koata Trust, which is the trust established by Ngāti Koata to act as the Mandated Iwi Organisation of Ngāti Koata for the purpose of the Māori Fisheries Act 2004, and to act as the Iwi Aquaculture Organisation for the purpose of the Māori Commercial Aquaculture Claims Settlement Act 2004. The Trustees of this Trust will also be Trustees of the Ngāti Koata Trust.
- G. This Deed sets out the functions and kaupapa (purposes), and provides for the control, governance, and operation of Te Pātaka a Ngāti Koata Trust.

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<sup>1</sup> See 'Subpart 4—Right of first refusal in relation to RFR land', Ngāti Kōata [sic], Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014, p. 141; See also the Ngāti Koata and Te Pātaka a Ngāti Koata and the Crown, 'Deed of Settlement of Historical Claims', 21 December 2012, clauses 6.16 and 6.22.

# Te Pātaka a Ngāti Koata Trust Deed

## 1 INTERPRETATION OF TRUST TERMS

### Definitions

1.1 In this Deed unless the context otherwise requires:

**Adult Member** means a Member of Ngāti Koata who is 18 years of age 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 line with clause 8.7.

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

**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, in accordance with clause 9

**Custodian Trustee** means a person appointed as a custodian trustee under clause 5.50 who will hold legal title to the Trust Assets upon the instruction of the Trustees.

**Deed** means this Deed of the Te Pātaka a 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.

## Te Pātaka a Ngāti Koata Trust Deed

'Descent from' will have the same meaning.

**Directors** mean 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.

**General Meeting** means an Annual General Meeting or a Special General Meeting convened and conducted in accordance with clause 8.

**Iwi** means Ngāti Koata.

**Komiti Whakapapa** means the committee appointed under clause 7.4 of this Deed.

**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 Assets before 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,

but does not include:

- (d) 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
- (e) any acquisition or disposition of property by the Trust or a Corporate Entity from or to any Corporate Entity; or
- (f) any transfer from the Crown arising from a Te Tiriti o Waitangi settlement.

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 Trust or a Corporate Entity and in assessing the value of any contingent liability:

- (i) regard must be had to all circumstances that the Trustee knows, or ought to know, affect, or may affect, the value of the contingent liability;
- (ii) reliance may be placed on estimates of the contingent liability that are reasonable in the circumstances; and
- (iii) account may be taken of:
  - (aa) the likelihood of the contingency occurring; and
  - (bb) any claim that the Trust or Corporate Entity is entitled to make and can reasonably expect to be met to reduce or extinguish the contingent liability.

## Te Pātaka a 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 that it is 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.

**Ngāti Koata Trust** means the trust established by Ngāti Koata, pursuant to the Charitable Trusts Act 1957, and regulated by the Ngāti Koata Trust Deed.

**Ngāti Koata Trust Deed** means the Trust Deed of the Ngāti Koata Trust.

**Notice** means notice as provided in clauses 8.13 to 8.18.

**Private Notice** means a notice sent by any means that is private to the recipient, including by hand, post, courier, or in electronic form, that gives:

- (a) the date and time of the meeting and its venue;
- (b) the agenda for the meeting;
- (c) where any relevant explanatory documents may be viewed or obtained;
- (d) a copy of the Voting Paper for the vote to be taken at the meeting;
- (e) the manner of voting to take place;
- (f) advice as to the address to which, and the date by which, the completed Voting Paper must be returned; and
- (g) any other information specified in this Deed.

**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) gives-
  - (i) the date and time of the meeting and its venue;
  - (ii) the agenda for the meeting;
  - (iii) where any relevant explanatory documents may be viewed or obtained;
  - (iv) the procedure for obtaining a voting form;



## Te Pātaka a Ngāti Koata Trust Deed

- (v) the method of voting to take place; and
- (vi) any other information specified in this Deed.

**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 Trustee** has the meaning given to that term at 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 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.

**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; and
- (b) a separate enterprise that is owned or controlled by the Trust established under this Deed.

**Te Kaunihera Kaumātua** means a body of kaumātua who may:

- (a) provide advice on cultural matters including, but not exclusively, relating to Ngāti Koata tikanga, whakapapa, Te Reo, wāhi tapu, history, and boundaries;
- (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

## Te Pātaka a Ngāti Koata Trust Deed

- (ii) assist in mediating the process of disputes.

**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).

**Tikanga** means the customary values and practices of Ngāti Koata.

**Trust** means Te Pātaka a 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** mean 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;
  - (e) 'Schedule' are references to the Schedules of this Deed; and

# Te Pātaka a Ngāti Koata Trust Deed

(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 the Schedule.

## 2 ESTABLISHMENT OF TRUST

2.1 The Trustees acknowledge and declare that they hold the Trust Asset upon the trusts and with the powers set out in this Deed.

2.2 The name of the Trust recognised by this Deed is Te Pātaka a Ngāti Koata Trust.

2.3 The Trust has been established to be the Post Settlement Governance Entity for Ngāti Koata.

## 3 KAUPAPA

3.1 The purposes of the Trust is to receive, manage, administer, and apply the Trust Assets on behalf of and for the benefit of 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 articles 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.
- (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 may:

- (a) directly receive and hold, on behalf of Ngāti Koata on the trusts set out in clause 3.1,

## Te Pātaka a Ngāti Koata Trust Deed

Settlement Assets allocated and grants made to Ngāti Koata by the Crown;

- (b) 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;
- (c) perform any other function as provided for or under any Te Tiriti o Waitangi settlement legislation or any other enactment or otherwise (but not to adversely affect the Trust interests); and
- (d) subject to clauses 3.1 and 3.2, will undertake any commercial activity that benefits the Members of Ngāti Koata.

### Strategic Governance

3.5 The Trust must exercise strategic governance over:

- (a) all Corporate Entities with which it holds a direct or indirect controlling interest; and
- (b) the process to examine and approve the Trust's and the Corporate Entities' annual plans and statements of corporate intent that set out:
  - (i) the key strategies for the use and development of all assets of Ngāti Koata;
  - (ii) the expected financial return on those assets;

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 or operations, consistently with the purposes in clause 3.1.

3.6 In accordance 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 from 2014.

## 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.

# Te Pātaka a Ngāti Koata Trust Deed

## 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 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 third 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;
  - (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.

## Te Pātaka a Ngāti Koata Trust 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 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 notice of absence, and the other Trustees pass a resolution that the relevant person should be removed from office as a result of their unexplained absence; 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

## Te Pātaka a Ngāti Koata Trust Deed

- (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 (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 to 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;

## Te Pātaka a Ngāti Koata Trust 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 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 5.48 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



## Te Pātaka a Ngāti Koata Trust Deed

Assets as if the Trustees were the absolute owners of and beneficially entitled to the Trust 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 whatsoever, 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 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 Asset. 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 Asset and is subject to the trusts and powers declared in this Deed in respect of the capital of the Trust Asset; 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 Asset.
- 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 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.
- 5.8 A Trustee may not:

## Te Pātaka a Ngāti Koata Trust Deed

- (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 by 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 5.18, 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, 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 will request, the Secretary will then list those that are not in favour in the Minute Book.
- 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 by 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

## **Te Pātaka a Ngāti Koata Trust Deed**

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 remote 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 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;
  - (b) such delegation is subject to any restrictions set out in the Trust Act 2019 and the law generally.

## **Te Pātaka a Ngāti Koata Trust Deed**

- 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 Asset 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 the Trust whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned;
  - (b) a professional adviser or expert in relation to matters which the Trustees believe on reasonable grounds to be within the person's professional or expert competence;
  - (c) committee of Trustees appointed and acting in accordance with clause 5.22.
- 5.32 Clause 5.31 applies only if the Trustees:
- (a) act in good faith;
  - (b) make proper inquiries where the need for inquiry is indicated by the circumstances; and
  - (c) have no knowledge that such reliance is unwarranted.

# Te Pātaka a Ngāti Koata Trust Deed

## 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;
  - (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

## Te Pātaka a Ngāti Koata Trust Deed

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 the 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 deliberation or decision.

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.

### ***Recording of 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.

## Te Pātaka a Ngāti Koata Trust Deed

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 Trustee in connection with the affairs of the Trust, except that:

- (a) any Trustee may receive full reimbursement of all actual and reasonable costs and expenses properly incurred by that Trustee in connection with the affairs of the Trust;
- (b) the Trustees may pay reasonable remuneration to any Trustee, officer, or employee of the Trust in return for their services provided as a Trustee.

provided that:

- (c) 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;
- (d) 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:
  - (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 provided 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.

## **Te Pātaka a Ngāti Koata Trust Deed**

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

### **Appointment and Removal of Custodian Trustee**

5.50 The Trustees may at any time 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.

## **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



## Te Pātaka a Ngāti Koata Trust Deed

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 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.

7.3 Subject to consent pursuant to 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 5.22 to 5.25, 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 komiti 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

## Te Pātaka a Ngāti Koata Trust Deed

6.3 and lodged with the office of the Trust or on a Voting Paper stating their name, date of birth and such details as are required by the Trustees to enable the Trustees to contact that person); and

- (b) who in the reasonable opinion of the Trustees affiliates to Ngāti Koata through descent 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 any 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;
- (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 a Tupuna of Ngāti Koata, 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.

# Te Pātaka a Ngāti Koata Trust Deed

## 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, then the notice must subsequently be sent to the last known physical address of the Adult Registered Member.

## General

- 7.13 For the avoidance of doubt, 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 the 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,  
as the case may be; and;
  - (e) the request must state the objects for which the Special General Meeting is required and be signed by all those requesting the meeting;
  - (f) notice must be given by the Trustees in accordance with the provisions of clause 8.13; but
  - (g) failure to give a private notice to a Member does not invalidate proceedings at the meeting;
  - (h) any deficiency or irregularity in a notice will not invalidate any business carried out at the meeting provided that:
    - (i) the deficiency or irregularity is not material; and
    - (ii) the Members present at the meeting agree to waive the deficiency or irregularity.

### Annual General Meeting

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

# Te Pātaka a Ngāti Koata Trust Deed

## ***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, 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) any Corporate Entity;
  - (ii) any joint venture or other entity that conducts business using the Settlement Assets or the Trust Asset; and
  - (iii) 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 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) any changes made to constitutional documents of the Trust or those of its Corporate Entities;
  - (e) any changes made to the Code of Conduct governing Te Ohu a Ngāti Koata;
  - (f) 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
  - (g) 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 Ngāti Koata Trust will include the annual reporting of Te Pātaka Ngāti Koata Trust.

# Te Pātaka a Ngāti Koata Trust Deed

## ***Annual Plan***

- 8.7 An Annual Plan for the next financial year that must include:
- (a) the objectives of the Annual Plan; and
  - (b) any changes in policies from the previous year.
- 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:
- (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.

## ***Corporate Entity Annual Report***

- 8.12. An Annual Report for every Corporate Entity that receives Settlement Assets, and in relation to any enterprise established by the Trust or be involved in any joint venture for those purposes, 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 assets;
    - (ii) the expected financial return on those assets; and
  - (d) any proposal to change the constitutional documents of the Corporate Entity.

## **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.

## **Te Pātaka a Ngāti Koata Trust Deed**

- 8.16 Where the Trustees are required to call a Special General Meeting subject to notice given under clause 8.13, the meeting will be held not more than 60 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.
- 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.

### **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% 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) below, by not less than 50% of votes validly cast by of the Adult Members in accordance with the voting procedures established under clause 8.19;
  - (b) in the case of a resolution for:
    - (i) a Major Transaction; or

## Te Pātaka a Ngāti Koata Trust Deed

- (ii) ratification of, or changes to, this Deed; or
- (iii) winding up of this Trust,

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 this Deed.

### 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;
  - (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 a copy of the 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 CORPORATE ENTITIES

### Establishing Entities

- 9.1 The Trust may establish one or more Corporate Entity to hold and/or manage all or part of the Trust Asset (including Settlement Assets), provide services to and benefit Members of Ngāti Koata or perform any other function that Trustees may determine, and that entity:

- (a) must be and remain wholly owned and controlled by the Trust;

## Te Pātaka a Ngāti Koata Trust Deed

- (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 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;
  - (d) must provide dividends solely to the Trust; and
  - (e) must not enter into any Major Transaction unless the Trust has complied with its obligations under this Deed including without limitation clause 10.
- 9.2 For the avoidance of doubt, and except as expressly provided by this Deed, each Corporate Entity will be governed by its respective Board and the role of the Trust in respect of each entity will be limited to the exercise of the rights provided to the Trust as shareholder or (as applicable) appointer and as beneficiary of the entity.
- 9.3 Any Corporate Entity 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 Settlement Assets held by the Corporate Entity; and
  - (b) any Subsidiary established under the preceding clause which holds Settlement Assets:
    - (i) must be and remain wholly owned by the Corporate Entity that established it; and
    - (ii) must if it receives and holds, on behalf of the Corporate Entity, any Settlement Assets transferred by this Trust:
      - (aa) provide dividends solely (but indirectly) to the Trust; and
      - (bb) must in its functions of receiving and holding Settlement Assets be bound by all the requirements specified in relation to those matters in the Deed of Settlement;

but the Corporate Entity and its Subsidiaries may undertake any other activity or hold any other assets in accordance 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 or Subsidiary will require that entity to:
- (a) hold its assets and all accretions to those assets whether of a capital or revenue nature on trust for the benefit of the Trust, such purposes to be promoted by the payment of dividends or other revenue or capital distributions directly or indirectly to the Trust;
  - (b) present an annual plan and statement of corporate intent to the Trust for approval by the Trust within a time and in a form to be prescribed by the Trustees;
  - (c) report annually to the Trust;
  - (d) have its accounts audited;
  - (e) provide for the provisions relating to appointment of a Trustee as a Director provided in clause 9.7; and
  - (f) include all other provisions required under this Deed.



# Te Pātaka a Ngāti Koata Trust Deed

## Appointment 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 a 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 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;
  - (c) be ineligible to be Chairperson of the Corporate Entity; and
  - (d) 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.

## 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.

### Giving Notice of Major Transactions

- 10.2 Where a resolution is proposed in accordance with clause 8.8(b)(i) the Trust must give Public Notice of:
- (a) the fact that the Trustees want to enter into a Major Transaction;
  - (b) the availability of Voting Papers for Members of Ngāti Koata unable to attend a General Meeting and the date and address to which completed Voting Papers must be sent in order to be validly cast;
  - (c) the date, time, and venue of a General Meeting at which the resolution will be put before the Members of Ngāti Koata;

## Te Pātaka a Ngāti Koata Trust Deed

(d) the availability, on written request to the Trust, of full particulars (excluding any Confidential Information) regarding the Major Transaction.

10.3 Notice will be given in accordance with clause 8.13.

### 11 DISPUTES RESOLUTION 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 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; and

before 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

(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 this clause 11, unless otherwise agreed by the parties or determined by the independent expert adjudicating a dispute.

## Te Pātaka a Ngāti Koata Trust Deed

- 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 to the 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 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.
- 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 and requirements of the Ngāti Koata Trust Deed relating to registration of Members of Ngāti Koata;
  - (b) will provide the person concerned, and any representative that person appoints, with the opportunity to attend a meeting of the Komiti to present their account, to which new information may also be presented, as to 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 other such matters (including the tikanga of Ngāti Koata) as the Komiti considers will assist it in making a 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 at law.

## **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

## **Te Pātaka a Ngāti Koata Trust Deed**

assets of the Trust in such one or more entities established by Ngāti Koata with the same or similar purposes, upon such terms, and in such proportions as the Trustees may decide, provided that 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).

### **13 RESETTLEMENT**

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

- (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; and
- (c) the resettlement is in accordance with the purposes of this Deed.

### **14 AMENDING THIS DEED**

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

- (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) an amendment may not be made in respect to the Ngāti Koata claimant definition/criteria or the area of interest if the result of such will be inconsistent with the Deed of Settlement and the settlement legislation;
- (c) notwithstanding the terms of this Deed, no amendment to this Deed will be made, and if purported to be made, will be of no legal effect, if the consequence of that amendment is to prejudice in a material manner the Trust's entitlement to Māori Authority tax status under the law of New Zealand.

#### **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 to this Deed made to this Deed.

# Te Pātaka a Ngāti Koata Trust Deed

## SIGNATURES:

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

# Te Pātaka a Ngāti Koata Trust Deed

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

# Te Pātaka a Ngāti Koata Trust Deed

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

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

\_\_\_\_\_  
Occupation

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

**Settlor** by:  
and witnessed by:

\_\_\_\_\_  
Signature of Settlor

\_\_\_\_\_  
Name of Settlor

## Te Pātaka a Ngāti Koata Trust Deed

---

Signature of witness

---

Occupation

---

City/town of residence

**Settlor** by:  
and witnessed by:

---

Signature of Settlor

---

Name of Settlor

---

Signature of witness

---

Occupation

---

City/town of residence



# Te Pātaka a 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

**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

# Te Pātaka a Ngāti Koata Trust Deed

\_\_\_\_\_  
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

**Trustee by:**  
and witnessed by:

\_\_\_\_\_  
Signature of Trustee

\_\_\_\_\_  
Name of Trustee

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

\_\_\_\_\_  
Occupation

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

# Te Pātaka a 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 of the Deed, 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 4.9 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, 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.

#### 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

## **Te Pātaka a Ngāti Koata Trust Deed**

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 this Deed:
  - (a) Public Notice that includes:
    - (i) the date, time, venue and agenda of the General Meeting, the place where explanatory documents may be viewed or obtained;
    - (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.

#### **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 Meeting, held under this Schedule, provided however that the Returning Officer will not be 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.

# Te Pātaka a Ngāti Koata Trust Deed

## 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 of this Deed 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) 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 clauses 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.

## 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

## Te Pātaka a Ngāti Koata Trust Deed

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, 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,

## Te Pātaka a Ngāti Koata Trust Deed

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.

# Te Pātaka a Ngāti Koata Trust Deed

## SCHEDULE 2 – GOVERNANCE REVIEW

1. The Trustees will undertake a governance review of Te Ohu a Ngāti Koata entities at five yearly intervals in accordance with clause 3.6
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
  - (c) can obtain the information by reasonable effort.



# Te Pātaka a Ngāti Koata Trust Deed

## 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.

# Te Pātaka a Ngāti Koata Trust Deed

## SCHEDULE 3 – NGĀ TIKANGA O TE OHU A NGĀTI KOATA (CODE OF CONDUCT)

Our Tikanga are: Kaitiakitanga, Whanaungatanga, Rangatiratanga, Kotahitanga, Whakaturanga, 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.

