Te Tai Tokerau Water Charitable Trust

Hon Dover Spencer Peneha Samuels
Hon Murray Stuart McCully
(the Trustees)
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WHAKATUTUKI / EXECUTION
TE TAI TOKERAU WATER CHARITABLE TRUST

Date: 12 June 2020

NGĀ PĀTI / PARTIES

MURRAY STUART McCULLY of Whangarei and DOVER SPENCER PENEAHA SAMUELS of Kaeo (the Trustees)

WHAKAPAPA / BACKGROUND

A  The Trustees wish to declare a charitable trust to give effect to the charitable purposes referred to in this deed.

B  On signing this deed the Trustees declare a trust on and subject to the terms of this deed in respect of $10 held by them upon the trusts and with the powers set out in this deed.

NOW THIS DEED RECORDS:

1  PAPAKUPU ME TE WAIHANGA / DEFINITIONS AND CONSTRUCTION

1.1  Papakupu / Defined terms

In this deed, unless the context requires otherwise:

Balance Date means 30 June or any other date which the Trustees adopt by resolution as the date up to which accounts are to be made in each year;

Designated Gift means a gift which is subject to a trust for a specific purpose that comes within the purposes of the Trust Fund;

Income Year means any year or other accounting period ending on a Balance Date;

Related Person for the purposes of clause 14.2 and in relation to any business to which section CW42 of the Income Tax Act 2007 applies, means a person specified in paragraphs (i) to (iv) of subsection (5)(b) of that section, the persons currently specified being:

(a)  a settlor or trustee of the trust by which the business is carried on; or

(b)  a shareholder or director of the company by which the business is carried on; or

(c)  a settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or

(d)  a person associated with a settlor, trustee, shareholder or director already mentioned in this definition;
Teleconference Meeting means a meeting where the participants are contemporaneously linked by telephone or some other means of instant audio or audio and visual communication;

Trust means the charitable trust created by this deed;

Trust Fund means the sum of $10 referred to in Background B of this deed and includes any money, investments or other property paid or given to or acquired or agreed to be acquired by the Trustees after this deed has been signed with the intention that it be held by the Trustees subject to the trusts and other provisions set out in this deed.

1.2 Waihangā / Construction
In the construction of this deed, unless the context requires otherwise:

(a) a reference to “this deed” is a reference to this deed as amended from time to time;

(b) a reference to “Trustees” is a reference to the trustees for the time being of the Trust Fund, whether original, additional or substituted;

(c) a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

(d) a reference to an enactment is a reference to that enactment as amended, or to any enactment that has been substituted for that enactment;

(e) the Schedule forms part of this deed; and

(f) headings appear as a matter of convenience and shall not affect the construction of this deed.

2 HANGANGA A TE TIAKITANGA / CREATION OF THE TRUST

2.1 Whakapuakitanga a te tiakitanga/ Declaration of trust
The Trustees declare that they hold the Trust Fund upon the trusts and with the powers and for the purposes set out in this deed.

2.2 Ngā ingoa o ngā tiakitanga / Name of trusts
The trusts created by this deed are to be known as the “Te Tai Tokerau Water Charitable Trust” or by such other name as the Trustees may determine by resolution from time to time.

3 RĒHITANGA / REGISTRATION

3.1 Kaporeihana i raro i te ture / Incorporation under the Charitable Trusts Act 1957
The Trustees may apply under the Charitable Trusts Act 1957 for incorporation as a Board under the name Te Tai Tokerau Water Trust, or under such other name approved by the Registrar of Incorporated Societies.
3.2 Rēhitanga i raro i te ture / Registration under the Charities Act 2005
If they consider it appropriate the Trustees or the Board (as the case may be) may apply to be registered as a charitable entity under the Charities Act 2005. If and while so registered, the Trustees or the Board (as the case may be) will comply with the requirements of that Act.

4 WHĀINGA / PURPOSES

The Trust is established for the following charitable purposes:

(a) promoting and supporting the development of micro-scale and medium-scale water storage water storage and delivery infrastructure in the Northland region that strengthens regional partnerships and provide wider public benefits;

(b) supporting land use change that positively contributes to regional water quality and maintains and improves the health of waterways in Northland;

(c) supporting actions that address disparities in Māori landowner access to water for land development in Northland;

(d) otherwise promoting and supporting projects in Northland that:

(i) improve community wellbeing by improving freshwater management particularly opportunities to create water storage, thereby reducing the threat of drought;

(ii) create a more reliable water supply that will give landowners (including Māori landowners) greater options to utilise their land.

(e) facilitating central and local government support for projects that achieve the Trust’s purposes; and

(f) for any other purposes within New Zealand (whether relating to the relief of poverty, the advancement of education or religion or any other matter beneficial to the community) which are charitable according to the law of New Zealand.

5 NGĀ TIAKITANGA WHIWHINGA PŪTEA / INCOME TRUSTS

5.1 Te mana ki te whakamahi i te whiwhanga pūtea / Power to pay, apply or appropriate income
The Trustees may pay, apply or appropriate, or decide to pay, apply or appropriate as much of the income arising from the Trust Fund in an Income Year as they think fit for or towards one or more of the purposes of the Trust and if the Trustees so provide for more than one purpose they need not treat each purpose equally.
5.2 Ngā mea e hāngai ana ki te whakamahinga a te whiwhinga pūtea / Provisions relating to payments, applications and appropriations of income
(a) The Trustees may appropriate any investments for one or more of the purposes of the Trust in anticipation of a payment or application under clause 5.1.

(b) In any Income Year, the Trustees may appropriate all or part of the income derived or to be derived from the Trust Fund during that Income Year even though, at the time of appropriation, they have not received the income being appropriated.

(c) If the Trustees appropriate any income for any purpose of the Trust the recipient of that income shall take an absolute and indefeasible interest in that income as from the date on which it is appropriated.

5.3 Te mana ki te pupuri ki te whiwhinga pūtea / Power to retain income
The Trustees need not distribute all of the income arising from the Trust Fund in an Income Year, but may retain or decide to retain all or part of that income to establish or augment any reserve fund, which may be used at any later time for any purpose for which income arising from the Trust Fund may be used.

5.4 Ngā whiwhinga ki ngā utunga o te whiwhinga pūtea / Receipts for payments of income
The receipt of the secretary, treasurer or other person or persons appearing to the Trustees to be authorised to give receipts on behalf of the recipient, of any payment of income made under clause 5.1, shall be a complete discharge to the Trustees for that payment.

6 NGĀ TIAKITANGA HAUPŪ RAWA / CAPITAL TRUSTS

6.1 Te mana ki te whakamahi i te haupū rawa / Power to pay, apply or appropriate capital
At any time the Trustees may pay, apply or appropriate or decide to pay, apply or appropriate as much of the capital of the Trust Fund as they think fit for or towards one or more of the purposes of the Trust and if the Trustees so provide for more than one purpose they need not treat each purpose equally.

6.2 Ngā mea e hāngai ana ki te whakamahinga a te haupū rawa / Provisions relating to payments, applications and appropriations of capital
(a) Any payment, application or appropriation of capital may be made either in addition to, or in place of, any payment, application or appropriation of income.

(b) The Trustees may appropriate any investments for one or more of the purposes of the Trust in anticipation of a payment or application under clause 6.1.

6.3 Ngā whiwhinga ki ngā utunga o te haupū rawa / Receipts for payments
The receipt of the secretary, treasurer or other person or persons appearing to the Trustees to be authorised to give receipts on behalf of the recipient, of any payment
of capital made under clause 6.1, shall be a complete discharge to the Trustees for that payment.

7 TE WHIWHINGA O NGĀ KOHA / RECEIPT OF GIFTS

7.1 Te whiwhinga o ngā koha / Receipt of gifts
The Trustees may receive solicited and unsolicited gifts of any real or personal property for the purposes of the Trust or for any specific purpose that comes within the purposes of the Trust and must maintain a register of all such gifts received.

7.2 Ngā taiakitanga whakatāuke / Separate specific trusts
(a) If the Trustees accept a Designated Gift they must keep that Designated Gift and any income derived from it separate from the general assets of the Trust Fund, and administer it as a separate specific trust in terms of the trust under which it was given.

(b) The Trustees shall not use the assets of any separate specific trust to make good any deficit, loss, damage or breach of trust relating to any other separate specific trust.

(c) Each separate specific trust shall bear its own administration expenses plus a fair proportion (determined by the Trustees) of the administration expenses applicable to the general purposes of the Trust.

7.3 He koha mā ngā tarahitī e kape / Trustees may refuse a gift
The Trustees may refuse to accept any gift if they determine that it is in the best interests of the Trust to do so.

8 NGĀ TARAHITĪ / TRUSTEES

8.1 Te nana o ngā Tarahitī / Number of Trustees
There shall be no fewer than two, nor more than seven Trustees at any time and if the Trustees number less than the minimum number of Trustees the person or persons having the statutory power to appoint new Trustees must promptly appoint such new Trustees.

8.2 Whakaritenga o ngā Tarahitī / Appointment of new and additional Trustees
The statutory power of appointment of Trustees shall be vested in the Trustees, but if at any time there are no Trustees then the power shall be vested in the Mayors of the Kaipara District Council and Far North District Council.

8.3 Te wā / Term of office
A Trustee shall hold office for a term not exceeding three years from the date of appointment but shall be eligible for re-appointment for a further term or terms up to a maximum of two terms in total.
8.4 Ko te huri o ngā Tarahiti Tuatahi / Rotation of First Trustees
To ensure orderly rotation of Trustees, the First Trustees (being those named in this deed) shall retire by rotation on terms agreed between them, but failing agreement, on the first anniversary of this deed one-third of the Trustees for the time being or the number nearest to one-third shall retire from office and on the second anniversary of this deed one-third of the remaining First Trustees for the time being or the number nearest to one-third shall retire from office. The Trustees to retire in each year pursuant to this clause shall be determined by lot if the Trustees cannot agree amongst themselves.

8.5 Kōrāma / Quorum
A majority of Trustees shall constitute a quorum at meetings of the Trustees.

8.6 Whakamutu / Termination of office
A Trustee shall cease to hold office if he or she:

(a) retires from office by giving written notice to the Trustees or the secretary of the Trust;

(b) completes his or her term of office without being reappointed;

(c) refuses to act;

(d) is absent without leave from three consecutive ordinary meetings of the Trustees;

(e) becomes physically or mentally incapacitated to the extent that in the opinion of the other Trustees, expressed in a resolution, he or she is unable to perform the duties of a Trustee properly;

(f) ceases to qualify as an officer of a charitable entity under section 16 of the Charities Act 2005; or

(g) in the opinion of the other Trustees expressed in a resolution, is for any other reason unfit to carry out the duties of a Trustee.

8.7 Te pūkete o ngā tini / Record of changes of Trustees
Upon every appointment, retirement, re-appointment or termination of office of any Trustee the Trustees will ensure that an entry is made in the minute book of the Trust to that effect and that any statutory requirements as to the vesting of the Trust Fund in the Trustees are satisfied.

8.8 Ko te manatokonga o ngā whakahaerenga / Validity of proceedings
Where, for any reason, a Trustee is not properly appointed or is disqualified from holding office, anything done by that Trustee (or by a meeting at which that Trustee was present as a Trustee) before discovery of the irregularity, shall be as valid as if that Trustee had been duly appointed or had not been disqualified (as the case may be).
8.9 **Whakaritenga o te tiamana / Appointment of chairperson**
The Trustees may elect one of their number as a chairperson to chair their meetings. If the chairperson cannot be present, or is not present within 10 minutes of the time appointed for any meeting, the Trustees present may elect one of their number to be the chairperson of the meeting. The chairperson shall not have a casting vote in the event of the voting being declared even.

8.10 **Whakaritenga o ngā kaiawhina / Appointment of secretary, treasurer and others**
The Trustees may appoint a secretary, treasurer and any other officers, employees, contractors or advisers that the affairs of the Trust may require on such terms and conditions as they think fit. The Trustees may also remove and replace any persons so appointed.

8.11 **Ngā komiti / Committees**
The Trustees may appoint sub-committees or ad hoc committees as they may from time to time think expedient for carrying out the purposes of the Trust. Any such committee may co-opt any other person, whether a Trustee or not, to be a member of that committee. Subject to any directions that the Trustees might give, each committee may regulate its own procedure.

9 **NGĀ HUI O NGĀ TARAHITĪ / TRUSTEE MEETINGS**

9.1 **Ngā hui / Meetings**
The Trustees shall meet as often as they consider desirable for the efficient and proper conduct of the affairs of the Trust, but in any event at least once in each Income Year.

9.2 **Hui whakaaturanga / Notice of meetings**
(a) Written notice of every meeting of Trustees shall be either hand-delivered, posted or sent by facsimile or email to each Trustee at least 5 days before the date of the meeting.

(b) Every notice of a meeting shall state the place, day and time of the meeting and may also state the subject-matter of the meeting.

(c) The requirement for notice of a meeting may be waived if all the Trustees give their consent to such a waiver.

9.3 **Hikinga / Adjournment**
If a quorum is not present within 30 minutes after the time appointed for any meeting the Trustee or Trustees present may adjourn the meeting.

9.4 **Ngā tatūnga / Resolutions**
(a) Except where this deed provides otherwise a decision is taken and a resolution is validly made when it is passed by a simple majority of those Trustees present and entitled to vote at a duly convened and conducted meeting of the Trustees.

(b) The Trustees may vary or cancel any resolution at a meeting.
(c) A written resolution signed by all the Trustees shall be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees. Such a resolution may comprise several duplicated documents, each signed by one or more of the Trustees.

9.5 Ngā miniti / Minutes
(a) The Trustees shall keep a proper record in a minute book (whether physical or electronic) of all decisions taken and business transacted at every meeting of the Trustees.

(b) Where minutes of the proceedings at a meeting of the Trustees have been made in accordance with the provisions of this rule then, until the contrary is proved, the meeting shall be deemed to have been properly convened and its proceedings to have been properly conducted.

9.6 Hui ā-waea / Teleconference Meetings
(a) A Teleconference Meeting between a number of Trustees who constitute a quorum, shall be deemed to constitute a meeting of the Trustees. All the provisions in this deed relating to meetings shall apply to Teleconference Meetings so long as the following conditions are met:

(i) All of the Trustees for the time being entitled to receive notice of a meeting shall be entitled to notice of a Teleconference Meeting and to be linked for the purposes of such a meeting. Notice of a Teleconference Meeting may be given on the telephone;

(ii) Throughout the Teleconference Meeting each participant must be able to hear each of the other participants taking part;

(iii) At the beginning of the Teleconference Meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part;

(iv) A participant may not leave the Teleconference Meeting by disconnecting his or her telephone or other means of communication without first obtaining the consent of the chairperson, or if there is no chairperson, the consent of the other participants. Accordingly, a participant shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the Teleconference Meeting unless he or she leaves the meeting with such consent; and

(v) A minute of the proceedings at the Teleconference Meeting shall be sufficient evidence of those proceedings, and of the observance of all necessary formalities.

10 TĀTARI KAUTE, PŪRONGO Ā-TAU ME NGĀ PŪRONGO PŪTEA / AUDIT, ANNUAL REPORT AND FINANCIAL STATEMENTS

10.1 At their first meeting in each Income Year (other than the first Income Year) the Trustees shall present a report dealing with the affairs of the Trust, supported by a
statement of the Trust’s income and expenditure during the previous Income Year and a statement of its assets and liabilities at the end of that Income Year.

10.2 The Trustees will ensure that the Trust complies with applicable law and accounting standards in relation to financial accounting and record keeping.

10.3 If the Trustees at any time resolve to appoint an auditor to audit or review the Trust’s financial statements then they will ensure that the financial statements of the Trust for each Income Year are audited or reviewed, as the case may be, by a chartered accountant in public practice within 4 months after the end of that Income Year. The person appointed as auditor must not be a Trustee.

11 PŪTEA WHAKAHAERE / CONTROL OF FUNDS

All money received by or on behalf of the Trust shall be paid immediately to the credit of the Trust in an account or accounts with a Bank or Banks selected from time to time by the Trustees. All cheques and other negotiable instruments, withdrawal slips and receipts for money shall be signed, drawn, accepted, endorsed or otherwise executed (as the case may be) on behalf of the Trust in such manner as the Trustees decide from time to time.

12 WAITOHU / CUSTODY AND USE OF COMMON SEAL

If the Trustees become incorporated as a Board under the Charitable Trusts Act 1957 they shall adopt a common seal and have custody of the common seal. The common seal may be affixed to any document only with the prior authorisation of the Trustees and, once authorised, may be affixed in the presence of any two Trustees who must sign the document.

13 PUAKANGA O NGĀ PĀNGA / DISCLOSURE OF INTERESTS

13.1 He Tarañiti ki tētahi pānga / Interested Trustee

(a) A Trustee will be interested in a transaction to which the Trust is a party if the Trustee:

(i) is a party to, or will derive a material financial benefit from that transaction;

(ii) has material financial interest in another party to the transaction;

(iii) is a director, officer or trustee of another party to, or person who will or may derive a material financial benefit from the transaction, not being a party that is wholly owned by the Trust;

(iv) is the parent, child or spouse of another party to, or person who will or may derive a material financial benefit from the transaction; or

(v) is otherwise directly or indirectly interested in the transaction.
(b) As soon as a Trustee becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust, he or she must disclose to his or her co-trustees:

(i) the nature and monetary value of that interest (if the monetary value of the Trustee’s interest is able to quantified); or

(ii) if the monetary value of the Trustee’s interest cannot be quantified, the nature and extent of that interest.

(c) A disclosure of interest by a Trustee must be recorded in the minute book of the Trust.

13.2 Tē taea e te Tarahiti ki tētahi pānga te pōti / Interested Trustee may not vote
(a) A Trustee who is interested in a transaction entered into, or to be entered into, by the Trust may not vote on a matter relating to the transaction, nor be included among the Trustees present at the meeting for the purpose of determining a quorum, but may, subject to any protocols agreed by the Trustees from time to time:

(i) attend a meeting of Trustees at which a matter relating to the transaction arises;

(ii) sign a document relating to the transaction on behalf of the Trust; and

(iii) do anything else as a Trustee in relation to the implementation of the transaction, as if he or she were not interested in the transaction.

(b) The Trustees must have regard at all times to current best practice for dealing with conflicts of interest including, but not limited to, any guidance issued by the State Services Commission, the Office of the Controller and Auditor-General and the Institute of Directors.

13.3 Te mahi a te Tarahiti ki tētahi pānga / Dealing with interested Trustees
Subject to clauses 13.1 and 13.2, each Trustee may act as a Trustee and still contract or otherwise deal with the Trustees in his or her personal capacity or in any other capacity as if he or she had not been appointed as a Trustee.

14 NGĀ RĀHUI I TE RAWA PARAIWETI ME NGĀ PAINGA I NGĀ MAHI PAKIHI/RESTRICTIONS ON PRIVATE PECUNIARY PROFIT AND ON BENEFITS IN BUSINESS ACTIVITY

14.1 Te kore whai rawa paraiweti me ngā mea e āhei ana ngā tangata ki te whihiwhi / No private pecuniary profit of any individual and exceptions
(a) No private pecuniary profit shall be made by any person involved in this Trust, except that:

(i) any Trustee or committee member appointed by the Trustees shall be entitled to be reimbursed out of the assets of the Trust for all expenses
which he or she properly incurs in connection with the affairs of the Trust;

(ii) in each Income Year, each Trustee will be entitled to such remuneration for his or her services actually rendered to the Trust as a Trustee as may be fair and reasonable having regard to his or her duties and responsibilities, but not exceeding the amount recommended by the Trustees; and

(iii) any Trustee may retain any remuneration properly payable to that Trustee by any company or undertaking with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatever, notwithstanding that that Trustee’s connection with that company or undertaking is in any way attributable to that Trustee’s connection with the Trust.

(b) The Trustees, in determining all reimbursements, remuneration and charges payable in terms of this clause, shall ensure that the restrictions imposed by this clause 14.1 are strictly observed.

(c) For the avoidance of doubt:

(i) without limiting clause 14.1(a)(ii), the Trust may not pay any remuneration to any officer or servant of the Trust (whether a Trustee or not) in return for services actually rendered to the Trust; and

(ii) a Trustee or any firm or entity of which that Trustee is a member, employee or associate may not be paid any professional, business or trade charges in connection with the affairs of the Trust.

14.2 Te Rāhui i ngā painga i ngā mahi pakihi / Prohibition of benefit or advantage in business activity

(a) In the carrying on of any business under this deed no benefit, advantage or income shall be afforded to, or received, gained, achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able in any way (whether directly or indirectly) to determine, or to materially influence the determination of:

(i) the nature or amount of that benefit, advantage or income; or

(ii) the circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.

(b) A person who is in the course of, and as part of the carrying on of his or her business of a professional public practice, shall not, by reason only of him or her rendering professional services to the Trust or to any company by which any business of the Trust is carried on, be in breach of the terms of this clause 14.2.
15 **NGĀ MANA / TRUSTEES’ POWERS**

15.1 **Te mana tukipū / General power**

It is intended that in the exercise of their discretion the Trustees shall have the fullest possible powers in relation to the Trust Fund, and that they may do anything they think necessary, expedient or desirable in furtherance of the purposes of the Trust. However:

(a) this general power does not authorise the Trustees to do anything which may prejudice the charitable nature of the purposes of the Trust; and

(b) all the Trustees’ powers, authorities and discretions shall be subject to any direction to the contrary in any instrument evidencing or conferring a gift accepted by the Trustees, whether the gift is a Designated Gift or is generally for the purposes of the Trust Fund.

15.2 **Ngā mana pū / Specific powers**

Without prejudice to the generality of clause 15.1, or to any of the Trustees’ express or implied powers, the Trustees shall have the powers specified in the Schedule and may exercise them either alone or with any other person(s) in furtherance of the purposes of the Trust.

16 **NGĀ KUPU AWHINA O TE RŌIA / ADVICE OF COUNSEL**

If the Trustees are in doubt over any matter relating to the administration of the Trust Fund, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a barrister of the High Court of New Zealand of at least seven years’ standing. And they may act upon the barrister’s opinion without being liable to any person who may claim to be beneficially interested in respect of anything done in accordance with that opinion. This right to obtain and act upon a barrister’s opinion, however, will not restrict the Trustees’ right to apply to the High Court of New Zealand for directions.

17 **TE TAUMAHATANGA O NGĀ TARAHITĪ / LIABILITY OF TRUSTEES**

17.1 **Te taumahatanga ki te hingga / Liability for loss**

A Trustee shall be liable only for any loss attributable to his or her dishonesty or to his or her wilful commission or omission of an act which he or she knows to be a breach of trust. In particular, no Trustee shall be bound to take, or liable for failing to take, any proceedings against a co-Trustee for breach or alleged breach of trust.

17.2 **Te paerewa o te manaaki / Standard of care**

Where, for the time being, there is more than one person acting as a trustee of the Trust Fund, and one or more, but not all, of them is or are engaged in a profession, employment or business which is or includes acting as a trustee or investing money on behalf of others, then in exercising any power of investment, that trustee or those trustees (as the case may be) shall not be required to exercise the care, diligence and skill that a prudent person engaged in that profession, employment or business would exercise in managing the affairs of others. Rather, that trustee or those trustees (as the case may be) shall be required only to exercise the care,
diligence and skill that a prudent person of business would exercise in managing the affairs of others. This clause 17.2 shall constitute a contrary intention for the purposes of clause 13D of the Trustee Act 1956.

18 **TE TARAHITĪ WHAKAHAUMARU / TRUSTEE INDEMNITY**

A Trustee shall be entitled to exoneration and indemnity out of the assets of the Trust for any liability which that Trustee incurs in relation to the Trust and which is not attributable to that Trustee’s dishonesty or to his or her wilful commission or omission of an act which he or she knows to be a breach of trust.

19 **WHAKAMUTU ME TE KOHA WĀWĀHI / WINDING UP**

19.1 The Trustees may wind up the Trust if:

(a) in their opinion, it becomes impossible, impracticable or inexpedient to carry out the purposes of the Trust set out in clause 4; and

(b) they decide not to exercise their power under clause 6 to pay, apply or appropriate the whole of the capital of the Trust Fund for the purposes set out in clause 4.

19.2 On the winding up of the Trust, the Trustees must give or transfer all surplus assets after the payment of costs, debts and liabilities:

(a) to some other charitable organisation or body within New Zealand having similar objects to the Trust; or

(b) for some other charitable purpose or purposes within New Zealand.

20 **WHAKAREKEKĒTANGA O TE RĪRI NEI / ALTERATIONS TO DEED**

20.1 Subject to clauses 20.2 and , this deed (including the Schedule) may be altered only by:

(a) a resolution of not less than 75% of the Trustees passed at a meeting of Trustees of which written notice specifying the nature of the proposed alteration has been provided to each Trustee at least seven days before the date of the meeting at which it is to be considered; or

(b) a written resolution of Trustees under clause 9.4(c).

20.2 Any alteration to this deed that prejudices the charitable nature of the Trust, and in particular the meeting, by the Trust, of all the requirements for any exemptions available to charities under the New Zealand revenue laws, shall be invalid.

20.3 The Trustees must consult with the Ministry of Business, Innovation and Employment and the Minister for Regional Economic Development (or any successor department or Minister with responsibility for the same or similar matters) prior to passing any resolution to alter this deed (including the Schedule).
SCHEDULE: NGĀ MANA PŪ / TRUSTEES’ SPECIFIC POWERS

Pursuant to clause 15.2, the Trustees have the following specific powers:

1. **Ki te whakatū i ngā pūtea / To raise funds**
   To raise money for any of the purposes of the Trust by all lawful means, including the conduct of fundraising campaigns.

2. **Ki te haumi / To invest**
   2.1 To invest the Trust Fund and the income from it in any form of investment on such terms and for such periods as the Trustees in their absolute discretion determine, and to vary such investment from time to time.

   2.2 To hold one or more investments without any obligation to diversify, or to consider diversifying, between investments or nature or types of investment and without being liable for any resultant loss to the Trust Fund.

   2.3 To hold a single investment or to concentrate their capital investment in any single asset (including, but without limitation, shares in a company or group of companies) without being liable for any resultant loss to the Trust Fund.

3. **Ki te whakatū i tētahi menetia haumi / To appoint an investment manager**
   To appoint any person as an investment manager to invest and manage all or any investments forming part of the Trust Fund on such terms as the Trustees think fit.

4. **Ki te pupuri i ngā haumi / To retain investments**
   To retain any investments coming into the Trustees’ hands as part of the Trust Fund for as long as the Trustees think proper, even if they are not investments which could be properly made by a trustee.

5. **Ki te hoko / To sell**
   To sell any real or personal property forming part of the Trust Fund in the manner and on the terms and conditions the Trustees think fit, including (without limitation) power to allow such part of the purchase price as the Trustees think fit to remain on loan with or without security or to be payable by instalments.

6. **Ki te hiki i te hoko / To postpone sale**
   To postpone the sale of any real or personal property forming part of the Trust Fund for as long as the Trustees think fit without being liable for any resultant loss to the Trust Fund.

7. **Ki te rēti / To let**
   To let any real and personal property at such rent and on such terms and conditions (including an option to purchase) as the Trustees think fit and to accept surrenders of any leases and tenancies.

8. **Ki te nama / To borrow**
   To borrow any money at whatever rate of interest and upon whatever other terms and conditions the Trustees may think fit. For this purpose the Trustees may give
security for repayment over the entire Trust Fund or any part of it, whether or not any part over which the security is given benefits from the borrowing.

9 **Ki te mahi pakihi / To carry on business**

9.1 To carry on any business, whether in partnership or otherwise, for as long as the Trustees think fit. They may use any part of the Trust Fund as capital in the business, and may also employ in the business such managers, agents, employees and other persons (including any Trustee or anyone who for the time being is the sole Trustee of the Trust Fund) as they think fit.

9.2 The Trustees shall be absolutely indemnified out of the Trust Fund for any losses which they may sustain in so carrying on any such business.

9.3 Subject to the terms and conditions on which any business is carried on by the Trustees, the net annual profits from any business shall, at the Trustees' discretion, be distributable as income in the Trustees' hands without having to be first applied in making good any earlier business losses. Any business losses for any year, unless the Trustees decide otherwise, shall be borne by the capital of the Trust Fund and not recouped out of later profits.

10 **Ki te whakaee ki ngā moni utu i ngā punga kamupene / To accept payment in company securities**

In the sale of any business to a company, to accept payment for all or part of the purchase price in ordinary deferred or preference shares (whether fully paid or partly contributory) or debentures or debenture stock of such company. In exercising this power the Trustees shall not be taken to be exercising a power of investment.

11 **Ki te whakatuara i ngā kamupene / To promote a company**

To promote a company or companies for the purpose of acquiring any business or the assets of any business.

12 **Ki te mahi ki ētahi kamupene / To act in relation to certain companies**

In respect of any company in which the Trust Fund holds or is the beneficial owner of shares, notes, stock or debentures:

12.1 to act as a director of the company and to receive and retain fees or other remuneration for so acting without having to account to the Trust Fund unless the Trustees otherwise require;

12.2 to provide out of the Trust Fund on such terms as the Trustees think fit further capital for the company either by way of advances, loans, deposits or otherwise (with or without security) or by taking further shares in the company, but only insofar as the Trustees are satisfied on reasonable grounds that the provision of such further capital will contribute to the ability of the Trustees to fulfil the charitable purposes specified in clause 4;

12.3 to concur in the winding up, reconstruction or amalgamation of the company or in the modification of its regulations, on whatever terms the Trustees think fit; and
12.4 generally to act in relation to the company in whatever manner the Trustees consider to be in the best interests of the Trust Fund.

13 **Ki te wehe / To subdivide**
To subdivide any real property forming part of the Trust Fund and to meet the costs of subdivision out of the Trust Fund.

14 **Ki te whakanono i ngā taonga / To maintain property**
To maintain, manage and improve property which, or any interest in which, forms part of the Trust Fund, in whatever manner the Trustees think fit. For those purposes, the Trustees may pay and apply any of the capital and income of the Trust Fund as they think fit.

15 **Ki te whakawhanake / To develop**
To spend any sums out of the capital or income of the Trust Fund the Trustees think fit in developing any real property forming part of the Trust Fund, and to do all things (including dedicating roads) which the Trustees consider necessary or desirable for the proper completion of the development.

16 **Ki te hoko taonga / To purchase property**
To purchase as an asset of the Trust Fund any property or interest in property which the Trustees consider will benefit the Trust Fund. In exercising this power the Trustees shall not be taken to be exercising a power of investment.

17 **Ki te whakawhihi i ngā kōwhiringa / To grant and acquire options**
To grant acquire, dispose of and exercise any option to purchase, lease or exchange any interest in real or personal property of any value, whether the option is incidental to, or independent of, any sale, lease, exchange or other disposition. An option may be granted acquired or disposed of on such terms and conditions as the Trustees think fit, and in respect of a grant, may be granted at a price determined at the time of the grant or at such later date as the Trustees think fit. The Trustees shall not be personally liable for any loss arising from their exercise of this power and shall be indemnified accordingly out of the Trust Fund.

18 **Ki te whakatū i ngā pūtea taurea / To make loans and advances**
To make any loans or advances (with or without security) for any of the purposes of the Trust Fund in such manner and on such terms and conditions as the Trustees think fit.

19 **Te haupū rawa, te whiwhinga pūtea me ngā pūtea whakawhenumi / Capital, income and blended funds**
To determine whether any money is to be considered as capital or income, and which expenses should be paid out of capital and out of income respectively, and also to apportion blended funds. Each determination or apportionment shall be final and binding on all persons beneficially interested in the Trust Fund.
Te hekenga uara, ngā pūtea rīwhi rānei / Depreciation or replacement funds
To set up and maintain any depreciation or replacement funds for any purpose the Trustees may consider advisable, and in this regard to determine in their discretion:

20.1 the amount of income to be credited from time to time to any of those funds;

20.2 whether those funds are income or capital.

Ngā pūtea pēke / Bank accounts
To open any bank accounts in any name(s) either on the Trustees own behalf or jointly with some other person(s), and to overdraw any such account with or without giving security. The Trustees may also make arrangements with any bank for any one or more of the following persons to operate on any of the Trustees’ accounts at that bank:

21.1 the Trustees; and

21.2 any delegate(s) named in writing by all the Trustees.

Ki te kī tauranga, ki te whakahaumaru rānei / [To guarantee or indemnify
To guarantee the liability of any person or corporation or provide an indemnity for the purposes of the Trust Fund and to give security in support of any such guarantee or indemnity, provided that any such guarantee or indemnity directly supports one or more of the charitable purposes of the Trust as set out in clause 4.

Ki te inihua / To insure
To insure any building or other insurable property to any amount up to its full insurable value, or at the Trustees’ option, up to its full replacement value, against destruction or damage by fire, earthquake, fire following earthquake and such other risks as the Trustees think fit. The Trustees may pay the premiums out of income or capital as they think fit.

Ki te waiho i ngā raruraru / To waive debts
Without being liable for loss, to waive any debts due to the Trust Fund, either absolutely or on such terms as the Trustees think expedient, provided that the Trustees have first used all reasonable effort to recover the debt.

Ki te putu i ngā pūtea / To deposit funds
To deposit all or part of the Trust Fund in any currency in a savings or other interest or non-interest bearing account with any bank, trust, company or other financial or investment institution in any jurisdiction in the world. In making any deposit the Trustees shall not be liable for any loss due to devaluation or any foreign exchange or other governmental restriction.

Ki te kore haumi i te pūtea tiakitanga / To hold the Trust Fund uninvested
To hold any part of the Trust Fund uninvested and in any currency for as long as the Trustees think fit without being liable for any loss due to devaluation or any foreign exchange or other governmental restriction.
27  **Ki te whakahaumaru, ki te whakarākei hoki i ngā hua / To protect or enhance assets**
To enter into any type of contract whatever to protect, maintain or enhance the value of any assets acquired or held by the Trustees or which they have the right to acquire or hold.

28  **Ki te whakatū i ngā kaimahi / To appoint officers or employees**
The Trustees may appoint persons as officers or employees (including Trustees) of the Trust if, in their opinion, the affairs of the Trust require such appointments, on such terms and conditions as they think fit. The Trustees may also remove and replace any person so appointed.

29  **Ki te tuku mana ki te mahi āwhina / To delegate collectively administrative functions**
To employ and pay a person or persons to be an agent or attorney of the Trustees and to authorise them to exercise or perform any or all of the functions of the Trustees except Excluded Functions on such terms and conditions as the Trustees think fit [provided that such authorisation is given in writing and such arrangements are kept under review.] For the purposes of this clause, Excluded Functions means a function that is, or is related to:

(a) the exercise of a discretion to pay, apply or appropriate or decide to pay, apply or appropriate, the whole or any part of the Trust Fund;

(b) the exercise of a discretion to determine whether any payment from the Trust Fund is a payment from income or capital;

(c) the exercise of a discretion to determine whether any payment received by the Trustees should be appropriated to income or capital;

(d) a right conferred on Trustees to apply to the Court; or

(e) a right to delegate the exercise of the Trustees’ functions.

30  **Ki te whakauru i ngā kirimina me ngā whakariteritenga / To enter into contracts and arrangements**
To enter into any type of contract, commitment, arrangement or understanding to assume or reallocate risk, rewards, rights or obligations on such terms as the Trustees think fit.

31  **Ki te whakarerekē i ngā kirimina me ngā whakariteritenga / To vary contracts and arrangements**
To vary, assign, novate, waive, terminate or otherwise deal with on such terms as the Trustees think fit any contract, commitment, arrangement or understanding to which the Trustees are party.

32  **Ki te mahi i ngā mea matenui katoa / Do all other necessary or desirable things**
The Trustees may do all other lawful things that are necessary or desirable in their opinion for the carrying out of the purposes of the Trust.
EXECUTION

Signed by

MURRAY STUART McCULLY

in the presence of:

Witness
Signature:
Name (in full): GRAEME J MATHIAS
Occupation: SOLICITOR
Address: WHANGAREI

Signed by

DOVER SPENCER PENEHA SAMUELS

in the presence of:

Witness
Signature:
Name (in full): GRAEME J MATHIAS
Occupation: SOLICITOR
Address: WHANGAREI