

TRUST DEED

Establishing

TE NGA KINGA O WHANGANUI INVESTMENT TRUST

Dated

23 May 2016

KAHUI
LEGAL

LEVEL 3, 32 WARING TAYLOR ST, WELLINGTON 6011
PO BOX 1654, WELLINGTON 6140, NEW ZEALAND

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TRUST DEED of TE NGA KINGA O WHANGANUI INVESTMENT TRUST

This Trust Deed is made on 23 May 2016

BETWEEN **GERRARD PAUL ALBERT, RAWIRI STEPHEN TINIRAU, CHRISTOPHER ROBERT KUMEROA, SUSAN JUNE OSBORNE, KERIA NGAKURA PONGA, MIRIAMA JORDAN CRIBB and RENETI (NED) TAPA** in their capacity as Trustees of Ngā Tāngata Tiaki o Whanganui Trust (**Settlors**)

AND **NANCY TE URUMANAO TUAINÉ, SIMON PAUL KARIPA and KERIA NGAKURA PONGA** (**Initial Board Members**)

NOW THIS DEED RECORDS

Introduction

- A. The Settlers are the trustees of Ngā Tāngata Tiaki o Whanganui (**NTT**) as at the date of this Deed.
- B. By deed of settlement, Ruruku Whakatupua, signed on 5 August 2014, Whanganui Iwi and the Crown agreed the terms of the settlement of the historical Treaty of Waitangi claims of Whanganui Iwi relating to the Whanganui River.
- C. As part of the Whanganui River settlement, NTT was established by deed of trust dated 4 August 2015 as the post-settlement governance entity to implement the terms of Ruruku Whakatupua and receive and manage the settlement redress on behalf and for the benefit of Whanganui Iwi.
- D. The NTT Trust Deed permits the Settlers to establish Trust Entities to receive, hold and manage on behalf of NTT all or some of the NTT trust assets.
- E. The Settlers have determined to establish the Te Ngakinga o Whanganui Investment Trust (**the Investment Trust**) as a Trust Entity to hold, manage and/or invest such assets and funds that NTT determines to transfer to the Investment Trust together with the Trust Funds.
- F. The Initial Board Members have been appointed by the Settlers to be the initial trustees of the Investment Trust.
- G. In order to establish the Investment Trust, the Settlers have paid to the Initial Board Members the sum of ten dollars (\$10.00) the sum of which the Initial Board Members agree to hold upon the trusts evidenced by this Deed.

1. Establishment and Purpose of the Investment Trust

1.1 Investment Trust Established

The trust established by this Deed is to be known as the Te Ngakinga o Whanganui Investment Trust. The Settlers and the Initial Board Members each declare that the Initial Board Members will hold and administer the Trust Funds upon the trusts and for the Charitable Purposes on the terms set out in this Deed.

1.2 Trust Funds

The Settlers have paid to the Initial Board Members the sum of ten dollars (\$10.00) to constitute the initial Trust Funds and the Initial Board Members acknowledge the receipt of that sum. The Initial Board Members declare that the sum of ten dollars (\$10.00), together with all other money and Property that may be added to the Trust Funds by way of capital or income, will be held by the Board Members upon the trusts and with the powers set out in this Deed.

1.3 Purpose

- (a) The purpose of the Investment Trust is to receive, use and administer the Trust Funds exclusively for the Charitable Purposes.
- (b) Subject to clause 1.3(a) and in carrying out the Charitable Purposes, the Investment Trust shall:
 - (i) receive, hold, manage and administer on the trusts set out in this Deed such of NTT's assets as are transferred to the Investment Trust by NTT from time to time;
 - (ii) invest the Trust Fund:
 - a. in accordance with any applicable Statements of Investment Policy and Objectives, plans or policies adopted by the Investment Trust from time to time; and
 - b. so as to maximise, as far as is reasonably practicable, the income derived from, and the value of, the Trust Fund; and
 - (iii) retain and reinvest such income derived from the Trust Fund as the Board Members prudently determine, having regard to the desire to increase the value of the Trust Fund over time in order to increase the level of distributions for Charitable Purposes over time.

- (c) The actions of the Board Members (including the performance of functions under this Deed) must not prejudice in a material manner the Investment Trust's entitlement to charitable registration under the laws of New Zealand, including the Charities Act 2005, or its entitlement to an income tax exemption under the Income Tax Act 2007 in respect of income derived by it.

1.4 Governance

Subject to clause 1.3 of this Deed, the Investment Trust shall be governed and administered by and in accordance with this Deed.

1.5 Amendment of purpose

If, by reason of any alteration in the law relating to income tax or charities and having received independent tax advice, it is at any time necessary to amend the purpose in clause 1.3, in order to preserve the right to exemption from income tax of the kind referred to in sections CW 41 and CW 42 of the Income Tax Act 2007, the purpose may be amended with the approval of a Special Resolution of the NTT Trustees to the extent necessary so long as the amendment is not inconsistent with clause 1.3(a).

2. Application of Income and Capital

2.1 Application of Income and Capital

To achieve the Charitable Purposes and subject to any other requirements in this Deed:

- (a) the Board Members may, at any time, after payment of, or provision for, all reasonable costs, charges and expenses of the Board Members in respect of the establishment, management and administration of the Investment Trust, pay or apply all or any of the income towards any of the Charitable Purposes; and
- (b) the Board Members may, at any time, pay or apply all or any of the capital of the Investment Trust towards any of the Charitable Purposes.

2.2 Business Income

Any income derived by the Investment Trust, directly or indirectly, from a business (within the meaning of section CW 42 of the Income Tax Act 2007) carried on by, or for, or for the benefit of the Investment Trust must be applied to Charitable Purposes within New Zealand.

2.3 Power to make charitable distributions

The Board Members have power to distribute income or capital of the Investment Trust (in each case, a **Charitable Distribution**) to any Qualifying Entity provided that the Qualifying Entity:

- (a) uses the Charitable Distribution for the Charitable Purposes; and
- (b) provides a plan to the Board for how the Charitable Distribution is to be applied in furtherance of the Charitable Purposes.

2.4 Nature of payments

Any Charitable Distribution made in accordance with clause 2.3:

- (a) is at the absolute discretion of the Board Members;
- (b) does not create any rights for the benefit of the Qualifying Entity to receive Charitable Distributions in the future; and
- (c) must be used by the Qualifying Entity for Charitable Purposes in accordance with the plan provided by the Qualifying Entity to the Board pursuant to clause 2.3(b).

3. Major Transactions

3.1 Restriction on Major Transaction of the Trust Group

The Investment Trust and any Subsidiary must not enter into a Major Transaction of the Trust Group unless notice is given to the Adult Members of Whanganui Iwi in accordance with rule 5 of the Fourth Schedule to the NTT Trust Deed, and that Major Transaction of the Trust Group is:

- (a) approved by way of Special Resolution of Members; or
- (b) contingent upon approval by way of Special Resolution of Members.

3.2 Restriction on Major Transaction of the Investment Trust

The Investment Trust and any Subsidiary must not enter into a Major Transaction of the Investment Trust unless notice is given to the NTT Trustees and that Major Transaction of the Investment Trust is:

- (a) approved by way of Resolution of NTT Trustees; or
- (b) contingent upon approval by way of Resolution of NTT Trustees.

3.3 Special Resolution of Members

Where a Special Resolution of Members is required under this Deed, the Investment Trust will advise NTT, and if NTT agrees, liaise with NTT to progress that resolution in accordance with the NTT Trust Deed.

3.4 Resolution of NTT Trustees

Where a Resolution of NTT Trustees is required under this Deed, the Investment Trust will advise NTT and, if NTT agrees, liaise with NTT to progress that resolution in accordance with the NTT Trust Deed.

4. Powers and Duties of Board Members

The Board Members shall have all the powers and duties set out in the Second Schedule.

5. Incorporation of the Board

5.1 Incorporation under the Charitable Trusts Act 1957

The Board Members may at any time apply for incorporation under Part II of the Charitable Trusts Act 1957 under such name as the Board Members may decide. Upon incorporation, the powers and discretions conferred upon the Board Members by law or by this Deed shall be conferred upon the Board Members as a trust board.

5.2 Common Seal

Upon incorporation under the Charitable Trusts Act 1957, the Investment Trust shall have a common seal which shall be affixed by the authority of the Board Members previously given to any document requiring execution by the Board Members. Every such affixing shall be attested by two Board Members and shall be sufficient evidence of authority to affix the seal.

5.3 Authority

No person dealing with the Board Members shall be bound or concerned to see or inquire as to the authority to affix the seal, or to inquire as to the authority under which any document was sealed or in whose presence it was sealed.

6. Appointment of Board Members

6.1 Initial Board Members

The Initial Board Members appointed by the Settlers shall be the initial Trustees and Board Members of the Investment Trust as at the date of this Deed.

6.2 Appointment of Board Members by NTT Trustees

The NTT Trustees may, at any time, appoint further Board Members, provided that the Board shall have no more than five (5) Board Members in accordance with clause 6.7 of this Deed.

6.3 Vacancies

The NTT Trustees shall fill any vacancies in the office of Board Members by appointment in writing to the Board.

6.4 Eligibility

A person is not permitted to be a Board Member if that person is:

- (a) under the age of 18 years;
- (b) not resident in New Zealand;
- (c) a bankrupt or a person who has ever been bankrupt; or
- (d) a person who is subject to a property order made under the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act; or
- (e) a “patient” as defined in section 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
- (f) a person who has been convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961 or an offence relating to the administration of justice under the Crimes Act 1961 or an offence under section 373(4) of the Companies Act 1993; or
- (g) a person who has been convicted of any offence punishable by a term of imprisonment of two (2) or more years, unless that person has obtained a pardon, or has served or otherwise suffered the sentence imposed upon that person, or is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004; or
- (h) a person who has been sentenced to imprisonment for any offence unless that person has obtained a pardon or has served the sentence; or
- (i) a person in respect of whom an order has been made under section 199L of the Companies Act 1955 or section 383 of the Companies Act 1993; or
- (j) an individual who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1955, the Companies Act 1993, the Securities Markets Act 1988, or the Takeovers Act 1993; or
- (k) is or has ever been disqualified from being a director of a company registered under the Companies Act 1955 or the Companies Act 1993;
- (l) is or has ever been removed as a trustee of a trust by order of a Court on the grounds on breach of trust, lack of competence or failure to carry out the duties of a trustee satisfactorily;

- (m) a person to who a written notice has been given in accordance with section 199N of the Companies Act 1955 or section 385 of the Companies Act 1993; or
- (n) a person who is disqualified from being an officer of a charitable entity under section 16 or section 31(4) of the Charities Act 2005; or
- (o) a body corporate that is being wound up, is in liquidation or receivership, or is subject to statutory management under the Corporations (Investigation and Management) Act 1989; or
- (p) has been removed as a Board Member for breach of trust, lack of competence or failure to carry out the duties of a trustee satisfactorily, or removed as an NTT Trustee under clause 24 or Rule 12 of the Second Schedule of the NTT Trust Deed, or removed as a Board Member or Trustee for breach of trust, lack of competence or failure to carry out the duties of a director/trustee satisfactorily from any other entity within the Trust Group.

6.5 Skills and Expertise

In appointing the Board Members, the NTT Trustees must have regard to the particular skills and expertise of the appointees, and the skills and expertise of the Board collectively, and the requirements of clause 13.3 of the NTT Trust Deed.

6.6 Termination of Board Membership

Any Board Member may be removed from office by written notice to the Board signed on behalf of the NTT Trustees at any time at their discretion, provided however that the written notice must also specify the reasons for the removal.

6.7 Members of Whanganui Iwi

A majority of the Board Members must be Adult Members of Whanganui Iwi.

6.8 NTT Trustees and employees of Trust Group

An NTT Trustee may be a Board Member, provided that at no time may NTT Trustees comprise more than 40% of the total number of Board Members. An employee of NTT or the Trust Group shall not be a Board Member.

6.9 Term of Board Members

Each Board Member shall hold office for a term not exceeding three (3) years, unless he or she earlier ceases to be a Board Member in accordance with clause 6.10 of this Deed.

6.10 Cessation of Office

A Board Member shall cease to be a Board Member if that person:

- (a) is removed by the NTT Trustees in accordance with clause 6.6 of this Deed; or
- (b) states in writing that she, he or it wishes to resign from the Board; or
- (c) dies;
- (d) becomes a person who clause 6.4 of this Deed does not permit to be a Board Member; or
- (e) is absent without leave from three (3) consecutive ordinary meetings of the Board without good reason or without the permission of the Chairperson; or
- (f) has come to the end of his or her term without being re-appointed.

6.10 Eligibility of retiring Board Members

Retiring Board Members shall be eligible for re-appointment.

6.11 Proceedings of Board

Except as otherwise provided in this Deed, the proceedings and other affairs of the Board shall be conducted in accordance with the rules set out in the First Schedule.

6.12 Rangatahi Representatives

In order to foster future leadership and capacity building within Whanganui Iwi, the Board may, from time to time and on such terms as the Board in its discretion determines, invite persons to attend meetings of the Board as Rangatahi Representatives. Rangatahi Representatives must be Members of Whanganui Iwi aged between 18 and 30 years who are considered by the Trustees to have leadership potential and skills or knowledge relevant to the purposes of the Board. Rangatahi Representatives may attend and participate fully in all meetings of the Board, but have no voting rights.

7. Board may establish Subsidiaries

The Board may establish Subsidiaries to carry out any of the Charitable Purposes in accordance with the Third Schedule.

8. Reliance on advice

8.1 Board Members may rely on advice

The Board, when exercising powers or performing duties as Board Members, 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 Investment Trust or NTT whom the Board Members 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 Board Members believe on reasonable grounds to be within the person's professional or expert competence; and
- (c) kaumātua, in relation to tikanga and related matters; and
- (d) a committee of Board Members.

8.2 Good faith

Clause 8.1 applies only if the Board Members:

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

9. Accounts

9.1 Bank Accounts

The Board shall keep an account or accounts at such bank or banks or financial institutions as it shall from time to time determine. Payments and other debits from the account or accounts shall be authorised by such person or persons as the Board shall from time to time authorise in writing.

9.2 Accounts

The Board shall:

- (a) keep full and correct records and accounts of all of their receipts, credits, payments, assets liabilities and transactions and all other matters necessary for showing the true state and condition of the Investment Trust; and
- (b) where appropriate, engage the same firm of accountants as NTT.

10. Statement of Investment Policy and Objectives, plans, reports and policies

10.1 Board to prepare Statement of Investment Policy and Objectives

The Board shall:

- (a) prepare within 6 months of the date of this Deed, and maintain, a SIPO for the Investment Trust setting out its long term objectives and the general principles by which it proposes to operate;
- (b) in preparing the SIPO, the Board shall have particular regard to the terms of any letter of expectation provided by the NTT Trustees to the Board regarding, among other things, the performance and investment parameters of the Board; and
- (c) as required by the NTT Trustees, update the SIPO to take into account changes in circumstances that may arise from time to time, including without limitation changes to the nature of its business, the business of any of its Subsidiaries and the nature of its distributions.

10.2 Board to Prepare Five-Year Strategic Plan

The Board shall, within 6 months of the date of this Deed, prepare and maintain a Five-Year Strategic Plan, which shall be updated not less than once every five years, and which sets out its medium term vision and the specific steps that it proposes to take during that period to fulfil the objectives and principles set out in the SIPO referred to in clause 10.1.

10.3 Board to prepare Annual Plan

The Board shall prepare, no later than two months before the commencement of each Income Year, an Annual Plan setting out the steps to be taken in the relevant Income Year to meet its five-year planning objectives and fulfil the objectives and principles of the SIPO. Without limitation, the Annual Plan shall include the following information in respect of that Income Year:

- (a) the objectives of the Annual Plan;
- (b) the nature and scope of the activities proposed by the Board in furtherance of the Charitable Purposes;
- (c) the performance targets and measurements by which performance of the Investment Trust may be judged;
- (d) the manner in which it is proposed that projected income will be dealt with;
- (e) any proposals for charitable distributions for the benefit of Whanganui Iwi, including charitable distributions to Qualifying

Entities; and

- (f) any proposals for the ongoing management of the Trust Funds having regard to the Charitable Purposes and the interests of all Members of Whanganui Iwi.

10.4 **NTT Trustees approval required**

Prior to being implemented by the Board, all SIPOs, Five-Year Strategic Plans and Annual Plans must be approved by the NTT Trustees, provided however, that:

- (a) nothing in this clause shall allow the NTT Trustees to give directions beyond approving or not approving any plan or SIPO or otherwise exercising its powers as appointor, with the intention that the Board shall otherwise retain full discretion, subject to this Deed, in respect of the implementation of the plans and SIPOs; and
- (b) the Board may proceed to implement any plan or SIPO if the NTT Trustees have not made a decision on the approval the plan or SIPO within 5 weeks of being provided with the proposed plan or SIPO.

10.5 **Preparation and filing of annual returns**

The Board shall ensure that all necessary Annual Returns and other information required by the Department of Internal Affairs (Charities Services) or the Inland Revenue Department or otherwise by law are prepared and filed so as to allow the Investment Trust to retain its charitable status for taxation purposes.

10.6 **Audit of financial statements**

The Board must ensure that:

- (a) a chartered accountant in public practice audits the financial statements that are included in each Annual Return prepared and filed in accordance with clause 10.5 of this Deed for each Income Year; and
- (b) the audit is completed in time for the audited financial statements to the Annual General Meeting of the Board.

10.7 **Report to the NTT Trustees**

Within two calendar months after the completion of the first, second and third quarter of each Income Year, and within six calendar months after the fourth quarter of each Income Year, the Board shall send to the NTT Trustees a report on its operations and financial position together with an unaudited summary of financial results as at the end of that period (such reports to be in such form and with such detail as the NTT Trustees may require from time to time). Without limitation, such reports shall include:

- (a) a comparison of the Investment Trust's performance against both its respective Annual Plans for that Income Year and any medium and longer term planning objectives (as set out in the Five Year Strategic Plan and Statement of Intent); and
- (b) consolidated financial statements including a balance sheet and income and expenditure statement and notes to those documents so as to give a true and fair view of the financial affairs of the Investment Trust for that quarter or Income Year. The financial statements shall include as a separate item details of any remuneration or fees paid to each Board Member; and
- (c) a report on distributions.

10.8 **Policies and Guidelines**

Within six calendar months following the date of this Deed, the Board shall develop internal policies and guidelines for the Investment Trust that seek to ensure, without limitation, that all distributions are made for Charitable Purposes.

10.9 **Policies to be kept under review**

The Board shall review the policies and guidelines developed under clause 10.8 of this Deed at least once every Income Year to ensure, without limitation, that:

- (a) the Investment Trust complies with all tax advice current at the time of the review; and
- (b) the Investment Trust preserves its right to exemption from income tax of the kind referred to in sections CW 41 and CW 42 of the Income Tax Act 2007.

11. Conflict of Interest

11.1 **Disclosure of Interest to other Board Members**

A Board Member must, after becoming aware of the fact that he or she is interested in a transaction or proposed transaction of the Investment Trust, disclose to his or her co-Board Members at a meeting of the Board:

- (a) if the monetary value of the Board Member's interest is able to be quantified, the nature and monetary value of that interest; or
- (b) if the monetary value of that Board Member's interest cannot be quantified, the nature and extent of that interest.

11.2 **Business or professional fees**

- (a) If any Board Member is engaged in any profession or business then

that Board Member or that Board Member's firm or business may not:

- (i) be engaged by the Investment Trust; or
 - (ii) charge the Investment Trust professional fees;
- (b) unless the remuneration payable under the engagement is reasonable and relative to payments that would be made between unrelated parties.

11.3 Dealings with Interested Board Members

A Board Member shall not vote in respect of any matter in which that Board Member is interested, nor shall the Board Member be counted for the purposes of forming a quorum in any meeting to consider such a matter. Any interested Board Member must leave the meeting for the duration of the deliberation and voting on the matter in which that Board Member is interested and the minutes should record the Board Member's absence and return.

11.4 Disclosure of Interest of other Board Members

Where a Board Member is aware of an actual or potential conflict of interest of another Board Member then that person has a duty to draw the attention of the Board to the conflict of interest.

11.5 Recording of Interest

The Board shall establish and maintain an interests register for the purpose of recording details of interested Board Members. Immediately following his or her appointment, a Board Member must enter any interests he or she has or may have into the interests register. A Board Member must also enter into the interests register the details of any interest disclosed to other Board Members in accordance with clause 11.1 of this Deed.

11.6 Definition of interested Board Member

A Board Member will be interested in a matter if the Board Member:

- (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, or in the case of a trust controlled, by NTT or any Trust Entity;
- (d) is the parent, child or spouse of another party to, or person who will

or may derive a material financial benefit from, the matter; or

- (e) is otherwise directly or indirectly interested in the matter.

11.7 **Deficiency or irregularity in disclosure of interest**

A deficiency or irregularity in a disclosure or recording of interest will not necessarily invalidate any decision made involving an interested Board Member.

12. **Prohibition of benefit or advantage**

12.1 **No benefit or advantage to Related Person**

No amount derived from a business carried on by the Investment Trust may be directed or diverted to the benefit or advantage of a Related Person where that Related Person is able, directly or indirectly, to determine or materially influence either the determination of the nature or extent of the relevant benefit or advantage or the circumstances in which the relevant benefit or advantage is, or is to be, given or received.

12.2 **Definition of Related Person**

“Related Person” means a person specified in paragraphs (i) to (iv) of section CW42(5)(b) of the Income Tax Act 2007, the person 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 (as that term is defined in sections YB 1 to YB 12 and YB 14 to YB 16 of the Income Tax Act 2007) with a settlor, trustee, shareholder or director referred to in any of paragraphs (a), (b) or (c) of this definition.

13. **Remuneration and expenses**

13.1 **No private pecuniary profit**

No person may make a private pecuniary profit from the Investment Trust or any of the Trust Funds.

13.2 **Remuneration of Board Members**

For the avoidance of doubt, notwithstanding clause 13.1:

- (a) the NTT Trustees shall determine, after seeking external professional

advice about suitable remuneration, the remuneration payable to the Board Members; and

- (b) a Board member is entitled to be reimbursed for all reasonable expenses properly incurred in the conduct of his or her duties as a Board member.

14. Liability and Indemnity of Board Members

14.1 Liability

A Board Member shall only be liable for losses attributable to his or her dishonesty or to his or her wilful commission or omission of an act that he or she knows or should have known to be a breach of trust. In particular, no Board Member shall be bound to take, or be liable for failing to take, any proceedings against a Board Member for any such breach or alleged breach.

14.2 Indemnity and Insurance

Any Board member, officer or employee of the Board may be indemnified or have their insurance costs met out of the Trust Funds against any liability which he or she incurs in defending any civil or criminal proceedings issued because of his or her actions in relation to the Investment Trust, where:

- (a) those proceedings do not arise out of any breach of trust or illegal act by the Board member, officer or employee; and
- (b) he or she was acting in good faith in a manner that he or she believed to be in the best interests of the Investment Trust with the object of fulfilling the Investment Trust's purpose.

15. No Disrepute

No Board Member shall act in a manner that brings or is likely to bring the Investment Trust, NTT, any Trust Entity or any subsidiary into disrepute.

16. Amendments to Trust Deed

16.1 Power to amend

Subject to this clause 16, the Board may, by deed, amend this Deed.

16.2 Ordinary Resolution of NTT Trustees required

Subject to clauses 1.5, 16.3 and 16.4(a) of this Deed, all amendments to this Deed shall only be made with the approval of an ordinary resolution of the NTT Trustees.

16.3 Amendments due to mistake or change in legislation

Notwithstanding clause 16.2 of this Deed, any amendment to this Deed may be made without an ordinary resolution of the NTT Trustees provided the amendment is made to:

- (a) correct a minor mistake in the Deed, provided the correction will not materially change the effect of the relevant provision or provisions of the Deed; or
- (b) give effect to an amendment made to legislation referred to in this Deed, provided the amendment will not materially change the effect of the relevant provision or provisions of the Deed.

16.4 Limitations on Amendment

No amendment shall be made to this Deed which:

- (a) without independent tax advice and approval by Special Resolution of NTT Trustees, changes the charitable nature of the Investment Trust, or the status of the Investment Trust for taxation purposes, or clause 17 or clause 18 of this Deed; or
- (b) changes any of clauses 11.2, 12 or 13 of this Deed, except insofar as a change is required to clause 12.2 in order to reflect any changes to the Income Tax Act 2007; or
- (c) changes this clause 16.4; or
- (d) changes clause 3 of this Deed; or
- (e) changes the requirement in clause 16.2 of this Deed for any ordinary resolution of NTT Trustees to amend the Deed.

17. Resettlement

17.1 The Investment Trust has the power to settle or resettlement any or all of the Trust Funds upon trust in any manner in which in the opinion of the Board is for the advancement or benefit of all Members of Whanganui Iwi, provided that:

- (a) the resettlement is for a Charitable Purpose; and
- (b) the Board has obtained independent tax advice on the resettlement; and
- (c) the resettlement is approved:
 - (i) if the assets are being resettled on a trust that is a Subsidiary or a Trust Entity, by a Resolution of NTT Trustees; or

- (ii) if the assets are being resettled on a trust that is neither a Subsidiary nor a Trust Entity, by a Special Resolution of Members.

17.2 Notwithstanding anything in this clause, if the resettlement constitutes a:

- (a) Major Transaction of the Trust Group, it must be approved by a Special Resolution of Members; or
- (b) Major Transaction of the Investment Trust, it must be approved by a Resolution of NTT Trustees.

18. Winding Up

18.1 The Investment Trust shall only be wound up or dissolved if NTT, by Special Resolution of NTT Trustees, has resolved that it has become impossible, impracticable or inexpedient to carry out the Charitable Purposes.

18.2 On the winding up or dissolution of the Investment Trust, the Board must give or transfer all of the Trust Funds after the payment of costs, debts and liabilities to one or more organisations or bodies within New Zealand having a similar charitable purpose or purposes to the Investment Trust (and, in particular, purposes beneficial to the community of Whanganui Iwi and all Members of Whanganui Iwi) that NTT, by Special Resolution of NTT Trustees, decides.

19. Archiving Of Records

19.1 Records to be held for seven years

The Board shall hold all minutes and other records of any proceedings of the Board or the Investment Trust for a period of not less than seven years.

19.2 Records may be archived

At the expiry of seven years records of the Investment Trust and the Board may be forwarded to a place established for archiving purposes.

19.3 Records may be retained for longer

Notwithstanding clauses 19.1 and 19.2 the Board may hold on to any records for a period exceeding seven years if in the Board's discretion it considers that such records contain information that is commercially or otherwise sensitive or is still required by the Investment Trust or the Board.

20. Definitions and Interpretations

20.1 Defined Terms

In this Deed, unless the context otherwise requires:

"Acts" means the Charitable Trusts Act 1957, the Trustee Act 1956 and the Charities Act 2005 (including any Acts amending or replacing those Acts).

"Adult Members of Whanganui Iwi" means those Members of Whanganui Iwi registered on the NTT Register and who are identified as being 18 years and over.

"Annual Plan" means, as the context requires, the annual plan of:

- (a) the Investment Trust, which is prepared in accordance with clause 10.3; and
- (b) any Subsidiary.

"Annual Return" means an annual return that complies with section 41 of the Charities Act 2005.

"Balance Date" means 31 March or any other date that the NTT Trustees by resolution adopt as the date up to which NTT's financial statements are to be made in each year.

"Beneficial Member" means any present or future individual member of Whanganui Iwi.

"Board" means the board comprising the Board Members from time to time.

"Board Member" means:

- (a) if the Investment Trust is not incorporated pursuant to clause 5, a person appointed from time to time by the NTT Trustees to act as a trustee of the Investment Trust; or
- (b) if the Investment Trust is incorporated pursuant to clause 5, a member of the board as constituted pursuant to the Charitable Trusts Act 1957.

"Business day" means any day on which registered banks are open for business in Whanganui.

"Chairperson" means the chairperson from time to time elected by the Board in accordance with rule 5 of the First Schedule.

"Charitable Purposes" means every purpose within New Zealand that, in accordance with the laws of New Zealand for the time being, that benefits Whanganui Iwi or Te Awa Tupua and is charitable (including the meaning of charitable purpose as defined in section YA1 of the Income Tax Act 2007), whether it relates to:

- (a) the relief of poverty;
- (b) the advancement of education or religion; or

- (c) any other matter that is beneficial to the community and, in particular, is beneficial to Māori as a people and the community of Whanganui Iwi and all the Members of Whanganui Iwi irrespective of where those Members of Whanganui Iwi reside.

"Deputy Chairperson" means the deputy chairperson from time to time if one is elected in accordance with rule 5 of the First Schedule.

"Five Year Strategic Plan" means, as the context requires, the five year strategic plan of:

- (a) the Investment Trust prepared in accordance with clause 10.2; or
- (b) any Subsidiary.

"Income Year" means any year or accounting period ending on the Balance Date.

"Investment Trust" means the trust established under this Deed.

"Major Transaction of the Investment Trust" means:

- (a) the acquisition or disposition of, or agreement to acquire or dispose of, whether contingent or not, Property the value of which is more than 50% of the value of the Trust Funds before the acquisition or disposition (whichever is relevant); or
- (b) a transaction that has or is likely to have the effect of the Investment Trust acquiring rights or interests or incurring obligations or liabilities the value of which is more than 50% of the value of the Trust Funds before the transaction;

but does not include:

- (i) any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all or substantially all of the Trust Funds;
- (ii) any distribution to a Qualifying Entity;
- (iii) any acquisition or disposition of Property by the Investment Trust from or to NTT or any Trust Entity; or
- (iv) any acquisition or disposition of Property by the Investment Trust from or to any Subsidiary.

"Major Transaction of the Group" has the meaning given to "Major Transaction" in clause 2.1 of the NTT Trust Deed.

"NTT" means Ngā Tāngata Tiaki o Whanganui, established by the NTT Trust Deed.

“NTT Register” means the register of members of Whanganui Iwi maintained by the NTT in accordance with the NTT Trust Deed.

“NTT Trust Deed” means the deed of trust establishing NTT dated 4 August 2014.

“NTT Trustees” means the trustees from time to time of NTT.

“Property” means all property (whether real or personal) and includes choses in action, rights, interests and money.

“Qualifying Entity” means any entity (whether incorporated or not) that operates for the benefit of Whanganui Iwi, including (but not limited to):

- (a) a marae affiliated to Whanganui Iwi;
- (b) a hapū affiliated to Whanganui Iwi;
- (c) a tūpuna rohe group affiliated to Whanganui Iwi;
- (d) NTT, any Trust Entity and any Subsidiary; and
- (e) Te Awa Tupua.

“Resolution of NTT Trustees” means a resolution that requires the approval of a majority of the NTT Trustees present at a duly convened meeting of NTT held in accordance with the rules in the Third Schedule of the NTT Trust Deed.

“Secretary” means the Secretary from time to time appointed by the Board in accordance with rule 6 of the First Schedule.

“Securities” means any share, stock, debenture, debenture stock, bond, note, option, or form of other security.

“SIPO” and **“Statement of Investment Policy and Objectives”** means, as the context requires:

- (a) the Statement of Investment Policy and Objectives prepared by the Investment Trust in accordance with clause 10.1; or
- (b) the Statement of Investment Policy and Objectives of any Subsidiary.

“Special Resolution” means a resolution passed by 75% or more of Board Members or Trustees.

“Special Resolution of Members” means a resolution passed as a “Special Resolution” (as defined in the NTT Trust Deed), in accordance with the process set out in the Fourth Schedule of the NTT Trust Deed.

“Subsidiaries” means any entity that is:



- (a) wholly-owned;
- (b) controlled directly; or
- (c) controlled indirectly,

by the Investment Trust.

“**Treasurer**” means the Treasurer from time to time appointed by the Board in accordance with rule 6 of the First Schedule.

“**Trust Entity**” has the meaning given to it in clause 2.1 of the NTT Trust Deed.

“**Trust Funds**” means all Property received or otherwise owned or acquired from time to time by the Investment Trust.

“**Trust Group**” has the meaning given to it in clause 2.1 of the NTT Trust Deed.

“**Whanganui Iwi**” has the meaning given to it in clause 2.2 of the NTT Trust Deed.

20.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) references to persons include corporations and unincorporated bodies of persons, governments or other public bodies or agencies whether or not having a separate legal personality;
- (c) references to a statute or provision of a statute shall be deemed to be references to that statute or provision as amended, re-enacted or substituted from time to time;
- (d) references to a clause, recital or a schedule shall be to a clause, recital or a schedule to this Deed;
- (e) the schedules to this Deed shall form part of this Deed;
- (f) headings appear as a matter of convenience only and shall not affect the interpretation of this Deed.

EXECUTED AS A DEED

SIGNED BY THE SETTLORS:



GERRARD PAUL ALBERT

in the presence of:

Signature: 

Occupation: SOLICITOR

Address: WELLINGTON



RAWIRI STEPHEN TINIRAU

in the presence of:

Signature: 

Occupation: SOLICITOR

Address: WELLINGTON



SUSAN JUNE OSBORNE

in the presence of:

Signature: 

Occupation: SOLICITOR

Address: WELLINGTON



CHRISTOPHER ROBERT KUMEROA

in the presence of:

Signature: 

Occupation: SOLICITOR

Address: WELLINGTON



MIRIAMA JORDAN CRIBB

in the presence of:

Signature: 

Occupation: SOLICITOR

Address: WELLINGTON



RENETI (NED) TAPA

in the presence of:

Signature: 

Occupation: SOLICITOR

Address: WELLINGTON





KERIA NGAKURA PONGA
in the presence of:

Signature: 

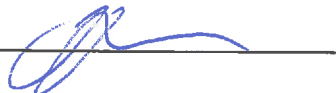
Occupation: SOLICITOR

Address: WELLINGTON

SIGNED BY THE INITIAL BOARD MEMBERS IN ACCEPTANCE OF THEIR APPOINTMENT AS TRUSTEES OF TE NGA KINGA O WHANGANUI INVESTMENT TRUST ON THE TERMS SET OUT IN THIS TRUST DEED:



NANCY TE URUMANAO TUAINÉ
in the presence of:

Signature: 

Occupation: SOLICITOR

Address: WELLINGTON



SIMON PAUL KARIPA
in the presence of:

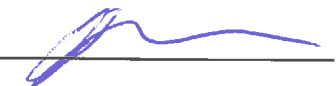
Signature: 

Occupation: SOLICITOR

Address: WELLINGTON



KERIA NGAKURA PONGA
in the presence of:

Signature: 

Occupation: SOLICITOR

Address: WELLINGTON

FIRST SCHEDULE: PROCEEDINGS OF THE BOARD

1. Board Meetings

- 1.1 The Board shall ensure that all meetings of the Board are run in accordance with this Schedule.

2. Board to Regulate Meetings

2.1 Frequency of Meetings

The Board shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, provided that the Board meets no less than four times a year.

2.2 Calling of Meetings

Subject to rule 9 of this Schedule, the Board shall take such steps as are necessary to convene a meeting if a meeting is called at any time by notice in writing to the Board by:

- (a) a majority of Board Members; or
- (b) a majority of the NTT Trustees.

3. Notice of Meeting

3.1 Period of Notice

Subject to rule 9.2 of this Schedule, the Board shall communicate seven Business Days' notice of any meeting to each of the Board Members.

3.2 Form and content of Notice

Notice may be communicated by post, facsimile, or email, and shall state the place, day, time, mode and subject matter of the meeting.

3.3 Notice to Board Members absent from New Zealand

It shall not be necessary to give notice of a meeting of the Board to any Board Member for the time being absent from New Zealand unless that Board Member has provided details of where he or she may be contacted while overseas. No notice shall be required for adjourned meetings except to those Board Members who were not present when the meeting was adjourned.

3.4 Waiver of notice

The requirement for notice of a meeting may be waived if all the Board Members who are at the time entitled to receive notice of the meeting give their written consent to such a waiver.

3.5 Meeting limited to notified business

No business shall be transacted at any meeting of the Board other than the business expressly referred to in the notice calling the meeting, unless all Board Members are present and agree to transact other business.

3.6 **Deficiency of notice**

Subject to rule 3.1 of this Schedule, no deficiency or irregularity in a notice of any meeting of the Board shall invalidate such meeting or the proceedings at such meeting.

4. **Quorum**

4.1 A majority of the Board shall constitute a quorum at meetings of the Board.

5. **Chairperson and Deputy Chairperson**

5.1 **Board to appoint Chairperson**

The Board Members shall appoint one of their number to be Chairperson and (at the Board's discretion) one to be Deputy Chairperson.

5.2 **Power of Chair person**

The Chairperson shall have the following powers while presiding over a meeting:

- (a) to exercise a vote and, in the case of equality of voting at a Board meeting, also a second or casting vote;
- (b) to decide the order of business and declare the result of the voting;
- (c) to order the removal from a meeting of any person obstructing the business of the meeting or behaving in a disorderly manner, or of any person not entitled to be present; and
- (d) by a resolution of the meeting or in the absence of a quorum, to adjourn a meeting or to declare a meeting closed.

5.3 **Termination of Office**

The Chairperson (or Deputy Chairperson) will cease to hold office in the event that he or she resigns from that office, ceases to be a Board Member or is removed from office as Chairperson (or Deputy Chairperson) by the Board Members. In the event that the Chairperson (or Deputy Chairperson) ceases to hold that office then the Board Members shall appoint a replacement.

6. **Secretary and Treasurer**

6.1 **Board may appoint Secretary and Treasurer**

At the first meeting of the Board following an appointment the Board may appoint a Secretary and Treasurer.

6.2 **Eligibility**

The Secretary and Treasurer need not be Board Members. If the Secretary and/or Treasurer are not Board Members, they:

- (a) must be employees of NTT; and

- (b) shall have the right to attend Board meetings, but shall not have voting powers.

6.3 **Duties and Powers of the Secretary**

The Secretary shall have the following powers and duties:

- (a) *Notice*: to notify Board Members of intended meetings and the business to be transacted at such meetings.
- (b) *Reporting the Board's affairs*: to provide full and timely reporting of the affairs of the Board, keep proper minutes of the proceedings of all meetings, ensure such minutes shall be signed by the Chairperson, and keep a minute book in which the duly signed minutes shall be affixed or entered.
- (c) *Correspondence*: to conduct the correspondence of the Board.
- (d) *Interests Register*: to maintain the interests register in accordance with clause 11.5 of this Deed.
- (e) *All lawful instructions*: to obey all such lawful instructions and to do and perform all such lawful things and acts as may be given or required to be done by a meeting of the Board, the Acts, or this Deed.
- (f) *Other duties*: to do and perform such other lawful duties as may usually appertain to the office of Secretary.

6.4 **Duties and Powers of the Treasurer**

The Treasurer shall have the following powers and duties:

- (a) *Collect and receive monies*: to collect and receive all monies due to the Investment Trust, and to give a receipt In a form approved by the Board, and in no case hold any such moneys without the authority of the Board for any period exceeding one week, and to bank all such monies in the name of the Investment Trust in a bank approved by the Board.
- (b) *Financial records*: to keep usual and proper books of account and other financial records of the Investment Trust.
- (c) *Financial reports*: to prepare immediately prior to each Annual General Meeting the financial reports required by clause 10.7 of this Deed.
- (d) *Financial information*: to provide financial information to the Board when requested.
- (e) *All lawful instructions*: to obey all such lawful instructions and to do and perform all such lawful things and acts as may be given or required to be done by a meeting of the Board, the Acts, or this Deed.
- (f) *Other duties*: to do and perform such other lawful duties as may usually appertain to the office of Treasurer.

6.5 Termination of Office

The Secretary and Treasurer will cease to hold office in the event that he or she resigns from that office or is removed from office by the Board or ceases to be an employee of NTT (if the Secretary or Treasurer is an employee of NTT). In the event that the Secretary or Treasurer ceases to hold that office then the Board shall appoint a replacement.

7. Proceedings at Meetings

7.1 Decisions by majority vote

Unless stated otherwise in this Deed, questions arising at any meeting of the Board shall be decided by a majority of votes. In the case of an equality of votes, the Chairperson shall have a second or casting vote.

7.2 Chairperson

The Chairperson shall take the chair at all the meetings of the Board. If the Chairperson is not present then the Deputy Chairperson (if there is one) shall take the Chair. If there is no Deputy Chairperson, or the Deputy Chairperson is also not present, then the Board Members present shall elect one of their number to be Chairperson of the meeting.

7.3 Vacancies

The Board may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the minimum fixed by this Deed, the continuing Board Members may act only for the purpose of advising of the vacancy and taking the steps necessary to procure the appointment of new Board Members to fill any vacancy or vacancies, and for no other purpose.

7.4 Unruly meetings

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

8. Delegation by Board

8.1 Board may delegate

The Board may from time to time as it thinks expedient for carrying out any of the Investment Trust's purposes delegate any one or more of their powers under this Deed to a committee, Board Member, employee or other person.

8.2 **Delegate bound**

The Charitable Purposes and other terms of the Deed shall bind any committee or person to whom the Board has delegated powers or duties.

8.3 **Delegation revocable**

Every delegation by the Board shall be revocable at will and no such delegation shall prevent the exercise of any power or the performance of any duty by the Board.

8.4 **Board to remain responsible**

Notwithstanding the delegation by the Board of any of their powers under rule 8.1 of this Schedule, the Board shall remain responsible for the exercise of that power by the delegate as if the Board had exercised the power itself, unless the Board:

- (a) believed on reasonable grounds when making the delegation that the delegate would exercise the power in accordance with the provisions of this Deed and the duties owed by the Board Members in the exercise of their office under this Deed; and
- (b) has monitored, by means of reasonable methods that it has followed, the exercise of the power by the delegate.

8.5 **Regulation of procedure by committees**

Subject to these rules and the provisions of this Deed, any committee established by the Board may co-opt any person to be a member of that committee and otherwise regulate its procedure as it sees fit provided that the committee must notify the Board of all persons co-opted to the committee.

9. **Annual General Meeting**

9.1 **Holding of Annual General Meeting**

A general meeting of the Board to be called its Annual General Meeting shall be held on an annual basis. The Annual General Meeting shall be held on the same date as the Annual General Meeting of NTT.

9.2 **Notice of Annual General Meeting**

The Secretary shall give no less than 20 Business Days' notice of the Annual General Meeting to the Board Members. Rules 3.2 to 3.4 and rule 3.6 of this Schedule shall apply to any such notice.

9.3 **Agenda**

The Secretary shall circulate an agenda, including all special business, no later than 10 Business Days prior to the Annual General Meeting.

9.4 **Business**

The business to be transacted at the Annual General Meeting shall include:

- (a) as appropriate, presenting the Five-Year Strategic Plan, as

required under clause 10.2 of this Deed;

- (b) presenting the Annual Plan as required under clause 10.3 of this Deed; and
- (c) reporting on the activities and financial position of the Investment Trust for the previous Income Year.

9.5 **Special business**

Any Board Member may give notice of special business to be transacted at the Annual General Meeting, provided that such notice shall be given to the Secretary no later than 15 Business Days before the Annual General Meeting.

10. **Resolutions**

- 10.1 A written resolution signed by all the Board or by all the members of a committee shall be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Board or of that committee (as the case may be). Such a resolution may comprise several duplicated documents, each signed by one or more of the Board Members or members of the committee (as the case may be).

11. **Minutes**

11.1 **Board to keep minutes**

The Board shall keep a proper record in a minute book of all decisions taken and business transacted at every meeting, which, if confirmed at a subsequent meeting of the Board, shall be signed by the Chairperson as a true and correct record.

11.2 **Minutes to be evidence of proceedings**

Any minute of the proceedings at a meeting that is signed by the Chairperson of that meeting shall be evidence of those proceedings.

11.3 **Minutes to be evidence of proper conduct**

Where minutes of the proceedings at a meeting of the Board 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.

11.4 **Failure to record does not invalidate decisions made**

Any failure to keep proper minutes of meetings in accordance with this rule does not necessarily invalidate any decisions made at those meetings.

12. **Mode of Meetings**

- 12.1 For the purposes of this Schedule the contemporaneous linking together by telephone or any other means of audible communication of enough of the Board to constitute a quorum shall be deemed to constitute a meeting

of the Board so long as the following conditions are met:

- (a) all of the Board must have received notice of the meeting (or have waived notice) under rule 3 or rule 9.2 of this Schedule as the case may be;
- (b) throughout the meeting each participant must be able to hear each of the other participants taking part;
- (c) at the beginning of the meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part;
- (d) a participant may not leave the meeting without first obtaining the Chairperson's express consent. Accordingly, a participant shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the teleconference meeting unless he or she leaves the meeting with the Chairperson's express consent; and
- (e) a minute of the proceedings at the meeting shall be sufficient evidence of those proceedings, and of the observance of all necessary formalities, if certified as a correct minute by the Chairperson of that meeting.

13. Forms of Contract

13.1 Contracts by deed

Any contract that must be by deed if made between private persons, shall, if made by the Board, be in writing signed by:

- (a) two Board Members; or
- (b) an authorised signatory, appointed in accordance with rule 13.3 of this Schedule; or
- (c) a solicitor,

on behalf of or by direction of the Board.

13.2 Contracts in writing

Any contract that, if made between private persons, must be in writing signed by the parties to be bound by the contract, shall, if made by the Board, be in writing signed by:

- (a) two board Members; or
- (b) an authorised signatory, appointed in accordance with rule 13.3 of this Schedule; or
- (c) a solicitor,

on behalf of or by direction of the Board.

13.3 Process for appointing Authorised Signatory

An authorised signatory shall be appointed by resolution of the Board at any meeting held in accordance with this Schedule.



SECOND SCHEDULE: BOARD MEMBER POWERS AND DUTIES

1. Board Member Powers

1.1 General powers

In carrying out the Charitable Purposes, subject to clauses 1.3 and 3 of this Deed and rule 1.3 of this Schedule:

- (a) the Board shall, in the administration and management of the Trust Funds, have all the rights, powers and privileges of a natural person;
- (b) the Board shall have the power to receive, hold (on trust) and exercise stewardship over, and/or establish Subsidiaries or appoint a Custodian Trustee to receive, hold (on trust) and exercise stewardship over, Property, including performing all of the functions of the Investment Trust;
- (c) the Board may deal with the Trust Funds as if the Board were the absolute owner of, and beneficially entitled to, the Trust Funds;
- (d) in addition to any specific powers vested in the Board by law, in carrying out the Charitable Purposes, the Board may do any act or thing or procure the doing of any act or thing, or enter into any obligation whatever, including exercising unrestricted powers to buy, acquire, sell or otherwise dispose of, any Property and to borrow and raise money, to loan money, and to give securities and guarantees; and
- (e) except as otherwise expressly provided in this Deed, the Board may exercise all the powers and discretions vested in it by this Deed in the absolute and uncontrolled discretion of the Board, at such time or times, upon such terms and conditions, and in such manner as the Board may decide.

1.2 Powers of Investment

Subject to clauses 3 and 5.3 of this Deed and rule 1.3 of this Schedule, the Board may invest all or any of the Trust Funds in any Property that is from time to time permitted by the laws of New Zealand for the investment of the funds of trusts.

1.3 Contrary Intention

To the extent reasonably possible, and subject to the terms of any letter of expectation provided by the NTT Trustees, the Board must ensure that the Trust Funds are not invested in high-risk Securities.

1.4 Management Powers and Administration

In managing the affairs of the Investment Trust, the Board:

- (a) shall have the absolute management and entire control of the Trust Funds;

- (b) shall, unless otherwise agreed with the NTT Trustees, receive administrative and other office support from the management and employees of NTT on terms to be agreed between the Board and the NTT Trustees, provided that any payments by the Board to the NTT Trustees shall be payable on a cost-recovery basis;
- (c) shall, unless otherwise agreed with the NTT Trustees, appoint one Board Member as a member of any Audit and Risk Committee that is established for the Trust Group by the NTT Trustees;
- (d) may from time to time, and subject to clause 11.2 of this Deed, appoint or engage any individual or company for defined purposes and for a defined period:
 - (i) to provide expert or professional services to the Board; or
 - (ii) to implement decisions of the Board; or
 - (iii) as an solicitor for the Board in New Zealand or elsewhere; and
- (e) may, notwithstanding clause 13.1 of this Deed, pay reasonable remuneration to any professional advisor, consultant, contractor, officer, employee or solicitor engaged by the Board in return for services actually rendered to the Board.

2. Board Member Duties

- 2.1 Subject to the provisions of this Deed, the Investment Trust is to be managed and administered by the Board and without limiting the generality of the foregoing:
- (a) each Board Member must always act, collectively and individually, in accordance with their fiduciary duties and obligations;
 - (b) in performing their duties as trustees, each Board Member will act in good faith and in a manner that the Board Member believes, on reasonable grounds is in the interests of the Members of Whanganui Iwi;
 - (c) each Board Member must not act or agree to act in a manner which contravenes this Deed;
 - (d) each Board Member, when exercising powers of performing duties as a trustee, must exercise the care, diligence and skill to be reasonably expected of a person acting in like circumstances, taking into account any special skills or experience that the Board Members (as the case may be) have;
 - (e) each Board Member must not pay out, invest, or apply money belonging to the Investment Trust for any purpose that is not directed by, or authorised in, this Deed;
 - (f) each Board Member must comply with all taxation law or charities

- law rules applying to the Investment Trust; and
- (g) each Board Member must take every action to allow the Investment Trust to retain its charitable status for taxation purposes.



THIRD SCHEDULE: SUBSIDIARIES

1. Board may establish Subsidiaries

1.1 Establishment of Subsidiaries

In receiving, controlling, and supervising the use of the Trust Funds in accordance with the Charitable Purposes, the Board may, subject to this Deed, establish Subsidiaries. The Board Members shall, subject to the terms of this Deed, exercise strategic governance over Subsidiaries.

1.2 Board Members to Monitor

In giving effect to the Charitable Purposes, but subject to the terms of this Deed, the Board Members shall be responsible for monitoring and otherwise overseeing the activities of any Subsidiaries. The Board shall exercise its ownership or other interests in Subsidiaries in such a way as to promote the performance by the Subsidiaries of their respective objectives and respective purposes. Nothing in this rule shall prevent the Board from holding Property in its own name.

1.3 Directors responsible for governance

For the avoidance of doubt, and except as expressly provided by this Deed, Subsidiaries shall be governed by their respective boards and the role of the Board in respect of Subsidiaries shall be limited to the exercise of the rights conferred on the Board as shareholder, or (as applicable) appointor, and beneficiary of the relevant Subsidiary.

2. Appointment of Board Members of Subsidiary

2.1 Appointment and removal of board members

The Board shall appoint and remove board members of Subsidiaries owned and/or controlled by the Investment Trust.

2.2 Members of boards

- (a) A majority of the board members of each Subsidiary must be members of Whanganui Iwi.
- (b) Each Subsidiary must have no less than three (3) and no more than five (5) board members.
- (c) An NTT Trustee may be a board member, provided that at no time may NTT Trustees comprise more than 40% of the total number of board members of each Subsidiary.
- (d) A Board Member may be a board member of a Subsidiary.

- (e) An employee of the Trust Group shall not be a board member of a Subsidiary.

2.3 **Appointments with regard to skills and expertise**

Board members of Subsidiaries shall only be appointed if that person has the particular skills and expertise that are required of a member of the board to which the appointment relates and bearing in mind the activities that the particular Subsidiary undertakes or is likely to undertake in the future and the mix of skills and expertise that is required on the relevant board.

2.4 **Guidelines for appointment of board members**

The Board will establish guidelines for the appointment of board members of Subsidiaries. The term of a board member of a Subsidiary shall not exceed three (3) years. A board member may sit on the board of a Subsidiary for more than one (1) term.

3. Subsidiary Trusts

- 3.1 Any Subsidiary that is established as a trust must have an appointor who must be the Board.
- 3.2 Where a Subsidiary is established as a trust then its constitutional documents shall require that, if more than half of the value of the assets of that trust are dealt with in a manner described in paragraphs (a) to (b) of the definition of Major Transaction of the Investment Trust, then that trust must:
 - (a) seek approval of the transaction, by Special Resolution, from the Board Members of the Investment Trust;
 - (b) if approved by the Board Members of the Investment Trust by Special Resolution, seek approval, by Special Resolution, from the NTT Trustees; and
 - (c) if approved by the NTT Trustees by Special Resolution, the NTT Trustees may decide if a Special Resolution of Members is required to approve the transaction.
- 3.3 Nothing in this clause removes the obligation of a Subsidiary that is established as a trust to comply with clause 3.1 of this Deed.