

Tūpuna Taonga o Tāmaki Makaurau Trust Deed

Tūpuna Taonga o Tāmaki Makaurau Trust Limited

Ngā Mana Whenua o Tāmaki Makaurau

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Date [●] 2012

PARTIES

Tūpuna Taonga o Tāmaki Makaurau Trust Limited (*Trustee*)

Ngā Mana Whenua o Tāmaki Makaurau acting through their respective Iwi and Hapū Representative Entities (together, the *Tāmaki Collective*).

BACKGROUND

- A.** The Tāmaki Collective wishes to establish a trust to be known as the Tūpuna Taonga o Tāmaki Makaurau Trust (the *Trust*).
- B.** The Trustee has been established by the Tāmaki Collective to act as the trustee of the Trust for the benefit of the Beneficiaries on the terms and conditions set out in this Deed.
- C.** The Trust is the means by which Tāmaki Collective Cultural Redress shall be delivered to individual Tāmaki Collective Members comprising the Tāmaki Collective.
- D.** The Trustee and the Tāmaki Collective wish to record the terms and conditions under which the Trust is constituted and is to be administered.
- E.** The Trustee and the Tāmaki Collective also wish to record in this Deed certain agreed terms relating to the management of the Trust, the holding and/or administration of Tāmaki Collective Cultural Redress and the Trustee.

OPERATIVE PART

1. INTERPRETATION

1.1 Defined terms – generally

In this Deed, unless the context otherwise requires:

“*Acceding Tāmaki Collective Member*” means a Tāmaki Collective Member who has signed or acceded to the:

- (a) Tāmaki Collective Deed;

- (b) this deed;
- (c) the Tūpuna Taonga o Tāmaki Makaurau Trust Limited Shareholders' Agreement,;
- (d) the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership Agreement; and
- (e) [the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership Shareholders' Agreement.]

“AGM” means the annual general meeting of the Shareholders convened pursuant to Rule 1.1 of Schedule 1.

“Annual Report” means the annual report of the Trust which is prepared in accordance with Clause 20.1(c).

“Asset” means any security, money (including, without limitation, subscriptions), property (whether tangible or intangible), right or income of the Trust or any Subsidiary (as appropriate).

“Auditor” means the Person for the time being holding the office of auditor of the Trust.

“Beneficiary” means each of the Rōpū as represented by their respective Rōpū Entities.

“Board” means the board of Directors of the Trustee.

“Borrow” means borrow money, or to raise money by way of the drawing, acceptance, discount or sale of bills of exchange or promissory notes or other financial instruments or otherwise howsoever in any currency, and *Borrowing* and *Borrowed* have a corresponding meaning.

“Business Day” has the same meaning as in the Tāmaki Collective Deed.

“Chairperson” means the chairperson of the Board appointed in accordance with Rule 4.1 of Schedule 4.

“Cultural Redress Property” is that property referred to in Part 2 of the Tāmaki Makaurau Settlement Legislation and any property passing to the Trustee under Future Treaty Redress.

“Date of Termination” means the date of termination of the Trust determined in accordance with Clause 25.

“Deed” means this Trust Deed.

“Deputy Chairperson” means the deputy chairperson of the Board appointed in accordance with Rule 4.1 of Schedule 4.

“Director” means a director for the time being of the Trustee.

“Effective Date” has the same meaning as in the Tāmaki Collective Deed.

“Extraordinary Shareholder Resolution” has the meaning given to it in Rule 13.2 of Schedule 1.

“Financial Year” means a period of 12 months ending on 31 March (or such other date as the Trustee determines) in each year (or the Date of Termination of the Trust, if earlier) and includes the period commencing on the date of this Deed and ending on the succeeding 31 March.

“Future Treaty Settlements” means a future settlement of historical claims relating to the Treaty of Waitangi between iwi or large natural grouping, and the Crown

“Gross Asset Value” means such sum as is ascertained and fixed by the Trustee for the Trust or the Subsidiary Board Members for any Subsidiary (as appropriate) being the aggregate of:

- (a) the Market Value of the Assets of the relevant entity;
- (b) any income accrued or payable in respect of the Assets of the relevant entity but not included in such Market Value.

“Initial Director” means a Director appointed on incorporation of the Trustee in accordance with Rule 4 of Schedule 2.

“Letters of Expectation” means the letters issuing from each of the Share Groups in accordance with Clause 27.3.

“Liability” means each liability of the Trustee in respect of the Trust (other than to Beneficiaries in their capacity as Beneficiaries under this Deed) which would be classified as such by NZ GAAP but does not include a contingent liability except to the extent that the Trustee decides it is appropriate to make an allowance for such contingent liability.

“Major Transaction” means:

- (a) the acquisition of, or an agreement to acquire, whether contingent or not, assets the value of which is more than half the Gross Asset Value

of the Trust before the acquisition; or

- (b) the disposition of, or an agreement to dispose of, whether contingent or not, assets the value of which is more than half the Gross Asset Value of the Trust before the disposition; or
- (c) a transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities, including contingent liabilities, the value of which is more than half the Gross Asset Value of the Trust before the transaction.

provided that nothing in paragraph (b) or paragraph (c) of the definition of Major Transaction applies to:

- (a) the entry into this Trust Deed or the Settlement; or
- (b) by reason only of the Trust giving, or entering into an agreement to give, a charge secured over Assets of the Trust the value of which is more than half the value of the Assets of the Trust for the purpose of securing the repayment of money or the performance of an obligation.

In assessing the value of any contingent liability for the purposes of paragraph (c) of this definition of Major Transaction:

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

“Market Value” means the fair market value of any Asset as determined by the Trustee.

“Marutūāhu Rōpū” means together the following member iwi of Marutūāhu Rōpū:

- (a) Ngāti Maru;

- (b) Ngāti Pāoa;
- (c) Ngāti Tamaterā;
- (d) Ngāti Whanaunga; and
- (e) Te Patukirikiri.

“Motu Redress Property” has the meaning given to *“motu”* in sub-part 7 of Part 2 of the Tāmaki Makaurau Settlement Legislation.

“Ngā Mana Whenua o Tāmaki Makaurau” means the Rōpū together.

“Ngāti Whātua Rōpū” means together the following Ngāti Whātua member groups:

- (a) Ngāti Whātua o Kaipara;
- (b) Ngāti Whātua Ōrākei; and
- (c) Te Rūnanga o Ngāti Whātua.

“NZ GAAP” means generally accepted accounting practice as defined in Section 3 of the Financial Reporting Act 1993.

“Person” includes a natural person, a company, a corporation, a corporation sole, a firm, a unit trust, a government or a body of persons (whether corporate or unincorporate).

“Ordinary Shareholder Resolution” has the meaning given to it in Rule 13.3 of Schedule 1.

“Related Person” means a person specified in paragraph (i) to (iv) of section CW42(5)(b) of the Income Tax Act 2007.

“Representative Entity” means the post settlement governance entity for the relevant Tāmaki Collective Member or, if there is no such Person, the Person for the time being mandated by the Crown to negotiate with the Crown on behalf of that Tāmaki Collective Member in respect of historical Treaty of Waitangi claims and who is currently conducting such negotiations.

“Rōpū” means respectively Marutūāhu Rōpū, Ngāti Whātua Rōpū and Waiohua Tāmaki Rōpū.

“Rōpū Entity” has the same meaning as in the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership Agreement.

“Settlement” means the settlement on the Trustee on the terms of this Trust

described in Clause 2.5.

“Share Groups” means the “A”, “B” and “C” groups of shares in the Trustee described in Rule 2 of Schedule 3.

“Shareholders” means the shareholders for the time being of the Trustee as described in Rules 2 and 3 of Schedule 3.

“Special General Meeting” means a general meeting of the Shareholders called by the Directors or Shareholders in accordance with Rule 2.1 of Schedule 1.

“Statement of Intent” means the statement developed for the Trustee pursuant to Clause 27.2.

“Strategic Vision” means the strategic plan for the Trust developed in accordance with Clause 27.1.

“Tāmaki Collective Deed” means the settlement deed dated [●] 2012 between:

- (a) Ngā Mana Whenua o Tāmaki Makaurau;
- (b) the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership;
- (c) the Trust; and
- (d) the Crown,

and includes any amendments validly made to that deed.

“Tāmaki Makaurau Collective Legislation” has the same meaning as in the Tāmaki Collective Deed.

“Tāmaki Collective Member” means every one of the iwi and hapū members comprising Marutūāhu Rōpū, Ngāti Whātua Rōpū and Waiohua Tāmaki Rōpū acting through their respective Representative Entities.

“Tāmaki Collective Cultural Redress” means cultural redress under the Tāmaki Makaurau Collective Legislation, including maunga, motu and improvements to the maunga and motu;

“Trust” means the trusts created by this Deed.

“Trustee Act” means the Trustee Act 1956 and any amendments or legislation passed in substitution thereto.

“Trust’s Purposes” means the purposes of the Trust as set out in Clause 2.3

and 2.4.

“Tūpuna Maunga o Tāmaki Makaurau Authority (‘Tūpuna Maunga Authority’)” has the meaning given by the Tāmaki Makaurau Settlement Legislation.

“Tūpuna Taonga o Tāmaki Makaurau Trust Limited Shareholders’ Agreement or Shareholders’ Agreement” means the shareholders’ agreement dated on or about event date between the Trustee and the Shareholders and includes the schedules to that agreement and any amendments validly made to that agreement.

“Unanimous Shareholder Resolution” has the meaning given to it in Rule 13.1 of Schedule 1.

“Waiohua Tāmaki Rōpū” means together the following member iwi/hapū of Waiohua Tāmaki Rōpū:

- (a) Ngāi Tai ki Tāmaki.
- (b) Ngāti Tamaoho;
- (c) Ngāti Te Ata;
- (d) Te Ākitai Waiohua; and
- (e) Te Kawerau ā Maki;

“Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership” means the limited partnership created by the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership Agreement.

“Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership Agreement” means the agreement dated on or about even date which establishes the Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership and includes the schedules to that agreement and any amendments validly made to that agreement.

[“Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership Limited Shareholders’ Agreement” means the shareholders’ agreement dated on or about even date between Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership Limited and the shareholders for the time being of that company and includes the schedules to that agreement and any amendments validly made to that agreement.]

1.2 Interpretation

In this Deed, unless the context otherwise requires:-

- (a) words importing the singular include the plural and vice versa;
- (b) words importing one gender include the other gender;
- (c) 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;
- (d) references to a statute shall be deemed to be references to that statute as amended, re-enacted or substituted from time to time;
- (e) references to a Clause, Rule or a Schedule shall be to a Clause, Rule or a schedule to this Deed;
- (f) references to a Rule made within a Schedule shall be to a Rule of that Schedule;
- (g) the schedules to this Deed shall form part of this Deed;
- (h) headings appear as a matter of convenience only and shall not affect the interpretation of this Deed;
- (i) references to a company are references to a company incorporated pursuant to the Companies act 1993;
- (j) references to Trustees of the Trust shall, where the Trustees are incorporated as a trust board (or otherwise constitute a separate legal entity), be construed as reference to that separate Person.

2. CONSTITUTION, STATUS AND OBJECTS OF THE TRUST

2.1 Trust constituted and named

The Trust shall be governed and administered by and in accordance with the Trustee Act and this Deed. The Trustee acknowledges that it holds the Trust's Assets upon the trusts and with the powers set out in this Deed. The name of the Trust is **Tūpuna Taonga o Tāmaki Makaurau Trust**.

2.2 Status and objects of Trust

Subject to the Trustee Act and this Deed the Trustee may do all such things it considers necessary or desirable in its sole discretion to perform or otherwise carry out the Trust's Purposes.

2.3 Purposes of the Trust

The purposes of the Trust are to:

- (a) receive the Tāmaki Collective Cultural Redress referred to in the Tāmaki Makaurau Settlement Legislation including:-
 - (i) the vesting of Maunga, Maungauika and Rarotonga/Mt Smart;
 - (ii) the vesting of Motu;
 - (iii) the vesting of Rangitoto Properties; and
 - (iv) improvements to the Maunga, Motu and Maungauika.
- (b) facilitate the appointment by each rūpu entity of two members each to the Tūpuna Maunga Authority.
- (c) facilitate approval by the Trustee to an iwi or hapū member of Ngā Mana Whenua o Tāmaki Makaurau to carry out authorised cultural activities on Cultural Redress Property, without the requirement for a permit or other authorisation issued by the Maunga Authority under the Reserves Act 1977 if so provided in legislation.
- (d) facilitate the mandatory devolution of the decision-making role in respect of authorising cultural activities for members of any iwi or hapū from the Trustee to a rūpū entity or representative entity of an iwi or hapū if requested by a rūpū entity, or a representative entity of an iwi or hapū.
- (e) facilitate the nomination by each rūpū entity of one member each to the Auckland Conservation Board.
- (f) exercise all rights and obligations of co-governance and co-management or management on behalf of Ngā Mana Whenua o Tāmaki Makaurau in respect of the Tāmaki Collective Cultural Redress.
- (g) have the rights of and comply with all obligations on the part of the Trustee and the Trust referred to in the Tāmaki Collective Deed and the Tāmaki Makaurau Settlement Legislation.
- (h) receive from the Crown cultural redress under Future Treaty Settlements, including other property and other rights, and become bound to comply with such other obligations under the terms of such Future Treaty Settlements.
- (i) receive, own, have other interests in, administer, or co-govern or co-

manage other reserves and other places of public amenity.

- (j) receive, administer, manage, protect and govern the Assets of the Trust for and on behalf of, and for the benefit of, each Beneficiary and all of them.

2.4 Incidental Purposes

Incidental to and to give effect to the Trust Purposes the Trust shall:

- (a) carry out all of the functions and comply with any obligations on behalf of the Trust and/or the Trustee referred to in the Tāmaki Collective Deed and/or the Tāmaki Makaurau Settlement Legislation.
- (b) receive, manage and administer Assets for the advancement of education, public recreation and other purposes of benefit to Ngā Mana Whenua o Tāmaki Makaurau and other residents within the Auckland Council boundaries.
- (c) be vested, hold, manage and operate all of the Assets and assume the Liabilities of the Trust.
- (d) enter the Tāmaki Collective Deed and support the introduction of the Tāmaki Makaurau Settlement Legislation.
- (e) enter into and promote relationships with Auckland Council, Department of Conservation, other arms of the Crown, groups or organizations having involvement or interest in or supporters of reserves and other places of public amenity, and service and utility providers operating within Auckland Council boundaries to do with reserves and other places of public amenity.
- (f) be engaged in such activities on the reserves it owns and other reserves, as may be lawfully carried out on such reserves.
- (g) have the power to perform all such functions as may be necessary or which the Trustee considers desirable to enable the Trustee to exercise and administer the Tāmaki Collective Cultural Redress.

2.5 Settlement of Tāmaki Collective Commercial Property Redress

In accordance with the Tāmaki Collective Deed, the Crown shall confer on the Trustee the Tāmaki Collective Cultural Redress.

3. ELECTION, POWERS AND MEETINGS OF TRUSTEE AND DIRECTORS

3.1 Trustee

The Trustee shall be Tūpuna Taonga o Tāmaki Makaurau Trust Limited, a limited liability company incorporated pursuant to the provisions of the Companies Act 1993 which acknowledges that it holds the Trust's Assets upon the trusts and with the powers sets set out in this Deed.

3.2 Constitution of Trustee

The constitution of the Trustee must include, but shall not be limited to, the following:

- (a) that its sole purpose is to act as trustee for the Trust;
- (b) that it must comply with the powers and duties set out in this Deed;
- (c) that the Shareholders shall be those parties having those rights set out in Schedule 3.

3.3 Directors

The Directors from time to time of the Trustee shall be appointed to office in accordance with the Rules set out in Schedule 2.

3.4 Trustee to control Trust affairs

Subject to any requirements imposed by the Trustee Act, this Deed, the Tāmaki Collective Deed and the Tāmaki Makaurau Collective Legislation the Trustee shall control and supervise the business and affairs of the Trust in such manner as it sees fit.

3.5 Ability to register or incorporate under acts of Parliament

The Trustee shall have the power to register or incorporate the Trust pursuant to any legislation it believes to be appropriate and to make such amendments to this Deed as may be necessary or desirable in order to effect such registration or incorporation upon obtaining an Ordinary Shareholder Resolution to seek such registration or incorporation and approving such amendments to this Deed.

3.6 Proceedings of Directors and Trustee

Except as otherwise provided in this Deed the proceedings and other affairs of the Directors shall be conducted in accordance with the Rules set out in Schedule 4. If there is any conflict between this Deed and its Schedules and the Trustee's constitution then the provisions of this Deed including its

Schedules shall apply.

3.7 Directors to make or facilitate appointments to governing bodies

Subject to Clause 3.8, the Directors shall appoint by resolution at a meeting held in accordance with the Rules in Schedule 4, the members of Ngā Mana Whenua o Tāmaki Makaurau, (including, where applicable, any chair) to any governing body on which Tūpuna Taonga o Tāmaki Makaurau Trust may be granted rights of representation in accordance with the terms of such representation provided in the Tāmaki Makaurau Collective Legislation or Future Treaty Settlements (as appropriate) Otherwise it shall facilitate the appointments made by rūpu entities to:

- (a) the governing body of the Tūpuna Maunga Authority;
- (b) the Auckland Conservation Board; and
- (c) such other governing body on which Ngā Mana Whenua o Tāmaki Makaurau may be granted rights of representation,

3.8 Equal governing body representation by Share Group

Wherever the number of member to be appointed by the Directors pursuant to Clause 3.7 is divisible by three (3), the Directors appointed by each Share Group pursuant to the Rules in Schedule 2 shall have the right to appoint to the relevant governing body the number of members being one third of the total number to be appointed.

4. EMPLOYEES

4.1 Trustee to appoint Employees

The Trustee may appoint employees to manage and implement the day to day administration of the Trust and to carry out the strategic intent of the Trust including without limitation the implementation of the Trust's planning, reporting and monitoring obligations under this Deed.

4.2 Directors not to be Employees

A Director may not be an employee of the Trust.

5. DISCLOSURE OF INTERESTS

5.1 Definition of Interested Director

A Director shall be interested in a matter if the Director:

- (a) is a party to, or shall 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 shall 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 the Trust;
- (d) is the parent, child or spouse of another party to, or person who shall or may derive a material financial benefit from, the matter; or
- (e) is otherwise directly or indirectly interested in the matter.

5.2 Interests in common with Tāmaki Collective Member individuals

Notwithstanding Clause 5.1, no Director shall be interested in a matter where his or her interest is not different in kind from the interests of any individual who is a member of one or more of the Tāmaki Collective Members.

5.3 Disclosure of interest to other Directors

A Director must forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust, disclose to his or her co-Directors at a meeting of the Directors:

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

5.4 Recording of Interest

A disclosure of interest by a Director shall be recorded in the minute book of the Trust.

6. DEALINGS WITH "INTERESTED" DIRECTORS

- 6.1 An interested Director shall not take part in any deliberation or vote in respect of any matter in which that Director is interested, nor shall the Director be counted for the purposes of forming a quorum in any meeting to consider such a matter.
- 6.2 Where it is not possible to form a quorum in any Board meeting due to the number of interested Directors then the matter shall be referred to a Special General Meeting or AGM and any determination shall be made by way of

Ordinary Shareholder Resolution.

7. INVESTMENTS

7.1 Investments for Beneficiaries' benefit

All investments made on behalf of the Trust shall be held by the Trustee as the exclusive property of the Trust, and held exclusively for the benefit of Beneficiaries of the Trust, in accordance with the terms of this Deed.

7.2 Trustee not holding special skill

Section 13C of the Trustee Act 1956 does not apply to the exercise by the Trustee of its powers of investment under this Deed.

8. TAXATION AND TAX AUTHORITIES

8.1 Taxation status of Distributions

(a) If the Trustee elects to become a Maori Authority, the Trustee shall determine:

- (i) the extent to which any Distribution is or is not a taxable Maori authority distribution; and
- (ii) the extent to which Maori authority tax credits are attached to any taxable Maori authority distributions.

(b) The Trustee, in exercising its powers under Clause 8.1(a), must endeavour to achieve a fair allocation, between Beneficiaries, of taxable and non-taxable amounts and of credits, reflecting the extent to which each Distribution is sourced from taxable income of the Trust.

(c) For the avoidance of doubt, all of the provisions in Clause 8.1(a) and (b) above shall be exercised only within and to the extent permitted by the applicable legislative framework for a Maori Authority at the time of the exercise of such decisions.

8.2 Disclosure of information to tax authorities

The Trustee is authorised to make such disclosure as may be required by the Inland Revenue Department of the details of Beneficiaries, any Distributions to Beneficiaries or any other details or information arising out of the Trust.

9. NO RECOGNITION OF TRUSTS

Except as required by law, the Trustee shall not be bound to recognise or see to the performance of any trust (express, implied or constructive) or any charge, pledge, or equity to which any of the Agreed Proportions or any interest therein are or may be subject, or to recognise any Person as having any interest in any Agreed Proportion except for the Beneficiaries.

10. MANAGEMENT

10.1 Trustee's duties

Subject to the provisions of this Deed, the Trust is to be managed and administered by the Trustee and without limiting the generality of the foregoing the Trustee must:

- (a) manage the Trust Fund and make all decisions relating to the Assets of the Trust including the investment, reinvestment or realisation of any Asset of the Trust and the exercise of any voting rights associated with any Asset of the Trust;
- (b) make all decisions relating to Borrowing, the terms of such Borrowing and any securities relating thereto;
- (c) determine the terms of all contracts, rights and other matters relating to Assets or Liabilities of the Trust;
- (d) appoint and engage solicitors and other consultants and advisers on such terms as the Trustee determines;
- (e) use its best endeavours and skill to ensure that the affairs of the Trust are conducted in a proper and efficient manner;
- (f) use due diligence and vigilance in the exercise and performance of its functions, powers, and duties as Trustee;
- (g) account to the Beneficiaries for all money that the Trustee receives on behalf of the Trust;
- (h) not pay out, invest, or apply any money belonging to the Trust for any purpose that is not directed by, or authorised in, this Deed;
- (i) comply with all tax rules applying to the Trust; and

10.2 Delegation by Trustee

Notwithstanding Clause 10.1, all or any of the powers, authorities, functions and discretions exercisable by the Trustee under this Deed may be

delegated by the Trustee to its officers and employees or to any other Person nominated by the Trustee (other than the Trustee) but the Trustee remains liable for the acts and omissions of any such officer, employee or Person whether or not the delegate is acting within the terms of its delegated authority.

10.3 **Advisers**

- (a) The Trustee may, by resolution in writing, appoint any person as an advisory trustee of the Trust. The advisory trustee shall have the status and powers conferred on advisory trustees by the Trustee Act 1956. The advisory trustee may be removed by the Trustee, by resolution in writing, without needing to give a reason.
- (b) In relation to the purchase, sale and other dealings with any Authorised Investments by the Trustee, the Trustee may determine the time and mode and the consultants, agents, brokers and professional advisers (if any) for the purchase, sale and other dealing.
- (c) Any fee payable to an advisory trustee or other adviser shall be determined by the Trustee.

10.4 **Major Transactions**

Notwithstanding any other provision in this Deed, the Trustee shall not enter into a Major Transaction on behalf of the Trust, unless the transaction is:

- (a) approved by an Extraordinary Shareholder Resolution; or
- (b) contingent on approval by an Extraordinary Shareholder Resolution.

10.5 **Assets in Trustee's name**

The Trustee shall cause the Assets of the Trust to be vested in the Trustee and to be registered in the name of the Trustee as soon as reasonably practicable after receipt of the necessary documents and must deliver all certificates or other documents of title for safe custody as directed by the Trustee.

10.7 **Trustee's right to limit liability**

The Trustee may, before entering into any transaction, security or liability of the Trust require that its liability be restricted or limited to its satisfaction to the Assets of the Trust for the time being.

10.8 **Trustee's settlement powers**

The Trustee shall have the power to settle and complete all transactions in respect of the Trust. Subject to the provisions in this Deed and the powers, rights and discretions given to the Trustee under this Deed, the Trustee shall have all powers, authorities, and discretions which it could exercise if it were the absolute and beneficial owner of the Trust and all the powers, authorities, and discretions necessary to enable it to carry out the purposes of the Trust or otherwise to perform and comply with the obligations and duties under this Deed.

10.9 **Custodians**

- (a) The Trustee may, by resolution in writing, employ a custodian, (including a custodian trustee) or nominee to hold any Asset on such terms as the Trustee may determine provided that no such appointment shall absolve the Trustee from any of its obligations relating to the Assets of the Trust under this Deed or at law.
- (b) The Trustee shall cause any such custodian or nominee to comply with all the relevant covenants and obligations on the part of the Trustee expressed or implied in this Deed.
- (c) Any fees payable to the custodian or nominee shall be determined by the Trustee.
- (d) The Trustee may remove any custodian or nominee by resolution in writing, without needing to give any reason.
- (e) The provisions of the Trustee Act applying to custodian trustees shall apply to the custodian or nominee as if the custodian or nominee were a custodian trustee, except as modified or extended as follows:
 - (i) all or any of the Trust Fund may be vested in the custodian or nominee as if the custodian or nominee were sole trustee, and
 - (ii) the portion of that Trust Fund that is from time to time vested in the custodian or nominee is the custodial trust fund, and the provisions of section 50 of the Trustee Act 1956 shall apply as if references in it to the trust property were references to the custodial trust fund.

10.10 **Extent of Trustee's powers**

The Trustee shall have all powers, authorities, and discretions necessary to enable it to carry out the purposes of the Trust or otherwise to perform and comply with the obligations and duties under this Deed. The Trustee has all the powers and privileges of a natural person including, without limitation, the power to purchase, accept, hold, transfer, lease and sell property, and to sue and be sued.

11. BORROWING

- (a) The Trustee may at any time, and from time to time, if the Trustee considers it necessary or desirable to do so, Borrow on behalf of the Trust and to secure such Borrowing upon all or any part or parts of the Trust in such manner as the Trustee thinks fit.
- (b) The Trustee may at any time, and from time to time, if the Trustee considers it desirable, enter into guarantees on behalf of the Trust and to secure such guarantees upon all or any part or parts of the Trust in such manner as the Trustee thinks fit.
- (c) Notwithstanding the preceding provisions of this Clause 11, no Borrowing may be entered into or guarantee given without the approval of a resolution of the Directors of the Trustee.

12. BANK ACCOUNTS

A bank account or accounts in the name of the Trustee must be opened and maintained for the Trust. All moneys belonging to the Trust and coming into the hands of the Trust or the Trustee must be paid to the credit of such bank account. The Trustee shall determine the Persons authorised to operate such bank accounts.

13. ASSET RECORDS

The Trustee must keep complete, accurate and separate records of all Assets of the Trust.

14. INDEMNITY INSURANCE

14.1 Indemnity and Insurance for Directors, Officers and Employees

Any Director, officer or employee of the Trust may be indemnified or have their insurance costs met out of the Trust's Assets against any liability which he or she incurs in defending any civil or criminal proceedings issued because of his

or her actions in relation to the Trust, where those proceedings do not arise out of any failure by the Director officer or employee and he or she was acting in good faith in a manner that he or she believed to be in the best interests of the Trust with the object of fulfilling the Trust's Purposes or otherwise was not acting in a manner which would render that Director liable under the provisions of Clause 16.

14.2 Insurance costs to be just and equitable

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

14.3 Record of decisions

All decisions made under this Clause 14 to give or approve indemnities or meet or approve any insurance costs shall be recorded in the minutes of the meeting at which such a decision was made together with the reasons why, such indemnities or insurance costs were thought by them to be just and equitable.

15. FEES, EXPENSES AND REMUNERATION

15.1 Subject to Clause 15.2, no private pecuniary profit may be made by any person involved in the Trust.

15.2 Notwithstanding Clause 15.1, the Trustee shall be entitled to be reimbursed out of the Trust Fund (whether from income or capital or both) for and in respect of the following items if properly incurred:

- (a) all costs, charges and expenses (including legal and valuation fees) incurred in connection with the formation of the Trust, the preparation and registration of any offer document, the acquisition, registration, custody, disposal of or other dealing with Assets of the Trust, including bank charges, and the expenses of any agents or custodian of the Trustee;
- (b) the fees and expenses of the Auditor relating to the audit of the Trust;
- (c) all taxes, duties and imposts charged to or payable by the Trustee (whether by any taxing authority or any other Person) in connection with the Trust or the Assets of the Trust on any account whatsoever;
- (d) any interest or other expenses relating to Borrowing and discounts and acceptance and other fees in respect of bill facilities;

- (e) the costs of convening and holding any meeting of Directors or Shareholders;
- (f) the fees and expenses of any solicitor, barrister, valuer, accountant or other person from time to time engaged by the Trustee in the discharge of its duties under this Deed;
- (g) the remuneration of Directors authorised pursuant to Rule 1.2 of Schedule 1.
- (h) any other expenses properly and reasonably incurred by the Trustee in connection with carrying out its respective duties under this Deed.

15.3 To the extent that the Trust Fund is insufficient to meet the fees and expenses noted in Clause 15.2 as they fall due for payment, the Trustee shall be entitled to levy the Shareholders to pay an equal share, by Share Group, of the shortfall. Payments made pursuant to this Clause 15.3 shall be treated as interest free Shareholder loans to be repaid when the Trustee, acting reasonably, determines that Trust Fund levels permit.

15.4 Disclosure of Director remuneration etc

The Trustee shall, in accordance with Clause 15.2 show the amount of any remuneration paid to or fees charged by any Director or any Director's firm and the amount of any premiums paid out of the Trust's Assets for any Director indemnity insurance separately in the financial statements including any payments made pursuant to Clause 14.1.

15.5 Directors may rely on advice

The Trustee and Directors may, when exercising their powers or performing their duties as Trustee and/or Director, rely on reports, statements, financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

- (a) an employee of the Trust whom the Trustee and/or Directors 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 Trustee and/or Directors believe on reasonable grounds to be within the person's professional or expert competence; and

- (c) any other Director or member of a committee upon which an Director did not serve at the relevant time and in relation to matters that are within that other Director or committee member's designated authority. However, this shall only apply to the extent that the Directors act in good faith, after reasonable enquiry when the need for an enquiry is indicated by the circumstances, and without knowledge that would cause such acceptance to be unwarranted.

15.5 Directors may obtain opinion

If the Directors are in doubt over any matter relating to the management and administration of the Trust's Assets, or over the exercise of any power, they may obtain and act upon the opinion of a Barrister or Solicitor of the High Court of New Zealand of at least seven (7) years' standing. This right to obtain and act upon an opinion, however, shall not restrict any right on the part of the Trustee to apply to the High Court of New Zealand for directions.

16. LIABILITY OF DIRECTORS

A Director shall only be liable for losses attributable to his or her dishonesty or to his or her wilful commission or omission of an act which he or she knows or should have known to be a breach of this Deed. In particular, no Director shall be bound to take, or be liable for failing to take, any proceeding against a co-Director for any such breach or alleged breach.

17. TRUSTEE'S DISCRETION AND AUTHORITY

Except insofar as is otherwise expressly provided in this Deed, the Trustee has the absolute and uncontrolled discretion regarding the exercise (and the timing, mode, and manner of exercise) of the powers, authorities and discretions, as regards the Trust, vested in it by this Deed.

18. CONSTITUENT PARTIES BOUND BY THIS DEED

The terms and conditions of this Deed are for the benefit of and are binding on the Trustee, the Tāmaki Collective Members and all Persons claiming through the Tāmaki Collective Members as if all such Persons had been party to and had executed this Deed.

19. LIMITATION OF LIABILITY OF BENEFICIARIES

- (a) Except as expressly provided by this Deed no Beneficiary is, by reason alone of being a Beneficiary or by reason alone of the

relationship hereby created with the Trustee, under any personal obligation to indemnify the Trustee or any creditor of the Trustee in the event of there being any deficiency of Assets of the Trust as compared with the Liabilities to be met therefrom.

- (b) The rights (if any) of the Trustee or of any creditor to seek indemnity are limited to having recourse to the Trust and do not extend to a Beneficiary personally in such person's capacity as a Beneficiary.
- (c) On a winding-up of the Trust, no Beneficiary has any liability to contribute to any shortfall in the Trust if the Liabilities of the Trust exceed the Gross Asset Value of the Trust.

20. ACCOUNTS AND REPORTS

20.1 Accounting Records

The Trustee must:

- (a) keep or cause to be kept proper records of or relating to the Trust including records of all sales, purchases and other transactions relating to the Assets of the Trust and the Liabilities of the Trust;
- (b) keep or cause to be kept true accounts of all sums of money received and expended by or on behalf of the Trust;
- (c) prepare an Annual Report on the affairs of the Trust which includes comparison against the annual Statement of Intent and annual financial statements for the Trust and arrange for the annual financial statements to be audited by the Auditor and filed in accordance with relevant law; and
- (d) send the Annual Report to the Shareholders and Beneficiaries not later than five months after the close of the Financial Year together with all documents and reports required by the Financial Reporting Act 1993 to be annexed to or to accompany the accounts included with such report.

20.2 Trustee Records

The Trustee must also keep or cause to be kept proper records of or relating to the Trustee, including financial statements for the Trustee and all records required to be maintained in respect of the Trustee under

company or securities law.

20.3 Inspection by the Auditor

The accounting and other records of the Trustee in respect of the Trust are open to the inspection of the Auditor. The Auditor is entitled to require from the Trustee such information, accounts and explanations as may be necessary for the performance of the duties of the Auditor.

20.4 Quarterly reporting to Share Groups

In addition to the reporting requirements of the Trust set out in Clause 20.1 the Directors appointed to represent each Share Group pursuant to Rule 4 of Schedule 2 shall communicate all decisions of the Trustee to the relevant Share Group in the form of a quarterly report.

21. AUDITOR

21.1 Appointment and remuneration

A Person or firm of chartered accountants selected by the Trustee must be appointed Auditor of the Trust. The Trustee must determine the services to be performed by the Auditor and their scope. The remuneration of the Auditor shall be determined by the Trustee on an arm's length basis.

21.2 Removal / Retirement

The Auditor may at any time and from time to time be removed by the Trustee. The Auditor may retire upon giving the Trustee six (6) months' notice in writing.

21.3 New Appointment

Any vacancy in the office of Auditor must be filled by the Trustee appointing a Person or firm of chartered accountants to be Auditor qualified under section 2C of the Securities Act 1978.

22. MEETINGS OF SHAREHOLDERS

22.1 Meetings

Any meetings of the Shareholders shall be convened and conducted in accordance with the provisions in Schedule 1.

22.2 Written Resolutions

(a) A resolution in writing signed by not less than 75% of Shareholders

from each Share Group who together hold not less than 75% of the votes entitled to be cast by that Share Group on that resolution is as valid as if it had been passed at a meeting of Shareholders. However, for the avoidance of doubt, a resolution in writing cannot be a Unanimous Shareholder Resolution unless signed by all of the Shareholders.

- (b) Any resolution in writing under this clause may consist of one or more documents in similar form (including letters, facsimiles, electronic mail, or other similar means of communication) each signed or assented to by or on behalf of one or more of the Shareholders referred to in Clause 22.2(a).
- (c) Within five Business Days of a resolution in writing being passed under this Clause 22.2, the Trustee must send a copy of the resolution to every Shareholder who did not sign the resolution or on whose behalf the resolution was not signed.

23. NOTICE TO SHAREHOLDERS

23.1 Notice of Meetings

A minimum 14 days' notice of every meeting of Shareholders must be given to every Shareholder by sending it addressed to the Shareholder at the Trustee Shareholder's registered address of the Shareholder's Representative Entity by ordinary, prepaid post or airmail.

23.2 Other Notices

In any other case a notice may be given under this Deed to any Shareholder personally by leaving it at the registered address of the Shareholder's Representative Entity or by sending it addressed to the Shareholder at the registered address of the Shareholder's Representative Entity by ordinary, prepaid post, airmail or facsimile, or by advertisement with the prior written approval of the Trustee. A Shareholder must notify the Trustee of any change of the registered address of the Shareholder's Representative Entity and the Trustee's register of shareholders shall be noted accordingly.

23.3 Manner of Notice

Any notice sent by post shall be deemed to have been given at the expiration of forty eight (48) hours after posting, and in proving service it

shall be sufficient to prove that the envelope or wrapper containing the notice was properly addressed and posted.

23.4 Signature of Notice

The signature to any notice to be given by the Trustee may be written or printed.

23.5 Calculation of Notice Periods

Where a given number of days' notice or notice extending over any other period is required to be given, neither the day of giving the notice nor the day upon which the notice shall expire shall be reckoned in the number of days or other period.

23.6 Receipt of Notice

Any notice or document delivered or sent by post to or left at the registered address for service of any Shareholder's Representative Entity in pursuance of the provisions of this Deed shall (notwithstanding that the Shareholder's Representative Entity is then dissolved and whether or not the Trustee has notice of such entity's dissolution) be deemed to have been duly given in respect of such Shareholder until the Trustee receives notice that some other entity now stands as Representative Entity of the relevant Shareholder.

24. AMENDMENT TO DEED

24.1 Power to Change the Deed

Subject to Clause 24.2, the Trustee may at any time make any alteration, modification, variation or addition to the provisions of this Deed (by means of a deed executed by the Trustee) in any of the following cases:

- (a) if in the opinion of the Trustee the change is made to correct a manifest error or is of a formal or technical nature provided the relevant change shall not materially change the effect of the relevant provision or provisions of this Deed;
- (b) the change is authorised by an Extraordinary Shareholder Resolution;
- (c) the change is necessary to give effect to an amendment made to legislation referred to in this Deed, provided the change shall not

materially change the effect of the relevant provision or provisions of this Deed;

- (d) if, after a change in any law affecting trusts, a change to this Deed is necessary to make any provision of this Deed consistent with such law.

24.2 Limitations on Amendment

No amendment shall be made to this Deed which:

- (a) is inconsistent with the Tāmaki Makaurau Collective Legislation;
- (b) changes the Trust's Purposes so that the Trustee is no longer required to act for the benefit of the Beneficiaries;
- (c) changes this Clause 24.2;
- (d) changes the restrictions in Clauses 6, 10.4 or 15.1;
- (e) changes Clause 25(b).

24.3 Notice of Amendment

If any amendment is made to this Deed under Clause 24.1 the Trustee must send a summary of the amendment to the Shareholders and Beneficiaries at the same time as the accounts of the Trust are forwarded to those Shareholders and Beneficiaries.

25. PERIOD OF THE TRUST

The Trust commences on the date of its creation and shall continue until whichever of the following occurs first (the "Date of Termination"):

- (a) the date on which the Shareholders determine to wind up the Trust by Extraordinary Shareholder Resolution pursuant to Clause 26.1; and
- (b) eighty years from the date of this Deed less one day, that period being the perpetuity period for the purpose of section 6 of the Perpetuities Act 1964 provided that, if the Tāmaki Makaurau Collective Legislation allows, the Trust may exist in perpetuity.

26. DISSOLUTION AND DISPOSAL OF PROPERTY

- 26.1 Subject to clause 24.2, the Trust may be wound-up if the Shareholders decide that its objects have been, or can no longer practically be, achieved or that dissolution is for any other reason desirable. No resolution for dissolving the

Trust shall take effect unless it has been consented to by an Extraordinary Shareholder Resolution.

27. STRATEGIC PLANNING

27.1 Trustee to prepare Strategic Vision

- (a) The Trustee shall produce within twenty four (24) months following the execution of this Deed and update not less than every two (2) years thereafter, a Strategic Vision. The Strategic Vision shall set out the longer term vision of the Trust over a 20 year period in respect of the matters referred to in the description of the Trust's Statement of Intent set out in Clause 27.2 and shall include a statement by the Trustee of the management policies that the Trustee intends to follow in respect of the Trust's Assets.
- (b) Prior to being implemented the Strategic Vision for the Trust (including any update) must be approved by an Ordinary Shareholder Resolution. Pending approval of any Strategic Vision by Ordinary Shareholder Resolution, the Trust may continue to implement any Strategic Vision previously approved by Ordinary Shareholder Resolution.

27.2 Trustee to prepare Statements of Intent

The Trustee shall produce no later than one (1) month before the commencement of each Financial Year a Statement of Intent which specifies in respect of that coming Financial Year the following information:

- (a) the Strategic vision of the Trust;
- (b) the nature and scope of the activities proposed by the Trust in the performance of the Trust's Purposes;
- (c) the performance targets and measurements by which performance of the Trust may be judged;
- (d) any proposals for the ongoing management of the Trust's Assets;
- (e) such other prudential requirements as the Trustee deems appropriate.

27.3 Shareholders to deliver Letters of expectation

At each AGM of the Trustee each of the Share Groups shall deliver to the Board a Letter of Expectation setting out the particular perspectives, beliefs and values of the constituent Tāmaki Collective Members represented in that Share

Group and how those perspectives, beliefs and values inform the expectations of that Share Group in terms of the Trust's performance of the Trust's Purposes for the coming twelve (12) month period until the next AGM. For the avoidance of doubt, while such Letters of Expectation are to be given due consideration by the Trustee, no Letter of Expectation shall, in any respect, be binding upon the Trustee.

28. DISCLOSURE OF PLANS, REPORTS AND MINUTES

28.1 The Trustee shall hold at its offices and make available for inspection by any Shareholder during normal business hours on any Business Day in respect of the Trust:

- (a) the Annual Report for each of the preceding three (3) Financial Years;
- (b) the current Strategic Vision;
- (c) the current Statement of Intent;
- (d) the current Letters of Expectation;
- (e) the minute book kept in accordance with Rule 16 of Schedule 1 of all decisions taken and business transacted at every AGM and Special General Meeting of the Trustee;
- (f) this Deed and any amendments;

Any Shareholder shall be entitled to obtain copies of this information provided however that the Trustee shall also be entitled to recover at its discretion all reasonable copying or postage costs (if any).

29. RESETTLEMENT

The Trustee has the power to settle or resettle any or all of the Trust's Assets upon trust in any manner in which in the opinion of the Trustee is for the advancement or benefit of the Beneficiaries provided that the purposes of that resettled trust is within the purposes including incidental purposes in this Trust and the resettlement is approved by an Extraordinary Shareholder Resolution.

30. ARCHIVING OF RECORDS

All minutes and other records of any proceedings of the Trust shall be held by the Trust for a period of seven (7) years.

31. REVIEW OF DEED

Within five (5) years of the Effective Date the Trustee shall undertake a review of this Deed and its operation with a view to reporting to the next AGM of the Trust after the completion of such review on the effectiveness of the arrangements set out in this Deed. Such report shall include recommendations as to the alterations (if any) that should be made to this Deed.

32. LAW APPLICABLE

This Deed is governed by the law of New Zealand.

Name:

Occupation:

Signed for and on behalf of

by the Authorised Signatories in the presence of:

.....

Authorised Signatory

.....

Authorised Signatory

WITNESS

Name:

Occupation:

Signed for and on behalf of

by the Authorised Signatories in the presence of:

.....

Authorised Signatory

.....

Authorised Signatory

WITNESS

Name:

Occupation:

SCHEDULE 1

PROCEEDINGS OF MEETINGS OF SHAREHOLDERS

1. ANNUAL GENERAL MEETINGS

1.1 Trust to hold Annual General Meetings

The Trustee shall, no later than five (5) calendar months after the end of each Financial Year, and in any event no more than fifteen (15) months after the date of the last AGM of the Trust, hold a general meeting for the Shareholders, to be called an AGM of the Trust. The first AGM shall be held not later than five (5) calendar months after the end of the Financial Year following the Effective Date. The Trustee shall at each AGM:

- (a) report on the operation of the Trust during the preceding Financial Year;
- (b) present the Annual Report in respect of that preceding Financial Year;
- (c) present the Statement of Intent for the current Financial Year;
- (d) approve the appointment of the auditor for the current Financial Year;
- (e) seek an Ordinary Shareholder Resolution approving the Directors' remuneration;
- (f) Seek on Ordinary Shareholder Resolution determining any matters required to be referred for an Ordinary Shareholder Resolution pursuant to Clause 6.2;
- (g) undertake all other notified business; and
- (h) at the discretion of the Chairperson, undertake any other general business raised at that meeting.

1.2 Approval of Directors' remuneration

No remuneration shall be paid to a Director in his or her capacity as a Director unless that remuneration has been authorized by an Ordinary Shareholder Resolution at the AGM. Each such resolution shall express the remuneration to be paid to the Directors as a monetary sum per annum or per meeting attended payable either to all Directors taken together or to any person who from time to time holds office as a Director. From the date of this Deed until the first AGM the remuneration to be paid to each Director shall be \$ per meeting attended.

1.3 AGM not limited to notified business

At the discretion of the chairperson, any general business raised at the designated time for general business at any AGM may be transacted in addition to the business expressly referred to in the notice calling that meeting.

2. SPECIAL GENERAL MEETINGS

2.1 Power to convene a Special General Meeting

The Trustee may at any time of its own volition convene a special general meeting of Shareholders to be held at such place as is acceptable to the Trustee and shall be required to convene a special general meeting:

- (a) on three separate occasions in the period between each AGM (not less than two (2) months and not more than four (4) months apart) for the purpose of presenting a short-form report on the operation of the Trust during the period since the AGM or the last special general meeting convened pursuant to this Clause 2.1(a) (as applicable); and
- (b) upon receiving a written resolution requiring a special general meeting signed by a majority of the Shareholders in each Share Group; and
- (c) upon receiving a written requisition requiring a special general meeting signed by no fewer than two (2) of the three (3) Rōpū Entities.

2.2 Special Meeting limited to notified business

No business shall be transacted at any Special General Meeting other than the business expressly referred to in the notice calling that meeting.

3. NOTICE OF MEETINGS

- 3.1 At least fourteen (14) days' notice of every meeting must be given. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given. The notice must specify the place, day and hour of the meeting and the general nature of the business to be transacted but it is not necessary to specify in the notice the terms of the resolutions to be proposed.

3.2 The accidental omission to give notice to or the non-receipt of notice by any Person entitled to that notice does not invalidate at any meeting.

4. QUORUM

4.1 No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of the business.

4.2 The quorum for a meeting of Shareholders is a majority of Tāmaki Collective Members from each Share Group represented in person by an authorised representative appointed by the relevant Representative Entity or by its proxy or by its attorney.

4.3 If within fifteen (15) minutes from the time appointed for the meeting a quorum is not present the meeting (not being the AGM) must be dissolved. In the case of the AGM, the AGM shall stand adjourned to such day and time not being less than fourteen (14) days thereafter and to such place as may be appointed by the chairperson and at such adjourned AGM the Shareholders represented in person by an authorised representative appointed by the relevant Representative Entity or by its proxy or by its attorney and entitled to vote shall form a quorum.

4.4 Notice of any such adjourned AGM must be given in the same manner as of the original AGM and such notice must state that the Shareholders present at the adjourned AGM whatever their number shall form a quorum.

5. TRUSTEE MAY ATTEND AND SPEAK

Any director, officer or solicitor of the Trustee and any other Person authorised in that behalf by the Trustee may attend any meetings and all such Persons have the right to speak at the meeting.

6. MANAGEMENT REVIEW BY SHAREHOLDERS

Shareholders must be allowed a reasonable opportunity at each AGM to question, discuss or comment on the management of the Trust by the Trustee.

7. CHAIRPERSON

The Chairperson or, in the Chairperson's absence, the Deputy Chairperson shall preside at every Shareholders' meeting. If neither the Chairperson nor the Deputy Chairperson is present, the meeting will be chaired by any other

person appointed in that behalf by the Shareholders present at the meeting.

8. ADJOURNMENT OF MEETINGS

8.1 The chairperson may with the consent of any meeting at which a quorum is present and must if so directed by Shareholders fulfilling the criteria to establish a quorum, adjourn the meeting from time to time and from place to place.

8.2 No business shall be transacted at any adjourned meeting except business which might have been lawfully transacted at the meeting from which the adjournment took place.

9. VOTING RIGHTS

The only persons entitled to vote in person through an authorised representative appointed by the relevant Representative Entity or by proxy or by attorney at a meeting of the Shareholders are the Shareholders registered in the Trustee's register of shareholders at the date of the meeting (or if an adjourned meeting at the date the first meeting was first due to be held).

10. PROXIES

10.1 An instrument of proxy shall be in such form as the Trustee may stipulate from time to time and need not be witnessed.

10.2 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a copy of such power or authority shall be handed to the chairperson of the meeting prior to the commencement of the meeting.

10.3 In default of the above the instrument of proxy or the power of attorney or other authority is not to be treated as valid with the exception that the Trustee may waive the foregoing.

10.4 Unless it states to the contrary a proxy is valid for the meeting to which it relates and for any adjournment of that meeting. Notwithstanding any provision contained in an instrument of proxy no instrument of proxy is valid after the expiration of twelve (12) months from the date of its execution but this provision is not construed to apply to the appointment of any attorney or representative otherwise than by an instrument of proxy.

- 10.5 An instrument of proxy in favour of the chairperson of the meeting or the chairperson, (howsoever expressed) is valid and effective as though it were in favour of a named Person and constitutes the Person who chairs the meeting for which the proxy is used (whether on adjournment or not), the lawful proxy of the appointor.
- 10.6 A Person appointed proxy has the right to speak at a meeting and to demand or join in demanding a poll and (except and to the extent to which the proxy is specifically directed to vote for or against any proposal) has power generally to act at the meeting for the Shareholder concerned.

11. POWER OF ATTORNEY

- (a) Any Shareholder may by power of attorney appoint an attorney to vote and act on his or her behalf at any meeting.
- (b) Such power of attorney or proof thereof to the satisfaction of the Trustee must be produced for inspection to the chairperson of the meeting at which the attorney proposes to vote prior to the commencement of such meeting. Such attorney if so empowered may appoint a proxy for the Shareholder granting the power of attorney.

12. PROCEDURE

- 12.1 A resolution put to the vote of a meeting must be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson or the Trustee or any representative of the Trustee or by one of the Shareholders.
- 12.2 Unless a poll is so demanded a declaration by the chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 12.3 If a poll is duly demanded it shall be taken in such manner as the chairperson may direct and the result of such poll is deemed to be the resolution of the meeting at which the poll was demanded.
- 12.4 On a poll votes may be given either personally (by an authorized representative appointed by the relevant Representative Entity) or by proxy

or by attorney or by an authorised representative. On a poll a Person entitled to more than one vote need not use all such Person's votes or cast all the votes such Person uses in the same way.

- 12.5 On a show of hands every Person present at the meeting and entitled to vote (whether as a Shareholder by an authorised representative appointed by the relevant Representative Entity in person or as a proxy or attorney) has one vote only. On a poll every Shareholder who is present by an authorised representative appointed by the relevant Representative Entity in person or by proxy or by attorney is entitled to one vote.

13. RESOLUTIONS

- 13.1 The expression "Unanimous Shareholder Resolution" means a resolution passed at a meeting duly convened and held in accordance with the provisions contained in this Schedule 1 and carried at such meeting, upon a show of hands or if a poll is duly demanded upon a poll, by an affirmative vote of all of the Shareholders.

- 13.2 The expression "Extra Ordinary Shareholder Resolution" means a resolution passed at a meeting duly convened and held in accordance with the provisions contained in this Schedule 1 and carried by a majority of not less than 75% of the Shareholders entitled to vote in each Share Group upon a show of hands or if a poll is duly demanded by a majority consisting of not less than 75% within each Share Group of the votes given on such poll. For the avoidance of doubt, a majority vote of not less than 75% must be achieved within each Share Group for an Extra Ordinary Shareholder Resolution to be binding on all Shareholders.

- 13.3 The expression "Ordinary Shareholder Resolution" means a resolution passed at a meeting duly convened and held in accordance with the provisions contained in this Schedule 1 and carried by a majority of not less than 50% of the Shareholders entitled to vote in each Share Group upon a show of hands or if a poll is duly demanded by a majority consisting of not less than 50% within each Share Group of the votes given on such poll. For the avoidance of doubt, a majority vote must be achieved within each Share Group for an Ordinary Shareholder Resolution to be binding on all Shareholders.

- 13.4 A meeting of Shareholders has the following powers exercisable by

Ordinary Shareholder Resolution:

- (a) to assent to any alteration, modification of, variation, or addition to the provisions contained in this Deed or any deed supplemental thereto (subject to the limitations on making certain amendments contained in Clauses 24.1(b) and 24.2) and to authorise the Trustee to concur in and execute any supplemental Deed or other document embodying any such alteration, modification, variation, or addition.
- (b) to make a determination in respect of any matter required to be referred for an Ordinary Shareholder Resolution pursuant to Clause 6.2.
- (c) to approve the level of Directors' remuneration for the current Financial Year.
- (d) to approve incorporation of the Trust under any other legislation pursuant to Clause 3.5.
- (e) to approve the Strategic Vision for the Trust (including any update) pursuant to Clause 27.1(b).

13.5 A meeting of Shareholders has the following powers exercisable by Extraordinary Shareholder Resolution:

- (a) to sanction the entry into of a Major Transaction by the Trustee, on behalf of the Trust under Clause 10.4;
- (b) to determine to wind up the Trust pursuant to Clause 26.1;
- (c) to determine the parties to whom any property or Assets of the Trust remaining on the Date of Termination shall be given or transferred pursuant to Clause 26.2;
- (d) to assent to the settlement or resettlement of any or all of the Trust's Assets under Clause 29.

13.6 A meeting of Shareholders has the following powers exercisable by Unanimous Shareholder Resolution:

- (a) to assent to an alteration, modification of, variation, or addition to the provisions contained in the constitution of the Trustee (subject to the limitations on certain amendments contained in that Constitution); and

- (b) to increase or decrease (as appropriate) the number of Shareholders in the circumstances described in Rule 3.2 of Schedule 3.

13.7 Except as provided in Rules 13.4 to 13.6 the Trust shall not be bound by a resolution passed at any AGM or Special General Meeting, but shall only be required to give consideration to any such resolution in administering the Trust's Assets and carrying out the Trust's Purposes.

14. RESOLUTIONS BIND ALL SHAREHOLDERS AND RŌPŪ ENTITIES

- (a) An Ordinary Shareholder Resolution or Extraordinary Shareholder Resolution passed at a meeting of the Shareholders duly convened and held in accordance with this Schedule 1 is binding upon all Shareholders present or not present at the meeting and each Rōpū Entity (together, **Bound Parties**). For the avoidance of doubt, a Unanimous Shareholder Resolution also binds all Bound Parties. Each of the Bound Parties is bound to give effect to such Ordinary Shareholder Resolution, Extraordinary Shareholder Resolution or Unanimous Shareholders Resolution accordingly.
- (b) The passing of any such resolution shall as between the Trustee and each of the Bound Parties be conclusive evidence that the circumstances justify the passing of the resolution, the intention being that it shall rest with the meeting to determine without appeal whether or not the circumstances justify the passing of such resolution.

15. UNRULY MEETINGS

If any meeting 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 by a poll, without further discussion.

16. MINUTES TO BE KEPT

- (a) The Trustee shall cause to be kept the minutes of all resolutions and

proceedings at every meeting or if the Trustee is not present at any meeting the chairperson of such meeting shall cause the minutes to be kept.

- (b) Any such minutes as if purporting to be signed by the chairperson of the meeting at which such resolutions were passed or proceedings had or by the chairperson of the next succeeding meeting are prima facie evidence of the matters in those minutes and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made is deemed to have been duly held and convened and all resolutions passed or proceedings of the meeting had duly passed and conducted.

SCHEDULE 2

APPOINTMENT OF DIRECTORS

1. PROCEDURE

- 1.1 The Directors shall be appointed to office in accordance with the rules and procedures set out in this Schedule 2.
- 1.2 Notwithstanding anything contrary in this Deed, no decision of the Trustee shall be invalid by reason only that there was a deficiency in the appointment process as set out in this Schedule.

2. ELIGIBILITY FOR APPOINTMENT

- 2.1 To be eligible for appointment, a Director must not be one or more of the following:
- (a) an individual who is an undischarged bankrupt;
 - (b) an individual who is under the age of 18 years;
 - (c) an individual who, has been convicted of a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961) and has been sentenced for that crime within the last 7 years;
 - (d) 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 1993, the Securities Act 1978, the Securities Markets Act 1988, or the Takeovers Act 1993;
 - (e) an individual who is disqualified from being an officer of a charitable entity under section 31(4) of the Charities Act 2005;
 - (f) an individual 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;
 - (g) an employee of the Trust;
 - (h) an individual who has been removed from the office of Director pursuant to Rule 9.1(g) within the last three (3) years.

3. APPOINTMENT WITH REGARD TO SKILLS AND EXPERTISE

In considering whether to appoint an individual as a Director, the Shareholders and Shareholder Directors (as appropriate) shall have regard to the particular skills and expertise that are required of a Director and shall bear in mind the activities that the Trustee undertakes or is likely to undertake in the future and the mix of skills and expertise that is required on the Board.

4. INITIAL DIRECTOR APPOINTMENTS

Each Share Group shall be entitled at all times to appoint and remove two (2) Directors to the Board by way of a written resolution signed by a majority of the Shareholders in the relevant Share Group. The Directors appointed by each Share Group on incorporation of the Trustee in accordance with this Rule 4 shall be appointed one for a term of two (2) years and one for a term of four (4) years as nominated by the Shareholders in the relevant Share Group. Thereafter, all Directors shall be appointed for a base term of four (4) years in accordance with Rule 5.

5. TERM OF OFFICE

5.1 The Directors from time to time shall hold office until such time as their position comes up for re-appointment in accordance with this rule provided that no Director shall hold office for longer than four (4) years without facing re-appointment.

5.2 The Initial Directors shall retire from office at the conclusion of the AGM of the Trustee in the second and fourth Financial Year (as appropriate) following his or her appointment.

5.3 Following the retirement of the initial Directors in accordance with Rule 5.2, each Director shall hold office until the conclusion of the AGM of the Trustee in the fourth Financial Year following his or her election.

6. ELIGIBILITY OF RETIRING DIRECTORS

6.1 Retiring Directors shall be eligible for reappointment.

6.2 A replacement for any retiring Director shall be appointed by the Shareholders of the relevant Share Group at the AGM which marks the retiring Director's retirement from office.

7. CASUAL VACANCIES

Should any casual vacancy arise as a result of a Director ceasing to hold office prior to the expiry of the Director's term of office then a replacement Director shall be appointed as soon as is reasonably practicable by the relevant Share Group.

8. TERM OF CASUAL APPOINTMENTS

In the case of a Director appointed pursuant to Rule 7 of this Schedule, the Director thereby appointed shall hold office for the balance of the term of office of the Director that he or she has replaced.

9. TERMINATION OF OFFICE OF DIRECTORS

9.1 Notwithstanding the forgoing Rules of this Schedule, a Director shall cease to hold office if he or she:

- (a) at any time ceases to fulfil the eligibility requirements for being a Director set out in Rule 2;
- (b) retires from office by giving written notice to the Trust;
- (c) completes his or her term of office and is not re-appointed;
- (d) refuses to act;
- (e) is absent without leave from three (3) consecutive ordinary meetings of the Directors without good reason or without the permission of the Chairperson;
- (f) becomes physically or mentally incapacitated to the extent that he or she is unable to perform the duties of a Director; or
- (g) is removed from office by the relevant Share Group.

9.2 A Director who is removed from office pursuant to Rule 9.1(g) shall be ineligible for re-appointment as a Director for the period of three (3) years from the date of his or her removal.

10. RECORD OF CHANGES OF DIRECTORS

Upon the notification of every appointment, retirement, re-appointment or termination of office of any Director the Trustee shall ensure that an entry is made in the minute book of the Trust to that effect.

SCHEDULE 3

GROUPS AND RIGHTS OF SHAREHOLDERS

1. NUMBER OF SHARES

Subject to Rule 3, the Trustee must have the number of shares equating to the number of Acceding Tāmaki Collective Members. Shares must always be held in accordance with this Schedule.

2. SHAREHOLDERS

Subject to the terms of this Schedule, the Shareholders shall be the Acceding Tāmaki Collective Members for the time being, each acting through its Representative Entity, which Acceding Tāmaki Collective Members shall hold one (1) share each in the following share groups:

Group A

The Acceding Tāmaki Collective Members of Marutūāhu Rōpū.

Group B

The Acceding Tāmaki Collective Members of Waiohua Tāmaki Rōpū.

Group C

The Acceding Tāmaki Collective Members of Ngāti Whatua Rōpū.

3. ISSUE OF NEW SHARES / ACQUISITION OF OWN SHARES

3.1 Upon Tāmaki Collective Members becoming Acceding Tāmaki Collective Members, their respective Representative Entities shall be entitled to be registered as Shareholders in the relevant identified Share Group and the Directors shall issue one (1) share for each such Acceding Tāmaki Collective Member.

3.2 No further shares in the Trustee may be issued/the Trustee may not acquire its own shares (as applicable) unless a Unanimous Shareholder Resolution is passed to:

- (a) increase the number of Shareholders following a further iwi, hapu or group (not being a Tāmaki Collective Member) being admitted as a constituent member of a Rōpū; or
- (b) decrease the number of Shareholders following an amalgamation of Tāmaki Collective Members.

4. TRANSFER ACROSS SHARE GROUPS

- 4.1 If a Shareholder changes its Rōpū affiliation as notified to the Trustee in writing by its Representative Entity and confirmed in writing by each affected Rōpū acting through its Rōpū Entity, the number of shares in the affected Share Groups may be adjusted accordingly subject to approval by a Unanimous Shareholder Resolution.

5. NO EFFECT ON SHARE GROUP RIGHTS

- 5.1 An increase or decrease in Shareholders or the transfer of an existing Shareholder to a different Share Group pursuant to Rules 3.2 and 4.1 respectively shall not affect the rights attaching to the respective Share Groups pursuant to this Schedule and the number of Share Groups shall be fixed at three (3).

6. RIGHTS OF SHARE GROUPS

- 6.1 Each share shall have the right to one vote (by Share Group) on a poll at a meeting of the Shareholders on any Ordinary Shareholder Resolution, Extraordinary Shareholder Resolution or Unanimous Shareholder Resolution.
- 6.2 In addition, the Shareholders in each Share Group, by a simple majority in that Share Group, together shall together have the right to appoint and remove two (2) directors to the Board in accordance with the procedure for the appointment of Directors set out in Schedule 4.

SCHEDULE 4

PROCEEDINGS OF DIRECTORS

1. DIRECTORS TO REGULATE MEETINGS

- 1.1 The Chairperson may summon any meeting of the Directors.
- 1.2 The Directors shall otherwise meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Any two (2) Directors may at any time by notice in writing to the Trustee summon a meeting of the Directors and the Trustee shall take such steps as are necessary to convene such meeting.

2. NOTICE OF MEETING

2.1 Notice to Directors

Written notice of every meeting shall be either hand-delivered, posted or sent by facsimile or by electronic form to each Director at least seven (7) days before the date of the meeting provided however that it shall not be necessary to give notice of a meeting of Directors to any Directors for the time being absent from New Zealand unless that Director has provided details of where he or she may be contacted while overseas. No notice shall be required for adjourned meetings except to those Directors who were not present when the meeting was adjourned.

2.2 Content of notice

Every notice of a meeting shall state the place, day and time of the meeting, and the subject-matter of the meeting.

2.3 Waiver of notice

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

2.4 Meeting limited to notified business

No business shall be transacted at any meeting of Directors other than the business expressly referred to in the notice calling the meeting.

2.5 Deficiency of notice

Subject to Rule 2.4, no deficiency or irregularity in a notice of any meeting of Directors shall invalidate such meeting or the proceedings at such meeting.

3. QUORUM

3.1 One (1) Director representing each Share Group shall constitute a quorum at any meeting of the Directors.

4. CHAIRPERSON AND DEPUTY CHAIRPERSON

4.1 Directors to appoint

At the first meeting of the Directors following each AGM the Directors shall appoint one of their number to be Chairperson and one to be Deputy Chairperson.

4.2 Voting on election

Where there is more than one candidate for Chairperson (or as the case may be Deputy Chairperson) a vote shall be taken and the person receiving the most votes in favour of his or her appointment shall become Chairperson (or Deputy Chairperson). In the event of a tie, the Chairperson shall be chosen between the tied candidates by lot.

4.3 Termination of office

The Chairperson (or Deputy Chairperson) shall cease to hold office in the event that he or she resigns from that office, ceases to be a Director or is removed from office by the Directors passing a resolution of no confidence in him or her. In the event that the Chairperson (or Deputy Chairperson) ceases to hold that office then a further appointment shall be made for the position. Otherwise, the term of such office shall be until the first meeting of the Directors following the next AGM.

5. PROCEEDINGS AT MEETINGS

5.1 Decisions by majority vote

Unless stated otherwise in this Deed, questions arising at any meeting of Directors 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.

5.2 **Chairperson**

The Chairperson shall take the chair at all the meetings of the Directors. 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 Directors present shall elect one (1) of their number to be Chairperson of the meeting.

5.3 **Vacancies**

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

5.4 **Defects of appointment**

All acts done by any meeting of the Directors or of any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of such Directors or person co-opted to any committee, or that they were disqualified, be valid as if every such person had been duly appointed and was qualified to act.

5.5 **Unruly meetings**

If any meeting of Directors 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 put a motion to adjourn the meeting and ask for a vote to be taken of the Directors to be conducted. If the majority of Directors present pass a motion to adjourn the meeting then the meeting shall be adjourned and the Chairperson may direct that any uncompleted item of business of which notice was given and shall be adjourned to another time, date and place (no later than twenty-one (21) days following the adjourned meeting) for all incomplete and uncompleted business to be addressed by the Directors.

6. DELEGATION OF DIRECTORS

6.1 Directors may delegate

The Directors may from time to time as they think expedient for carrying out any of the Trust's Purposes delegate any one or more of their roles under this Deed to a committee, employee or other person. However, the committee, employee or other person who has had a role delegated to it must refer any final decision, determination, or recommendation to the Directors for final determination before implementing that decision, determination or recommendation.

6.2 Directors to remain responsible

Notwithstanding the delegation by the Directors of any of their powers under Rule 6.1, the Directors shall remain responsible for the exercise of that power by the delegate as if the Directors had exercised the power themselves, unless the Directors:

- (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 Directors in the exercise of their office under this Deed; and
- (b) have monitored, by means of reasonable methods that they have followed, the exercise of the power by the delegate.

6.3 Regulation of procedure by committees

Subject to these rules and the provisions of this Deed, any committee established by the Directors 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 Director of all persons co-opted to the committee.

7. RESOLUTIONS

- 7.1 A written resolution signed by all the Directors 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 Directors 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 Directors or members of the committee (as the case may be).

8. MINUTES

8.1 Minutes to be kept

The Directors shall keep a proper record in a minute book of all decisions taken and business transacted at every meeting of the Directors.

8.2 Minutes to be evidence of proceedings

Any minute of the proceedings at a meeting which is purported to be signed by the chairperson of that meeting which are approved and confirmed at the next meeting of the Directors, shall be evidence of those proceedings.

8.3 Minutes to be evidence of proper conduct

Where minutes of the proceedings at a meeting of the Directors have been made in accordance with the provisions of this Rule 8 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. TELECONFERENCE MEETINGS

9.1 For the purpose of this Schedule 4, a teleconference meeting (which includes any analogous more advanced technology) between a number of Directors who constitute a quorum shall be deemed to constitute a meeting of the Directors. All the provisions in this Schedule 4 relating to meetings shall apply to teleconference meetings so long as the following conditions are met:

- (a) all of the Directors (as the case may be) 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;
- (b) throughout the teleconference meeting each participant must be able to hear each of the other participants taking part;
- (c) 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;
- (d) a participant may not leave the teleconference meeting by disconnecting his or her telephone or other means of communication 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 teleconference 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 pursuant to Rule 8.2.

10. FORMS OF CONTRACTS

10.1 Contracts by Deed

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

- (a) two Directors; or
- (b) an Authorised Signatory, appointed in accordance with Rule 10.3; or
- (c) an attorney;

on behalf of or by direction of the Trustee.

10.2 Contracts in Writing

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

- (a) two Directors; or
- (b) an Authorised Signatory, appointed in accordance with Rule 10.3; or
- (c) an attorney;

on behalf of or by direction of the Trustee.

10.3 Process for Appointing Authorised Signatory

An Authorised Signatory shall be appointed by resolution of the Directors at any meeting of Directors held in accordance with this Schedule 4.

10.4 Oral Contracts

Any contract which, if made by private persons, may be made orally, may be made in the same manner by or on behalf of the Trustee by any Director

or the Chief Executive Officer, in either case acting by direction of the Trustee.

10.5 Contracts Pursuant to Resolution

Notwithstanding anything to the contrary in this Rule 10, no contract made by or on behalf of the Trustee shall be invalid by reason only that it was not made in the manner provided by this clause if it was made pursuant to a Resolution of the Directors, in accordance with this Schedule 4.