

TE RŪNANGA O NGĀTI MUTUNGA

(Rūnanga)

Special Resolution in accordance with clause 26 and the Fourth Schedule of the
Te Rūnanga o Ngāti Mutunga Charter (**Charter**)



BACKGROUND

- A. In 2005 the Rūnanga was established to receive the treaty settlement assets on behalf of Ngāti Mutunga iwi, governed by the newly created Charter. The terms of the Charter were largely prescribed by the Crown.
- B. Over the past eleven years the Ngāti Mutunga entities have operated under the Charter and, during that time, issues have arisen which have not been covered by the Charter.
- C. In 2015 the Trustees set up a sub-committee to plan, organise and conduct a review of the Charter and its operation to determine whether or not the Charter was still 'fit for purpose' or whether it could be changed to better reflect the needs and aspirations of Ngāti Mutunga moving forward.
- D. During 2016 the trustees shared proposals for changes to the Charter with iwi members and obtained feedback.
- E. The proposed changes shown marked-up on the attached document (**Amendments**) reflect the work of the Charter Review Sub-committee and feedback from iwi members, as well as input from the Board of Trustees of the Rūnanga.
- F. Te Ohu Kai Moana Trustee Limited (**Te Ohu Kai Moana**) has given its preliminary (informal) approval to the proposed changes as being compliant with the requirements of the Māori Fisheries Act 2004.

RESOLVED THAT:

- 1. The Amendments to the Charter be approved.
- 2. The Trustees be authorised to submit the Amendments to Te Ohu Kai Moana for its formal approval.
- 3. In the unlikely event that Te Ohu Kai Moana requires any further amendments to be made to the Charter (**Further Amendments**):
 - a. the Trustees of the Rūnanga be authorised to make the Further Amendments; and
 - b. submit the Further Amendments to Te Ohu Kai Moana for its formal approval.
- 4. The Amendments (and, if applicable any Further Amendments) will be effective from the date on which Te Ohu Kai Moana provides its formal approval of the Amendments (and, if applicable any Further Amendments).
- 5. The Trustees of the Rūnanga be required to promptly give notice that the formal approval of Te Ohu Kai Moana has been received on the Ngāti Mutunga website.

The Returning Officer who attended the Special General Meeting held on 23 July 2017 has certified that the above Special Resolution has been approved by not less than 75% of those Adult Registered Members of Ngāti Mutunga and Adult Members of Ngāti Mutunga who have cast a valid vote in favour of the proposed Special Resolution in accordance with the Fourth Schedule of the Charter.

Signed: _____
Jamie Tuuta (Chairperson of the Rūnanga)

Date: _____

TE RŪNANGA O NGĀTI MUTUNGA CHARTER

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TE RŪNANGA O NGĀTI MUTUNGA CHARTER

Executed as a deed on the 14th day of September 2006

TE MANAWA O NGĀTI MUTUNGA

1. The primary purpose of Te Rūnanga o Ngāti Mutunga (Rūnanga): To purposely support the wellbeing of the iwi and in all its undertakings consider and embrace the contemporary application of tikanga Māori and the principle values of collective ownership, responsibility and accountability.
2. Rūnanga in all its undertakings will practice the mana enhancing tikanga of:
 - i. Kaitiakitanga – Choosing service over self-interest:
Stewardship of Ngāti Mutunga business and community development pursuits. To be interested in the outcomes of the collective, without acting to define purpose for others, control of others or take care of others.
 - ii. Whanaungatanga – Inviting connections:
Valuing the opportunity for contribution and inclusion of Ngāti Mutunga members in the planning, implementation and evaluation of Rūnanga projects and initiatives. Promoting wellbeing and success through the creation of a strong foundation for respectful behaviour and honouring of relationships.
 - iii. Tuakana Teina – Growing on our own:
For future sustainability, capacity and capability the Rūnanga will actively pursue intergenerational inclusion across varying levels of Rūnanga operations.
 - iv. Ahi-kā – Recognise the roles and responsibilities to maintain the 'home fires' of Ngāti Mutunga and continually work towards the re-orientation of Ngāti Mutunga members back to their tribal lands.
 - v. Manawa Auaha – Engaging the creative spirit:
Become creators of our own destiny by exploring Ngāti Mutunga innovation, utilising the vast talents, knowledge and gifts present within Ngā Uri o Ngāti Mutunga.
 - vi. He Tupuna He Mokopuna – Celebrating our survival:
Continually striving to maintain, protect and develop the past, present and future manifestations of Ngāti Mutunga culture.
 - vii. Mana ki te Mana – Develop strategic relationships with Māori and Non-Māori institutions and agents who acknowledge the unique mana whenua status and authority of Ngāti Mutunga.
 - viii. Maramatanga – Through discussion comes understanding:
Where productive and safe, consistent communication and full access to information will be the rule, to ensure that a clear and collective understanding can be achieved to better inform collective decision making.

HE WHAKAMARAMA

- A. On 14 December 2004 Ngāti Mutunga initialled a Deed of Settlement with the Crown to settle Ngāti Mutunga's historical Treaty of Waitangi claims.

- B. Under clause 3.4 of the Deed of Settlement Ngāti Mutunga was required to establish and have ratified a “Governance Entity” to receive the settlement redress from the Crown.
- C. In June and July of 2004 Ngāti Mutunga conducted a postal ballot amongst the adult members of Ngāti Mutunga to ratify the Ngāti Mutunga Charter and the establishment of a trust through that Charter to be called Te Rūnanga o Ngāti Mutunga. The intention was that Te Rūnanga o Ngāti Mutunga would become the “Governance Entity” to receive the settlement redress from the Crown and would replace the Ngāti Mutunga Iwi Authority Inc as the mandated representative of Ngāti Mutunga.
- D. The initial terms of the Ngāti Mutunga Charter and establishment of Te Rūnanga o Ngāti Mutunga was approved by a majority 94.94% of the valid votes cast as part of the postal ballot.
- E. This ~~deed~~ Charter was amended and ratified in 2006 to also enable Te Rūnanga o Ngāti Mutunga to act as the Mandated Iwi Organisation of Ngāti Mutunga for the purposes of the ~~Maori~~ Māori Fisheries Act 2004 and to act as the Iwi Aquaculture Organisation for the purpose of the ~~Maori~~ Māori Commercial Aquaculture Claims Settlement Act 2004.
- ~~E.F.~~ This Charter was reviewed by the Rūnanga in 2017. Amendments to the Charter were made with a Special Resolution approved by a majority of [number]% of the valid votes cast as a special general meeting held on [date].

1. DEFINITIONS AND INTERPRETATIONS

1.1. Defined Terms:

In this Charter, unless the context otherwise requires:

“**Adult Members of Ngāti Mutunga**” means a Member of Ngāti Mutunga who is over 18 years of age;

“**Adult Registered Members of Ngāti Mutunga**” means those Members of Ngāti Mutunga over 18 years of age who are registered on the Ngāti Mutunga Register;

“**Annual Catch Entitlement**” has the meaning given to it in section (1) of the Fisheries Act 1996;

“**Annual Plan**” means the annual plan ~~of~~ to be prepared by (as applicable):

(a) the Rūnanga which:

(i) is prepared in accordance with *clause 9.1*; and

~~(b)(ii)~~ while the Rūnanga is a Mandated Iwi Organisation for the purposes of the ~~Maori~~ Māori Fisheries Act 2004, complies with the requirements of that Act; and

(b) each of the Companies and the Trust in accordance with *clause 11*;

“**Annual Report**” means the annual report of the Ngāti Mutunga Group which:

(a) is prepared by the Rūnanga in accordance with *clause 10.1*; and

(b) while the Rūnanga is a Mandated Iwi Organisation for the purposes of the ~~Maori~~ Māori Fisheries Act 2004, complies with the requirements of that Act;

“**Aquaculture Settlement Assets**” means “Settlement Assets” under the ~~Maori~~ Māori Commercial Aquaculture Claims Settlement Act 2004;

“**Asset Holding Company**” means:

- (a) ~~a company established by the Rūnanga, and which for the time being meets the requirements for an Asset Holding Company under the Maori Fisheries Act 2004; and~~
- (b) ~~includes any subsidiary of the Asset Holding Company;~~

“**Balance Date**” means 31 March or any other date that ~~the Trustees~~Ngā Kaitiaki by resolution adopt as the date up to which the Rūnanga's Rūnanga financial statements are to be made in each year;

“**Business Day**” means any day in which registered banks are open for business in Auckland ~~and~~1 Wellington and Taranaki;

“**Chairperson**” means the chairperson from time to time of the Rūnanga elected by ~~the Trustees~~Ngā Kaitiaki in accordance with *rule 4* of the Third Schedule;

“**Charter**” means this deed of trust and includes the recitals and the schedules to this deed;

“**Chief Returning Officer**” means as the context requires:

- (a) ~~the person appointed from time to time as chief returning officer for the purposes of Trustee elections in accordance with rule 9 of the Second Schedule; or~~
- (b) the person appointed as chief returning officer for the purposes of a Special Resolution in accordance with *rule 7.1* of the Fourth Schedule;

“**Commercial Activities**” means any activity carried out in pursuit of the Rūnanga's Rūnanga Purposes which has as its principal objective the maximising of financial or economic returns to the Ngāti Mutunga Group ~~and shall include without limitation including~~ the management and administration of all forestry lands and commercial redress properties acquired in the settlement of the Ngāti Mutunga Claims but excluding Fisheries Settlement Assets;

“**Commercial Asset Holding Companies**” means companies or other entities (other than the Fisheries Asset Holding Company and any Fishing Enterprise) which the Rūnanga may establish as wholly owned Subsidiaries of the Rūnanga in accordance with *clause 6* to undertake the Commercial Activities and any Subsidiary of those companies or other entities;

“**Community Development Activities**” means any activity carried out in pursuit of the Rūnanga's Rūnanga Purposes which has as its principal objective the cultural and social development of Ngāti Mutunga, ~~and shall include without limitation including~~;

- (a) the fostering of all aspects of Ngāti Mutunga tikanga, reo, kawa and korerekōrero;
- (b) the provision of support and assistance to Members of Ngāti Mutunga in respect of education, housing, health care, age care and relief of those suffering from mental or physical sickness or disability;
- (c) the development and enhancement of community facilities for the benefit of Ngāti Mutunga; and
- (d) the provision of funding to Ngāti Mutunga members for the cultural and social development of the iwi;

“**Community Development Trust Companies**” means the ~~trust to be established by the Rūnanga pursuant to clause 6 to undertake Community Development Activities;~~

“**Fisheries Asset Holding Company**” ~~means the Company, the Commercial Asset Holding Companies and any other entities (whether or not incorporated as a company) that the~~

Rūnanga ~~is required to may~~ establish ~~pursuant to clause 6~~ to undertake ~~the~~ Commercial Activities;

"Consolidated Financial Statements" means the consolidated financial statements of the Ngāti Mutunga Group prepared by the Rūnanga in accordance with *clause 10.1*;

"Deed of Settlement" means the deed dated 31 July 2005 between representatives of Ngāti Mutunga and the Crown recording the settlement of the Ngāti Mutunga Claims;

"Deputy Chairperson" means the deputy chairperson from time to time of the Rūnanga if one is elected in accordance of *rule 4* of the Third Schedule;

~~"Disputes Committee" means a committee formed in accordance with clauses 30.4 and 30.4;~~

"Electoral Review Officer" means the person appointed to act as electoral review officer in accordance with *rule 12.2* of the Second Schedule;

"Fisheries Asset Holding Company" means:

(a) ~~a company established by the Rūnanga, and which for the time being meets the requirements for an asset holding company under the Māori Fisheries Act 2004; and~~

(b) ~~includes any Subsidiary of the Fisheries Asset Holding Company;~~

"Fisheries Settlement Assets" means Income Shares, Settlement Quota and Settlement Cash received from Te Ohu Kai Moana Trustee Limited;

"Fishing Enterprise" means:

(a) a fishing operation established in accordance with *clause 6.12* to utilise Annual Catch Entitlement from the Settlement Quota; and

(b) includes any ~~subsidiary~~ Subsidiary of the Fishing Enterprise;

"Five Year Plan" means the five year plan of the Rūnanga ~~prepared~~ in accordance with *clause 9.29.2*;

~~"General Manager" means the General Manager of the Rūnanga appointed in accordance with clause 5.1;~~

"Income Share" means an income share within the meaning of the ~~Maori~~ Māori Fisheries Act 2004 that is allocated and transferred to the Fisheries Asset Holding Company on behalf of Ngāti Mutunga by Te Ohu Kai Moana Trustee Limited;

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

~~"Investment Trust" means the Trust to be established by the Rūnanga pursuant to clause 6 to undertake Investment Activities;~~

~~"Investment Activities" means any activity carried out in pursuit of the Runanga's Purposes which has as it principal objective investment and growth of its capital for cultural and social development purposes that benefit Ngāti Mutunga, including without limitation:~~

(a) ~~the fostering of all aspects of Ngāti Mutunga tikanga, reo, kawa and korero;~~

(b) ~~the provision of support and assistance to Members of Ngāti Mutunga in respect of education, housing, health care, age care and relief of those suffering from mental or physical sickness or disability;~~

~~(c) the development and enhancement of community facilities for the benefit of Ngāti Mutunga; and~~

~~(d) the provision of funding to Ngāti Mutunga members for the cultural and social development of the iwi;~~

“Iwi Aquaculture Organisation” has the meaning given to it in the ~~Maori~~Māori Commercial Aquaculture Claims Settlement Act 2004;

“Iwi Authority” means the Ngāti Mutunga Iwi Authority as previously constituted under the Incorporated Societies Act 1908 as an incorporated Society;

“Major Transaction” in relation to any member of the Ngāti Mutunga Group means:

- (a) the acquisition of, or an agreement to acquire, whether contingent or not, Property by that member the value of which is more than half the value of the ~~Runanga's~~Rūnanga Assets before the acquisition; ~~or~~
- (b) the disposition of, or an agreement to dispose of, whether contingent or not, Property by that member the value of which is more than half the value of the ~~Runanga's~~Rūnanga Assets before disposition; or
- (c) a transaction that has or is likely to have the effect of that member acquiring rights or interests or incurring obligations or liabilities the value of which is more than half the value of the ~~Runanga's~~Rūnanga Assets before the transaction; ~~or~~
- (d) the disposition of, or an agreement to dispose of, whether contingent or not, Income Shares or Settlement Quota by the Rūnanga to Te Ohu Kai Moana Trustee Limited or an entity within the Te Ohu Kai Moana Group or another Mandated Iwi Organisation under the ~~Maori~~Māori Fisheries Act 2004; or
- (e) a transaction or series of transactions, or an agreement to transact, whether contingent or not, with a person not entitled to hold Income Shares or Settlement Quota under the ~~Maori~~Māori Fisheries Act 2004, including an option, security, mortgage, or guarantee, that could result in:
 - (i) the sale of Income Shares or Settlement Quota by the Rūnanga; or
 - (ii) Ngāti Mutunga or the Rūnanga being disentitled for a period of more than 5 years to:
 - ~~(aa)~~(A) the income from the Income Shares; ~~or~~
 - ~~(ab)~~(B) the income from the Annual Catch Entitlement arising from the Settlement Quota; or
 - ~~(ac)~~(C) the control or use of the Annual Catch Entitlement arising from the Settlement Quota,

but does not include:

- (f) any transaction entered into by a receiver appointed ~~pursuant to~~in accordance with an instrument creating a charge over all or substantially all of the ~~Runanga's~~Rūnanga Assets (whether the Assets are held by the Rūnanga or any other member of the Ngāti Mutunga Group); ~~or~~
- (g) any acquisition or disposition of Property by that member from or to any other ~~wholly owned member of the Ngāti Mutunga Group; or~~Subsidiary;

- (h) any acquisition or disposition of Property or Income Shares or Settlement Quota by the Rūnanga from or to any company which is wholly owned by the Rūnanga Subsidiary; or
- (i) any exchange of Settlement Quota for Quota of the same market value that is carried out in accordance with the requirements of the Māori Fisheries Act 2004 and in compliance with any policy of the Rūnanga on quota exchanges that is notified in the Rūnanga's Annual Plan;

Nothing in paragraph (c) of this definition applies by reason only of that member giving, or entering into an agreement to give, a charge secured over assets of the member the value of which is more than one half of the value of the Rūnanga's Assets for the purpose of securing the repayment of money or the performance of an obligation.

For the purposes of this definition of the value of the Rūnanga's Assets ~~shall~~will be calculated based on the value of the assets of the Ngāti Mutunga Group;

"Mandated Iwi Organisation" has the meaning given to it in the Māori Fisheries Act 2004;

"Member of Ngāti Mutunga" means a person who is referred to in the definition of Nga Ngā Uri o Nga Tupuna Ngā Tūpuna o Ngāti Mutunga;

"Membership Validation Committee" "Ngā Kaitiaki" means the committee~~trustees~~ appointed from time to time in accordance with rule 4 of the First the Second Schedule to represent Ngāti Mutunga and to act as the trustees for the time being of the Rūnanga and "Kaitiaki" means any one of those persons;

"Nga Ngā Uri o Nga Tupuna Ngā Tūpuna o Ngāti Mutunga" means every person who is descended from one or more Ngāti Mutunga Tupuna by:

- (i) birth; and/or
- (ii) legal adoption; and/or
- (iii) Māori customary adoption in accordance with Ngāti Mutunga tikanga

for the purposes of this definition "Māori customary adoption in accordance with Ngāti Mutunga tikanga" refers to the practice of bringing up "taurima", or "whangai", generally from within the kin group and generally also as a means of maintaining or entering kinship and familial bonds;

"Ngāti Mutunga"

- (a) means the iwi, or collective group, composed of Nga Ngā Uri o Nga Tupuna Ngā Tūpuna o Ngāti Mutunga; and
- (b) includes:
 - (i) the following historical hapu~~hapū~~, which no longer form distinct communities within Ngāti Mutunga, namely, Kaitangata, Ngāti Aurutu, Ngāti Hinetuhi, Ngāti Kura, Ngāti Okiokinga, Ngāti Tupawhenua, Ngāti Uenuku and Te Kekerewai; and
 - (ii) any whānau, hapu~~hapū~~ or group of persons to the extent that that whānau, hapu~~hapū~~ or group includes persons referred to in the definition of Nga Ngā Uri o Nga Tupuna Ngā Tūpuna o Ngāti Mutunga;

"Ngāti Mutunga Area of Interest" means the Area of Interest of Ngāti Mutunga as identified and defined in the Deed of Settlement;

“Ngāti Mutunga Claims” means Ngāti Mutunga’s historical claims against the Crown in respect of the Crown’s breaches of its obligations to Ngāti Mutunga under the Treaty of Waitangi;

“Ngāti Mutunga Group” means the Rūnanga, the ~~Company, Companies and the Community Development Trust, the Investment Trust, their subsidiaries (if including any) and any trust(s) (whether incorporated or not) under their control~~ Subsidiary;

“Ngāti Mutunga Register” means the register of Members of Ngāti Mutunga that is to be maintained by the Rūnanga in accordance with the First Schedule to this Charter;

“Ngāti Mutunga Tupuna” means a person who:

- (a) exercised Customary Rights by virtue of being descended from:
 - (i) Mutunga (son of Kahukura and Hinemoe), Hinetuhi and Hineweo; or
 - (ii) a recognised ancestor of any whānau, hapū or group referred to in the definition of Ngāti Mutunga; and
- (b) exercised those Customary Rights predominantly in relation to the Ngāti Mutunga Area of Interest;

~~For the purpose of the definition of Nga Uri o Ngā Tupuna o Ngāti Mutunga and the definition of Ngāti Mutunga Tupuna, a person is descended from another person if the first person is descended from the other by:~~

~~(a) birth; and/or~~

~~(b) legal adoption; and/or~~

~~(c) Maori customary adoption in accordance with Ngāti Mutunga tikanga.~~

For the purposes of this definition **“Customary Rights”** means rights according to Ngāti Mutungatanga, or Ngāti Mutunga tikanga, including:

- (a) rights to occupy land; and
- (b) rights in relation to the use of:
 - (i) land; and/or
 - (ii) natural or physical resources;

~~For the purpose of this definition “Maori customary adoption in accordance with Ngāti Mutunga tikanga” refers to the practice of bringing up “taurima”, or “whangai”, generally from within the kin group and generally also as a means of maintaining or entering kinship and familial bonds.~~

“Private Notice” means a notice that is sent by any means that is private to the recipient and while the Rūnanga is the Mandated Iwi Organisation for Ngāti Mutunga, complies with Kaupapa 4 of Schedule 7 to the Maori Fisheries Act 2004;

“Pouwhakahaere” means the Pouwhakahaere of the Rūnanga appointed in accordance with clause 5.1;

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

~~“Registrar-General of Land” or “Registrar-General~~ Public Notice” means a notice that:

(a) is published in a newspaper generally circulating in the Registrar-General of Land appointed in accordance relevant area or areas;

(b) may also be published by panui or electronic media, including radio or television; and

(c) while the Rūnanga is the Mandated Iwi Organisation for Ngāti Mutunga, complies with section Kaupapa 4 of Schedule 7 of the Land Transfer Māori Fisheries Act 1952-2004;

“Related Person” means a person specified in paragraphs (i) to (iv) of section CW(35)(5)(b) of the Income Tax Act 1994, the persons specified being:

- (a) a settlor or trustee of a trust by which the business is carried on; ~~or~~
- (b) a shareholder or director of a 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 a business is carried on; or
- (d) that person, where he or she and the settlor, trustee, shareholder or director already mentioned in this definition, are associated persons as defined in section OD7 of the Income Tax Act 2004;

“Rūnanga” means the trust created by this Charter which is to be called Te Rūnanga o Ngāti Mutunga and which on the passing of the Settlement Act, is to succeed to the Iwi Authority;

“Runanga’s Rūnanga Assets” means the trust fund of the Rūnanga and ~~shall include~~ includes all assets received or otherwise owned or acquired from time to time by the Rūnanga, including without limitation all Ngāti Mutunga Land and all assets received ~~pursuant to~~ under the Deed of Settlement and Settlement Act, any assets transferred from the Iwi Authority, and any money, investments or other property paid or given to or acquired or agreed to be acquired by the Rūnanga;

“Runanga’s Rūnanga Purposes” means the objects and purposes of the Rūnanga set out in *clause 2.4*;

“Settlement Act” means such Act or Acts of Parliament that may be passed so as to give effect to the Deed of Settlement and the premises contained therein;

“Settlement Cash” means the money allocated and transferred to the Rūnanga pursuant to ~~under the~~ section 137(1)(f) of the Māori Fisheries Act 2004 ~~by Te Ohu Kai Moana Trustee Limited;~~

~~**“Settlement Quota”** means the quota shares within the meaning of the Māori Fisheries Act 2004 that are allocated and transferred to the Asset Holding Company on behalf of the Trust by Te Ohu Kai Moana Trustee Limited;~~

“Settlement Date” means the date defined as the Settlement Date in the Deed of Settlement or Settlement Act;

“Settlement Quota” means the quota shares within the meaning of the Māori Fisheries Act 2004 that are allocated and transferred to the Fisheries Asset Holding Company on behalf of the Rūnanga by Te Ohu Kai Moana Trustee Limited;

“Special Resolution” means a resolution that has been passed with the approval of not less than 75% of the Adult Registered Members of Ngāti Mutunga and/or the Adult Members of Ngāti Mutunga as the case may be, who validly cast a vote in accordance with the process set out in the Fourth Schedule;

“Special Resolution of Trustees Ngā Kaitiaki” means a resolution that has been passed with the approval of not less than 75% of the Trustees Ngā Kaitiaki present at a duly convened meeting of the Rūnanga held in accordance with the rules in the Third Schedule;

“Statements of Intent” means the statements of intent prepared by which the Company, Rūnanga is to procure the Community Development Trust Companies and the Investment Trust to prepare in accordance with clause 11.1;

“Subsidiary” means an entity (whether incorporated or not) that is:

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

by the Rūnanga and includes the Companies and the Trust and any entity (whether incorporated or not) that is wholly owned, or directly or indirectly controlled by any of the Companies or the Trust;

“Te Kawai Taumata” means the group of that name established under the Maori Fisheries Act 2004;

“Te Ohu Kai Moana Trustee Limited” means the company of that name formed under the Maori Fisheries Act 2004;

“Trustees Trust” means the trustees appointed from time to time Ngāti Mutunga Community Development Charitable Trust established by the Rūnanga in accordance with the Second Schedule of this Charter to represent Ngāti Mutunga clause 6 to undertake Community Development Activities and to act as the trustees for the time being of the Rūnanga and **“Trustee”** shall mean any one Subsidiary of those persons that trust;

“Wahi Pōti; Wāhi Pōti” means the place ballot box or places nominated by the Rūnanga for the purposes of allowing similar into which the Adult Registered Members of Ngāti Mutunga and/or the Adult Members of Ngāti Mutunga as the case may be, may under the supervision of the Chief Returning Officer cast in person their vote on the election of a Trustee elected in accordance with the Second Schedule; in person;

- (a) on the election of a Kaitiaki elected at an annual general meeting or (if applicable) a special general meeting; and
 - (b) on a Special Resolution at a special general meeting
- prior to the closing date and time for voting in accordance with (as applicable) the Second Schedule or the Fourth Schedule; and

“Whakapapa Committee” means the committee appointed in accordance with rule 4 of the First Schedule.

1.2. Interpretation:

In this Charter, 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, ~~recital~~ or a schedule ~~shall be~~ to a clause, rule, ~~recital~~ or a schedule to this Charter;
- (f) the schedules to this Charter ~~shall~~ form part of this Charter;
- (g) headings appear as a matter of convenience only and ~~shall do~~ not affect the interpretation of this Charter;
- (h) references to a company are references to a company incorporated ~~pursuant to~~ the Companies Act 1993;
- (i) references to a ~~subsidiary constitution~~ includes partnership agreements or ~~subsidiaries shall be any other applicable form of governance document for any entity within the Ngāti Mutunga Group and~~ references to ~~a subsidiary directors and trustees includes any person holding any equivalent governance role in any entity within the Ngāti Mutunga Group; and~~
- (j) the term “includes” or ~~subsidiaries as defined~~ “including” (or any similar expression) is ~~deemed to be followed~~ by the ~~Companies Act 1993 words~~ “without limitation”.

2. RECONSTITUTION, STATUS AND OBJECTS OF THE RŪNANGA

2.1. Rūnanga ~~Established~~ **established:**

~~The Trustees Ngā Kaitiaki~~ acknowledge that they hold the ~~Rūnanga's~~ Rūnanga Assets upon the trusts and with the powers set out in this Charter. ~~The Trustees Ngā Kaitiaki~~ further acknowledge that the trust hereby created ~~shall will~~ be known as Te Rūnanga o Ngāti Mutunga.

2.2. ~~Rūnanga Representative:~~

2.2. ~~The Rūnanga shall~~ **representative:**

~~The Rūnanga will~~ be governed and administered by and in accordance with this Charter, and ~~shall succeed~~ **has succeeded** the Iwi Authority. The Rūnanga ~~shall will~~ be the representative for Ngāti Mutunga ~~in all matters as its governance entity~~.

2.3. **Powers of Rūnanga:**

~~The Trustees Ngā Kaitiaki~~, on behalf of the Rūnanga, ~~shall will~~ be capable of holding real and personal property, of suing and being sued, and ~~shall will~~ have all of the rights, powers and privileges of a natural person with the intention that they ~~shall will~~, in their capacity as ~~Trustees Ngā Kaitiaki~~, have the fullest powers necessary to do all such things that they consider necessary in their sole discretion to perform or otherwise carry out the ~~Rūnanga's~~ Rūnanga Purposes.

2.4. **Objects and purposes of the Rūnanga:**

The purposes for which the Rūnanga is established are to receive, manage and administer the ~~Rūnanga's~~ Rūnanga Assets on behalf of and for the benefit of the present and future Members of Ngāti Mutunga in accordance with this Charter including, ~~without limitation~~:

- (a) the promotion amongst Ngāti Mutunga of the educational, spiritual, economic, ~~environmental~~, social and cultural advancement or well-being of Ngāti Mutunga and its whānau;
- (b) ~~providing for the physical and administrative resources required for~~ the maintenance and establishment of places of cultural or spiritual significance to Ngāti Mutunga;
- (c) the promotion amongst Ngāti Mutunga of mental health and well-being of the aged or those suffering from mental or physical sickness or disability;

- (d) to act as the Mandated Iwi Organisation and the Iwi Aquaculture Organisation for Ngāti Mutunga; and
- (e) any other purpose that is considered by the Rūnanga from time to time to be beneficial to Ngāti Mutunga.

2.5. Restriction on Major Transactions:

Notwithstanding *clause* 2.3, the Rūnanga and any entity which is a member of the Ngāti Mutunga Group must not enter into a Major Transaction unless that Major Transaction:

- (a) is approved by way of Special Resolution in accordance with the Fourth Schedule; or
- (b) is contingent upon approval by way of Special Resolution.

2.6. Rights of Members of Ngāti Mutunga

Subject to the terms of this Charter:

(a) members of Ngāti Mutunga will have the right to, among other things:

- (i) receive reports and information from the Rūnanga;
- (ii) attend annual general meetings and special general meetings, in accordance with *clause* 14;
- (iii) attend meetings of the Rūnanga, in accordance with *rule* 10 of the Third Schedule; and

(b) Adult Members of Ngāti Mutunga will have the right to, amongst other things:

- (i) put forward proposals for amendments to the Charter for the consideration by the Rūnanga, in accordance with *clause* 26.4;
- (ii) inspect the Ngāti Mutunga Register, in accordance with *rule* 2.3 of the First Schedule;
- (iii) vote in elections, in accordance with the Second Schedule;
- (iv) subject to he or she being eligible under *rule* 2 of the Second Schedule, be nominated for election and hold office as a Kaitiaki;
- (v) vote on resolutions at annual general meetings and special general meetings (including Special Resolutions in accordance with the Fourth Schedule); and
- (vi) receive any notice relating to any general meeting in accordance with *clause* 14.3 and any special general meeting to consider any Special Resolution, in accordance with *rule* 5 of the Fourth Schedule.

3. APPOINTMENT, POWERS AND MEETINGS OF TRUSTEESNGĀ KAITIAKI

3.1. Appointment in accordance with Second Schedule:

The TrusteesNgā Kaitiaki from time to time of the Rūnanga ~~shall~~will be appointed to office in accordance with the rules set out in the Second Schedule.

3.2. TrusteesNgā Kaitiaki to control Rūnanga affairs:

Subject to any requirements imposed by this Charter, the Deed of Settlement and the Settlement Act ~~the Trustees shall~~, Ngā Kaitiaki will control and supervise the business and affairs of the Rūnanga in such a manner as they, in their sole discretion, see fit.

3.3. **Proceedings of ~~Trustees~~Ngā Kaitiaki:**

Except as otherwise provided in ~~the~~this Charter the proceedings and other affairs of ~~the Trustees shall~~Ngā Kaitiaki will be conducted in accordance with the rules set out in the Third Schedule.

4. **POWER TO APPOINT ~~Kahui~~Kāhui KAUMATUA**

4.1. **Appointment of ~~Kahui~~Kāhui Kaumatua:**

The Rūnanga may appoint from time to time a ~~Kahui~~Kāhui Kaumatua on such terms of appointment, and subject to such rules, regulations, meeting procedures and processes, as may be prescribed by the Rūnanga from time to time. The Rūnanga ~~shall~~will when making appointments, take into consideration the desirability of the ~~Kahui~~Kāhui Kaumatua being broadly representative of Ngāti Mutunga.

4.2. **Role of ~~Kahui~~Kāhui Kaumatua:**

The ~~Kahui~~Kāhui Kaumatua will, on request from the Rūnanga, be responsible for advising the Rūnanga on matters relating to the tikanga, reo, kawa, korero and whakapapa of Ngāti Mutunga provided that nothing in this Charter ~~shall~~will be deemed or construed so as to make the seeking or following of advice obtained from the ~~Kahui~~Kāhui Kaumatua binding upon the Rūnanga.

4.3. **~~Trustees~~Ngā Kaitiaki not to be ~~Members~~Kāhui Kaumatua:**

For the avoidance of doubt, a ~~Trustee~~Kaitiaki may not contemporaneously with his or her holding office as ~~Trustee~~Kaitiaki be appointed to or remain part of the ~~Kahui~~Kāhui Kaumatua.

5. **~~GENERAL MANAGER~~POUWHAKAHAERE AND OTHER EMPLOYEES**

5.1. **Rūnanga to appoint ~~General Manager~~Pouwhakahaere:**

The Rūnanga ~~shall~~will appoint a ~~General Manager~~Pouwhakahaere to manage the day to day administration of the Rūnanga including without limitation the implementation of the ~~Rūnanga's~~ planning, reporting and monitoring obligations ~~of the Rūnanga~~ under this Charter.

5.2. **Delegations to ~~General Manager~~Pouwhakahaere:**

The ~~General Manager shall~~Pouwhakahaere will be responsible for the employment of all other employees of the Rūnanga and ~~shall~~will exercise such other powers and discretions as are delegated to him or her by the Rūnanga from time to time.

5.3. **~~Trustees~~Ngā Kaitiaki not to be employed:**

A ~~Trustee~~Kaitiaki may not hold the position of ~~General Manager~~Pouwhakahaere nor may a ~~Trustee~~Kaitiaki be an employee of the Rūnanga.

6. **RŪNANGA TO ESTABLISH ~~COMPANY~~COMPANIES AND ~~TRUST~~TRUST**

6.1. **Establishment of ~~Company~~Companies and ~~Trusts~~Trust:**

In receiving, controlling, and supervising the use of the ~~Rūnanga's~~Rūnanga Assets on behalf of Ngāti Mutunga, whether ~~pursuant to~~under the Deed of Settlement, the Settlement Act or otherwise, the Rūnanga ~~shall~~will establish and oversee the operations of the ~~Fisheries Asset Holding Company~~, the ~~Community Development~~ Trust and the ~~Investment~~ Trust.

6.2. **~~Asset Holding Company to be established:~~**

~~To the extent that the Rūnanga does not have an~~Commercial Asset Holding ~~Company the Rūnanga shall establish an~~Companies.

6.2. **~~Fisheries~~ Asset Holding Company, which will:**

~~The Fisheries Asset Holding Company is established to~~ receive and hold on behalf of the Rūnanga, for so long as they are retained, all Fisheries Settlement Assets.

6.3. **Ownership and ~~Control~~control of Companies:**

The ~~Company and any Asset Holding Company shall~~Companies will be 100% owned and

controlled by the Rūnanga.

6.4. Control of ~~Trusts~~ Trust:

The Rūnanga ~~shall~~will have and retain the power to appoint and remove the trustees of the ~~Community Development Trust and the Investment~~ Trust.

6.5. Commercial Asset Holding Companies:

6.5. — The ~~Company~~:

~~The Company~~Commercial Asset Holding Companies, once established, ~~shall as its objective and sole purpose~~will manage those of the ~~Rūnanga's~~Rūnanga Assets (~~excluding Fisheries Settlement Assets~~) that are of a commercial nature, ~~which the Company shall manage~~ on a prudent, commercial and profitable basis and in doing so ~~shall~~will conduct or otherwise undertake all Commercial Activities of the Ngāti Mutunga Group, ~~either itself or through any subsidiary established for that purpose~~, on behalf of and solely for the benefit of the Rūnanga in the furtherance of the ~~Rūnanga's~~Rūnanga Purposes.

6.6. Community Development Trust:

~~The Community Development Trust, once established, shall as its objective and sole purpose~~
The Rūnanga may transfer or allocate Rūnanga Assets to the Trust for it to use and administer ~~on behalf of the Rūnanga such of the Rūnanga's Assets as may be transferred or allocated to it~~ for the ~~charitable~~ purposes of conducting or otherwise undertaking, ~~on behalf of the Rūnanga~~, Community Development Activities of the Ngāti Mutunga Group, ~~either itself or through any subsidiary or other entity established for that purpose~~, on behalf of and ~~solely~~ for the benefit of Ngāti Mutunga in the furtherance of the ~~Rūnanga's~~Rūnanga Purposes.

6.7. — Investment Trust:

~~The Investment Trust, once established, shall as its objective and sole purpose use and administer on behalf of the Rūnanga such of the Rūnanga's Assets as may be transferred or allocated to it for the purposes of conducting or otherwise undertaking Investment Activities either itself or through any subsidiary or other entity established for that purpose, on behalf of and solely for the benefit of Ngāti Mutunga.~~

6.8-6.7. Rūnanga to monitor:

In giving effect to the ~~Rūnanga's~~Rūnanga Purposes, the Rūnanga ~~shall~~will be responsible for monitoring and otherwise overseeing the activities of the ~~Company~~the Community Development Trust~~Companies~~ and the ~~Investment~~ Trust. The Rūnanga ~~shall~~must not conduct or otherwise undertake Commercial Activities, ~~Investment Activities~~ or, in competition with the ~~Community Development~~ Trust, Community Development Activities. The Rūnanga ~~shall~~will also exercise its ownership or other rights and interests in the ~~Company~~the Community Development Trust, the Investment Companies and the Trust in such a way as to promote the performance by the ~~Company, the Community Development Trust~~Companies and the ~~Investment~~ Trust of their respective objectives and ~~respective sole~~ purposes as set out in this Charter and their respective constitutions and trust deed.

6.9-6.8. Assets held for Ngāti Mutunga:

All assets held and income derived by another member of the Ngāti Mutunga Group, including without limitation the ~~Company~~Companies and the ~~Community Development~~ Trust ~~and the Investment Trust~~ shallwill be held and derived for and on behalf of the Rūnanga.

6.10-6.9. Directors and trustees responsible for governance:

For the avoidance of doubt, and except as expressly provided by this Charter, all ~~companies~~ (~~including the Company~~)Companies, the Trust and other entities within the Ngāti Mutunga Group ~~shall~~will be governed by their respective boards and the role of the Rūnanga in respect of those ~~companies~~Companies, the Trust and other entities ~~shall~~will be limited to the exercise of the rights conferred on the Rūnanga as shareholder, or (as applicable) appointer, and beneficiary of the relevant entity.

6.11-6.10. Remuneration of directors and trustees:

The Rūnanga ~~shall~~will determine the remuneration payable to any:

(a) director of the ~~company~~Companies;

~~(b)~~—trustee of the Community Development Trust;

~~(c)~~(b) trustee of the ~~Investment~~ Trust; and

~~(d)~~(c) trustee or director (or equivalent) of any other member of the Ngāti Mutunga Group.

6.12-6.11. No influence in determining remuneration:

No ~~Trustee~~director or trustee receiving any remuneration referred to in *clause 6.10* ~~shall~~will take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration nor ~~shall the Trustee~~will a director or trustee in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid.

6.13-6.12. Establishment of Fishing Enterprise

If the Rūnanga wishes to establish its own fishing operation, utilising Annual Catch Entitlement from its Settlement Quota, to harvest, process or market fish, or to be involved in a joint venture for those purposes, it must establish an enterprise which is separate from, but responsible to, the Rūnanga to undertake those operations, which must not be the Fisheries Asset Holding Company.

6.14-6.13. Strategic governance:

Notwithstanding any other provision in this *clause 6*, the Rūnanga must exercise strategic governance over:

(a) ~~its Asset Holding~~the Companies, the Trust and any ~~Fishing Enterprise~~other entity within the Ngāti Mutunga Group; and

(b) the process to examine and approve annual plans that set out:

(i) the key strategies for the use and development of ~~the Fisheries Settlement Assets of Ngāti Mutunga~~;

(A) all the Rūnanga Assets including the Fisheries Settlement Assets; and

(B) the delivery of Community Development Activities;

(ii) the expected:

(i)(A) financial return on these the Fisheries Settlement Assets; the Rūnanga Assets; and

(B) the outcomes of Community Development Activities; and

(iii) any programme to:

~~(aa)~~(A) manage the sale of Annual Catch Entitlements derived from the Settlement Quota held by the Fisheries Asset Holding CompaniesCompany; and

~~(bb)~~(B) reorganise the Settlement Quota held by any the Fisheries Asset Holding CompaniesCompany or their subsidiariesits Subsidiaries, in the buying and selling of Settlement Quota in accordance with the MāoriMāori Fisheries Act 2004,

but not in such a manner as ~~shall~~will result in the Rūnanga or any of ~~the Trustees~~Ngā Kaitiaki being deemed to be a director of ~~that or those companies~~any company under the Companies Act 1993, and nor ~~shall~~will this *clause 6.13* or any other provision of this Charter prevent the Rūnanga or any other member of the Ngāti Mutunga Group from entering into such arrangements with another company or trust as the Rūnanga ~~shall consider~~considers necessary or desirable to

efficiently and effectively administer, manage or hold its assets or operations, consistently with the purposes in *clause 2.4*.

7. APPOINTMENT OF DIRECTORS AND TRUSTEES TO NGĀTI MUTUNGA GROUP ENTITIES

7.1. Appointment and removal of directors and trustees:

The directors of the ~~Company~~Companies and the trustees of the ~~Community Development Trust and Investment Trust~~shall~~will~~ be appointed and removed by the Rūnanga in accordance with each entity's constitution or trust deed.

7.2. Directors of the CompanyCommercial Asset Holding Companies

~~There shall~~Unless otherwise determined by Ngā Kaitiaki, there will be not more than ~~5~~five or not less than ~~3~~three directors of ~~the any~~Commercial Asset Holding Company. A majority of the directors of ~~the any~~Commercial Asset Holding Company must be Members of Ngāti Mutunga, although such directors need not be ~~Trustees~~.

7.3. Trustees of Community Development Trust:

~~There shall be not~~Kaitiaki. Not more than ~~5 and not less than 3~~trustees of The Community Development Trust. A majority of trustees must be Members of Ngāti Mutunga, although such trustees need not be Trustees.

7.4. Trustees of Investment Trust:

~~There shall be not more than 5 and not less than 3 trustees of the Investment Trust. A majority of trustees must be Members of Ngāti Mutunga, although such trustees need not be Trustees.~~two directors of any Commercial Asset Holding Company will be Kaitiaki.

7.5-7.3. Appointments with regard to skills and expertise:

~~A person may only be appointed by the Rūnanga as a~~director of any of the Company and Companies or a trustee of the Community Development Trust and Investment Trust 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 relevant Company, ~~the Community Development Trust or the Investment Trust~~ undertakes or is likely to undertake in the future and the mix of skills and expertise that is required on the relevant board.

7.6. Rotation Timing of directors of the Company:

~~Two of the directors of the Company shall retire from office as at the date chosen for the annual general meeting of the Company in each year. The directors to retire shall be those who have been longest in office since their last appointment. However, in the case of directors who were last appointed on the same day, those to retire will be determined by agreement between those directors or, if agreement cannot be reached, by lot. Retiring directors will be eligible for reappointment.~~

7.7-7.4. Rotation of trustees of Community Development the Trust:

~~Two of the trustees of the Community Development Trust shall retire from office as at the date chosen for the annual general meeting of the Community Development Trust in each year. The trustees to retire shall be those who have been longest in office since their last appointment. However, in the case of trustees who were last appointed on the same day, those to retire will be determined by agreement between those trustees or, if agreement cannot be reached, by lot. Retiring trustees will be eligible for reappointment.~~

7.8. Rotation of Trustees of Investment Trust:

~~Two of the trustees of the Investment Trust shall retire from office as at the date chosen for the Annual General Meeting of the Investment Trust in each year. The trustees to retire shall be those who have been longest in office since the last appointment. However, in the case of trustees who were last appointed on the same day, those to retire will be determined by~~

~~agreement between those trustees or, if agreement cannot be reached, by lot. Retiring trustees will be eligible for reappointment.~~

Unless otherwise provided for in the trust deed of the Trust, Ngā Kaitiaki will appoint the trustees for the Trust at the second meeting of the Runanga after the annual general meeting of the Runanga.

8. APPLICATION OF INCOME

8.1. ~~Company~~Companies to remit funds to the Rūnanga:

The ~~Company shall~~Companies will in each Income Year remit to the Rūnanga so much of the surplus income derived by ~~the each~~ Company on behalf of the Rūnanga as is agreed between ~~the each~~ Company and the Rūnanga having regard to:

- (a) ~~the each~~ Company's ~~objective objectives~~ and ~~sole purpose purposes set out in clause clauses 6.2 and 6.5 of this Charter~~ and the desirability of retaining and reinvesting income to meet that objective and purpose;
- (b) the projected operating requirements of ~~the each~~ Company and its ~~subsidiaries~~Subsidiaries as set out in their plans; and
- (c) the responsibilities and duties of the directors of ~~the each~~ Company to comply with the requirements of ~~its constitution and~~ the Companies Act 1993.

8.2. Rūnanga to make payments to Community Development Trust:

~~The Rūnanga shall will~~ in each Income Year pay such portion of its income as it may determine to the ~~Community Development~~ Trust. The ~~Community Development~~ Trust ~~shall must~~ apply all such income received by it towards the fulfilment of its ~~objective and sole purpose purposes~~ as set out in ~~clause 6.6 of this Charter~~.

~~8.3. Rūnanga to make payments to Investment Trust:~~

~~The Rūnanga shall in each Income Year pay such portion of its income as it may determine to the Investment Trust. The Investment Trust shall apply all such income received by it towards the fulfilment of its objective and sole purpose as set out in clause 6.7 of this Charter trust deed.~~

~~8.4-8.3. Trustees Ngā Kaitiaki may apply income as they see fit:~~

Except as required by ~~clauses clause~~ 8.2 and 8.3, and subject to any other requirements in this Charter, the Rūnanga may provide for the payment, application or appropriation, or decide to pay, apply or appropriate as much of the available income (including any funds remitted from the ~~Company Companies~~) in any Income Year as the Rūnanga in its sole discretion thinks fit for or towards the ~~Runanga's Rūnanga~~ Purposes.

~~8.5-8.4. Payments out of income~~

The Rūnanga may in making any decisions about the application of income in any Income Year, decide to have set aside, deducted from, or paid out of income such amounts as the Rūnanga in its discretion from time to time thinks fit, including:

- (a) as a reserve against losses and contingencies, and the Rūnanga may write off losses from time to time or resort to any reserve fund in mitigation of losses or for any other purpose; or
- (b) as a reserve to meet fluctuations of income in future years and other contingencies.

~~8.6-8.5. Matters to consider in applying income~~

In making any decision as to the application of the income in any Income Year, the Rūnanga ~~shall will~~, in exercising its discretion:

- (a) determine how much of the income should cease to be income and be added to and form part of the capital of the ~~Runanga's~~Rūnanga Assets, provided that the Rūnanga may not in the Income Year convert the entire income of the Rūnanga into capital; ~~and~~
- (b) endeavour to act fairly in considering the present and future needs and interests of all Members of Ngāti Mutunga.

~~8.7-8.6.~~ Accumulation in six months where income not applied:

Any income from any Income Year that is not paid or applied in accordance with this *clause 8* during or within the six months from the end of that Income Year ~~shall~~*will* be accumulated and any income so accumulated ~~shall~~*will* be added to and form part of the capital of the ~~Runanga's~~Rūnanga Assets and ~~shall~~*will* be subject to the trusts and powers herein declared in respect of the capital of the ~~Runanga's~~Rūnanga Assets.

9. PLANS

9.1. Rūnanga to prepare Annual Plan:

The Rūnanga ~~shall~~*will* prepare no later than one month before the commencement of each Income Year an Annual Plan which specifies in respect of that Income Year the following information:

- (a) the strategic vision of the Rūnanga for the Ngāti Mutunga Group;
- (b) the nature and scope of the activities proposed by the Rūnanga for the Ngāti Mutunga Group in the performance of the ~~Runanga's purposes~~Rūnanga Purposes;
- (c) the ratio of capital to total assets;
- (d) the performance targets and measurements by which performance of the Ngāti Mutunga Group may be judged;
- (e) the manner in which it is proposed that projected income will be dealt with; and
- (f) any proposals for the ongoing management of the ~~Runanga's~~Rūnanga Assets having regard to the interests of all Members of Ngāti Mutunga.

9.2. Rūnanga to prepare Five Year Plan:

The Rūnanga ~~shall~~*will* also ~~procure~~*develop* within 12 months following the execution of this Charter, and update not less than every two years, a Five Year Plan. Such a plan ~~shall~~*will* set out the longer term vision of the Rūnanga in respect of the matters referred to in *clause 9.1(a) to 9.1(f)* and ~~shall~~*will* include a statement by the Rūnanga of the commercial, management and distribution policies that the Rūnanga intends to follow in respect of the Rūnanga Assets.

10. ANNUAL REPORTS, ACCOUNTS AND AUDITOR

10.1. Preparation of Annual Report:

The Rūnanga must, within four months after the end of each Income Year, cause to be prepared an Annual Report on the affairs of the Ngāti Mutunga Group covering the accounting period ending at the end of that Income Year which includes a comparison of performance against Annual Plan, and 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 Ngāti Mutunga Group for that Income Year. The financial statements ~~shall~~*must* include as a separate item details of any remuneration or fees paid to any ~~Trustee~~Kaitiaki or ~~the firm of any~~ ~~Trustee's firm~~Kaitiaki (including without limitation any such payment to any ~~Trustee~~Kaitiaki as a director of ~~any of the~~ ~~Company~~Companies, as a trustee of the ~~Community Development~~ Trust, ~~or the Investment~~ Trust, or as a director or trustee of any other member of the Ngāti Mutunga Group) and details of any premiums paid in respect of ~~Trustees'~~trustees' and directors' indemnity insurance.

10.2. **Audit of financial statements:**

The Rūnanga must also ensure that the Consolidated Financial Statements for each Income Year are audited by a chartered accountant in public practice prior to the date for giving notice of the annual general meeting of the Rūnanga for the Income Year immediately following the Income Year to which the ~~financial statements~~ Consolidated Financial Statements relate.

10.3. **Appointment of auditor:**

The auditor ~~shall~~ will be appointed by the Rūnanga prior to the end of the Income Year to which the audit relates and, where possible, the fee of the auditor ~~shall~~ will also be fixed at that time. No ~~Trustee~~ Kaitiaki or employee of the Rūnanga (including any firm of which such a person is a member or employee) may be appointed as the auditor.

11. COMPANY COMPANIES AND TRUST PLANS AND REPORTS

11.1. ~~Group entities~~ Companies and the Trust to prepare ~~Plans~~ plans and Statements of Intent:

The Rūnanga ~~shall~~ will procure that each of the ~~Company, the Community Development Trust~~ Companies and the ~~Investment~~ Trust will:

- (a) ~~within 2 months of the Settlement Date~~ prepare a Statement of Intent (~~which must be reviewed every two years~~) setting out its long term objectives and the general principles by which it ~~proposes to~~ will operate;
- (b) as required by the Rūnanga, update ~~the~~ its Statement of Intent to take into account changes in circumstances that may arise from time to time, including ~~without limitation~~ changes to the nature of its business and the business of any of its ~~subsidiaries~~ Subsidiaries;
- ~~(c) no later than 6 months following the Settlement Date prepare a Five Year Plan, which shall be updated not less than every 2 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 Statement of Intent referred to in paragraph (a) of this clause;~~
- ~~(d)(c)~~ no later than 2 months following the completion of the Five Year Plan referred to in paragraph (c) of this clause, and thereafter no later than 2 ~~no later than two~~ months before the commencement of each Income Year, prepare an Annual Plan setting out the steps to be taken in the relevant Income Year ~~to meet its 5 year (which is consistent with the~~ planning objectives of the Rūnanga) and ~~fulfil~~ fulfils the objectives and principles of the Statement of Intent; and
- ~~(e)(d)~~ in addition to any normal reporting requirements, within ~~2~~ two calendar months after the completion of the first, second and third quarter of each Income Year send to the Rūnanga reports 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 as the Rūnanga may require from time to time).

11.2. **Rūnanga approval required:**

Prior to being implemented all Statements of Intent, ~~Five Year Plans~~ Five Year Plans and Annual Plans must be approved by the Rūnanga. Such approval ~~shall~~ must be given in light of the ~~Rūnanga's~~ Rūnanga's overall plans and policies ~~of the Rūnanga~~ of the Rūnanga in respect of the ~~Rūnanga's~~ Rūnanga's Assets and the Ngāti Mutunga Group, and having regard to the specific roles of the ~~Company, the Community Development Trust, Companies~~ Company, the Community Development Trust, Companies and the ~~Investment~~ Trust as set out in ~~clause 6, and each entity's constitution or trust deed~~. However, nothing in this clause ~~shall~~ will allow the Rūnanga to give directions beyond approving or not approving any plan or Statement of Intent or otherwise exercising its powers as shareholder, appointor or beneficiary, with the intention that the directors of the ~~Company, Companies and~~ Company, Companies and the trustees of the ~~Community Development Trust, or the trustees of the Investment Trust, shall~~ will otherwise retain full discretion in respect of the implementation of the plans and Statements of Intent.

11.3. Reports by the ~~Company~~Companies to comply with Companies Act 1993:

The Rūnanga ~~shall~~will procure that all Annual Reports by the ~~Company~~Companies comply in all respects with the requirements of the Companies Act 1993, including without limitation:

- (a) the description required by section 211(1)(a) of the Companies Act 1993 of the nature of the business of the Company or any of its ~~subsidiaries~~Subsidiaries, or the classes of business in which the ~~Company has~~Companies have an interest, whether as a shareholder of another company or otherwise;
- (b) the financial statements (or as appropriate group financial statements) for that Income Year ~~being~~ completed and signed in accordance with the requirements of the Companies Act 1993 and Financial Reporting Act 1993;2013; and
- (c) the auditor's report of the financial statements (or group financial statements) of the Company for that Income Year;

but excluding the information required by section 211(1)(g) of the Companies Act 1993 where the Rūnanga so decides ~~pursuant to~~in accordance with clause 11.6.

11.4. Trusts to meet Companies Act standard:

~~All~~The Rūnanga will procure that all reports by the ~~Community Development Trust and the Investment Trust shall~~ be provided to ~~the same~~no lesser standard, including as to form and content as is required under clause 11.3, ~~as~~than if the ~~Community Development Trust and the Investment Trust were companies~~was a company.

11.5. Report to include comparison against plans:

In addition to the matters set out in clause 11.3, the Rūnanga ~~shall~~will procure that all reports by the ~~Company, the Community Development Trust~~Companies and the ~~Investment~~ Trust include a comparison of their performance against both their respective Annual Plans for that Income Year and ~~their medium and longer term planning objectives (as set out in the Five Year Plans and Statement of Intent)~~Statements of Intent.

11.6. Protection of ~~Sensitive Information~~sensitive information:

For the avoidance of doubt, nothing in this clause 11 limits or affects the rights of the Rūnanga, as shareholder in any of the ~~Company~~Companies, to agree ~~pursuant to~~in accordance with section 211(3) of the Companies Act 1993 not to include information in the annual report of any of the ~~Company~~Companies where the Rūnanga considers on reasonable grounds that the information is commercially or otherwise sensitive.

12. DISCLOSURE OF PLANS, REPORTS AND MINUTES

12.1. Documents to be available for inspection:

The Rūnanga ~~shall~~must hold at its offices and make available for inspection by any Member of Ngāti Mutunga during normal business hours on any Business Day:

- (a) the Annual Report for each of the preceding three Income Years;
- (b) the Consolidated Financial Statements for the preceding three Income Years;
- (c) the Annual ~~Plan~~Plans;
- (d) the Five Year Plan;
- (e) the Statements of Intent;
- (f) the minute book kept in accordance with clause 14.14 of all decisions taken and business transacted at every annual general meeting and special general meeting; and
- (g) their own personal details on the Ngāti Mutunga Register.

12.2. **Costs of copying**

Any Member of Ngāti Mutunga ~~shall~~will be entitled to obtain copies of ~~this~~the information ~~listed in clause 12.1.~~ However, the Rūnanga ~~shall~~will also be entitled to recover at its discretion all reasonable copying or postage costs (if any).

13. **NO DISCLOSURE OF SENSITIVE INFORMATION**

- 13.1 For the avoidance of doubt, but subject to the ~~Rūnanga's~~Rūnanga reporting obligations in *clauses 10.1, 12.1(a), ~~12.1(b), to~~ 12.1(f), 14.1(a) and 14.1(b), but* the Rūnanga may at its sole discretion limit disclosure of any information about the activities or proposed activities of the Rūnanga and the Ngāti Mutunga Group which the Rūnanga considers on reasonable grounds to be commercially or otherwise sensitive.

14. **GENERAL MEETINGS**

14.1. **Rūnanga to hold annual general meeting:**

The Rūnanga ~~shall~~must, no later than six calendar months after the end of each Income Year, and in any event no more than 15 months after the date of the last annual general meeting of the Rūnanga, hold a general meeting for the Members of Ngāti Mutunga, to be called its annual general meeting, and ~~shall~~must at that meeting:

- (a) report on the operations of the Ngāti Mutunga Group during the preceding Income Year;
- (b) present the Annual Report and duly audited Consolidated Financial Statements;
- (c) present the proposed Annual Plan for the Rūnanga;
- ~~(d) announce the names of all newly appointed Trustees;~~
- (d) note the result of any election of Ngā Kaitiaki since the last annual general meeting;
- (e) approve the appointment of the auditor for the next Income Year;
- (f) approve the ~~Trustees'~~Ngā Kaitiaki remuneration;
- ~~(g) present the annual report of each of the Company;~~
- ~~(h)(g) present Companies and the annual report of the Asset Holding Company (where the Asset Holding Company is separate from the Company); Trust;~~
- (h) present any amendments that have been made to the constitution of each of the Commercial Asset Holding Companies and/or the trust deed of the Trust;
- (i) present any proposed amendments to the constitution of the ~~Company (where the Company is also the Asset Holding Company) or the Fisheries~~ Asset Holding Company;
- (j) undertake all other notified business; and
- (k) at the discretion of the Chairperson, undertake any other general business raised at that meeting.

14.2. **Approval of ~~Trustees'~~ remuneration for Ngā Kaitiaki**

- (a) No remuneration will be paid to a ~~Trustee~~Kaitiaki in his or her capacity as a ~~Trustee~~Kaitiaki unless that remuneration has been authorised by a resolution of the Adult Registered Members of Ngāti Mutunga present at the annual general meeting. Each such resolution will express the remuneration to be paid to ~~the Trustees~~Ngā Kaitiaki as a monetary sum per annum payable either to all ~~Trustees~~Ngā Kaitiaki taken together or to any person who from time to time holds office as a ~~Trustee~~Kaitiaki. This clause does not apply to any remuneration paid to any ~~Trustee~~Kaitiaki in his or her capacity as a director of any of the Company Companies, a trustee of the ~~Community Development Trust, a trustee of the Investment~~ Trust, or a director or trustee of any

other member of the Ngāti Mutunga Group and that remuneration ~~shall~~will be determined by the Rūnanga ~~pursuant to~~in accordance with ~~clauses 6.10 and 6.11.~~

(b) Unless otherwise determined by a suitably qualified independent expert appointed by the Rūnanga, each Kaitiaki will receive an equal share of any remuneration for Ngā Kaitiaki authorised in accordance with clause 14.2(a).

14.3. **Notice of general meeting:**

The Rūnanga ~~shall~~must give not less than ~~twenty-one (21) days~~days’ notice of the holding of the annual general meeting, such notice to be ~~posted to all Adult Registered Members of Ngāti Mutunga at the last address shown for each such Adult Registered Member of Ngāti Mutunga on the Ngāti Mutunga Register. by Private Notice to each member of Ngāti Mutunga shown on the Ngāti Mutunga Register as entitled to vote at the election of Ngā Kaitiaki (being an Adult Registered Member of Ngāti Mutunga who is recorded on the Ngāti Mutunga Register) and to any other Member of Ngāti Mutunga over the age of 18 years who has made a written request for a Private Notice of the meeting shall also be inserted prominently in appropriate major metropolitan newspapers circulating in New Zealand and in any provincial newspapers circulating in regions where the Rūnanga considers that a significant number of Members of Ngāti Mutunga reside. Public Notice.~~

All such notices ~~shall~~must contain:

- (a) the date, time and place of the meeting;
- (b) an agenda of matters to be discussed at the meeting;
- (c) details of where ~~copies of any information to be laid before the meeting~~relevant explanatory documents may be ~~inspected~~viewed or obtained; and
- (d) any other information specified by or under the ~~Maori~~Māori Fisheries Act 2004.

14.4. **Notice of special ~~general~~ meetings:**

In addition to the annual general meeting of the Rūnanga, the Rūnanga ~~shall~~will convene a special general meeting of the Rūnanga on the requisition of:

- (a) the Chairperson and Deputy Chairperson for the time being of the Rūnanga; ~~or~~
- (b) any ~~3 Trustees~~three Kaitiaki; or
- (c) 10% of Adult Registered Members of Ngāti Mutunga.

Notice of such a meeting ~~shall~~must be given in the same manner as for a notice of the annual general meeting and those requisitioning the meeting ~~shall~~will be required to provide a statement to the Rūnanga setting out the purposes for which the meeting has been requisitioned and the specific agenda items proposed for such a meeting. The Rūnanga ~~shall~~will not be required to give notice calling the meeting until such a statement with agenda items has been received. For the avoidance of doubt, where a special general meeting is called for the purpose of voting on a Special Resolution then that special general meeting must be called in accordance with the notice requirements set out in the Fourth Schedule.

14.5. **Annual ~~General Meeting~~general meeting not limited to notified business:**

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

14.6. **Special ~~Meeting~~general meeting limited to notified business:**

No business ~~shall~~may be transacted at any special general meeting other than the business expressly referred to in the notice calling that meeting.

14.7. Invalidation

The accidental omission to give notice to, or a failure to receive notice of an annual [general meeting](#) or special general meeting by a Member of Ngāti Mutunga does not invalidate the proceedings at that meeting.

14.8. Deficiency of notice

Subject to *clause 14.6*, a deficiency or irregularity in a notice of any [annual general meeting](#) or special ~~or~~ general meeting will not invalidate anything done at the meeting if:

- (a) the deficiency or irregularity is not material; and
- (b) the Adult Registered Members of Ngāti Mutunga who attend the meeting agree to waive the deficiency or irregularity.

14.9. Quorum:

The quorum required for any annual [general meeting](#) or special general meeting of the Rūnanga ~~shall will~~ be ~~fifty (50)~~ 30 Adult Registered Members of Ngāti Mutunga present in person.

14.10. Chairing of meetings:

The Chairperson for the time being of the Rūnanga will be the chairperson of any annual [general meeting](#) or special general meeting and will preside over and have control over the meeting. If the Chairperson is not present at the time appointed for holding a meeting, then the Deputy Chairperson ~~shall will~~ be the chair. If the Deputy Chairperson is also not present, then the ~~Trustees~~ [Ngā Kaitiaki](#) present ~~shall will~~ elect one of their number to substitute as the chairperson for that meeting. If within one hour of the time appointed for an annual general meeting or special general meeting there are no Ngā Kaitiaki present, then the meeting must be adjourned (in the same manner as if there was no quorum present) in accordance with *clause 14.12*.

14.11. Voting:

To the extent that a vote is sought or required at any annual [general meeting](#) or special general meeting, every Adult Registered Member of Ngāti Mutunga present ~~shall will~~ have one vote. Voting may be by voice or on a show of hands. The chairperson of the meeting may also demand a poll on a resolution either before or after any vote. However, except as provided in *clauses 2.5, 14.1(f), 14.2, 26.1, 27, 31.1 and 27.32* and in the Fourth Schedule the Rūnanga ~~shall will~~ not be bound by a resolution passed at any annual [general meeting](#) or special general meeting, but will only be required to give consideration to any such resolution in administering the ~~Rūnanga's~~ [Rūnanga](#) Assets and carrying out the ~~Rūnanga's~~ [Rūnanga](#) Purposes.

14.12. Adjourned meetings:

If within one hour of the time appointed for an annual [general meeting](#) or special general meeting, a quorum is not present, the meeting will stand adjourned to be re-convened ~~7~~ seven days after the date of the meeting. On that later day, the meeting will be held again at the same time and in the same place as the adjourned meeting. If a quorum is not present within one hour from the time appointed for that adjourned meeting, the Adult Registered Members of Ngāti Mutunga present will constitute a quorum.

14.13. Unruly meetings:

If any general 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.

14.14. Minutes:

The Rūnanga ~~shall must~~ keep a proper record in a minute book of all decisions taken and business transacted at every annual general meeting and special general meeting.

14.15. Minutes to be evidence of proceedings:

Any minute of the proceedings at an annual general meeting or a special general meeting which is purported to be signed by the chairperson at that meeting ~~shall~~will be evidence of those proceedings.

14.16. Minutes to be evidence of proper conduct:

Where minutes of an annual general meeting or a special general meeting have been made in accordance with this clause then, until the contrary is proven, the meeting ~~shall~~will be deemed to have been properly convened and its proceedings to have been conducted properly.

14.17. Request for information:

Where the Rūnanga is also the Mandated Iwi Organisation for Ngāti Mutunga, any Member of Ngāti Mutunga may request in writing the Annual Plan of the Rūnanga, Annual Report, and the information and documents referred to in ~~clause 14.1(g) (where the Company is an Asset Holding Company for the purposes of the said Act) and clause 14.1(h)~~ 1.1(a).

15. DISCLOSURE OF INTERESTS

15.1. Definition of interested ~~Trustee~~Kaitiaki:

A ~~Trustee~~Kaitiaki will be interested in a matter if the ~~Trustee~~Kaitiaki:

- (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 the Rūnanga or any subsidiary of the Rūnanga~~ Subsidiary;
- (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.

15.2. Disclosure of interest to other ~~Trustees~~Kaitiaki:

A ~~Trustee~~Kaitiaki must forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Rūnanga, disclose to ~~his or her co-Trustees~~ the other Ngā Kaitiaki at a meeting of the Rūnanga:

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

15.3. Recording of ~~interest~~interest:

A disclosure of interest by a ~~Trustee~~ shall ~~Kaitiaki~~ must be recorded in the minute book of the Rūnanga.

16. DEALINGS WITH "INTERESTED" ~~TRUSTEES~~KAITIAKI

16.1 An interested ~~Trustee~~ shall ~~Kaitiaki~~ must not take part in any deliberation or vote in respect of any matter in which that ~~Trustee~~Kaitiaki is interested, nor ~~shall~~may the ~~Trustee~~Kaitiaki be counted for the purposes of forming a quorum in any meeting to consider such a matter.

17. PROHIBITION OF BENEFIT OR ADVANTAGE

17.1 In the carrying on or any business by any member of the Ngāti Mutunga Group under this

Charter, and in the exercise of any power authorising the remuneration of ~~the Trustees~~Ngā Kaitiaki, no benefit, advantage or income ~~shall~~will be afforded to, or received, gained, achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able by virtue of that capacity in any way (whether directly or indirectly) to determine, or to materially influence the determination of the nature or amount of that benefit, advantage or income, or the circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.

18. DISCLOSURE OF ~~TRUSTEE~~KAITIAKI REMUNERATION ETC

- 18.1 The Rūnanga ~~shall~~must, in accordance with *clause 10.1*, show the amount of any remuneration paid to or fees charged by, any ~~Trustee~~Kaitiaki or any ~~Trustee's~~firm of a Kaitiaki and the amount of any premiums paid out of the ~~Rūnanga's~~Rūnanga Assets for any ~~Trustee~~Kaitiaki indemnity insurance separately in the financial statements including any payments made ~~pursuant to~~in accordance with *clause 21*.

19. ADVICE TO ~~TRUSTEES~~NGĀ KAITIAKI

19.1. Rūnanga may rely on advice:

The Rūnanga may, when exercising its powers or performing its duties, rely on reports, statements and 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 Rūnanga whom the Rūnanga believes on reasonable grounds to be reliable and competent in relation to the matters concerned; and
- (b) a professional adviser or expert in relation to matters which the Rūnanga believes on reasonable grounds to be within the person's professional or expert competence.

19.2. Rūnanga may obtain barrister's opinion:

If the Rūnanga is in doubt over any matter relating to the management and administration of the ~~Rūnanga's~~Rūnanga Assets, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a Barrister of the High Court of New Zealand of at least seven years' standing. This right to obtain and act upon a Barrister's opinion, however, will not restrict any right on the part of the Rūnanga to apply to the High Court of New Zealand for directions.

20. LIABILITY OF ~~TRUSTEES~~KAITIAKI

- 20.1 A ~~Trustee shall~~Kaitiaki will 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 Charter. In particular, no ~~Trustee shall~~Kaitiaki will be bound to take, or be liable for failing to take, any proceedings against a co-~~Trustee~~Kaitiaki for any such breach or alleged breach.

21. INDEMNITY AND INSURANCE

21.1. Indemnity and insurance for ~~Trustees~~trustees:

Any ~~Trustee~~Kaitiaki, officer or employee of the Rūnanga or any member of the Ngāti Mutunga Group may be indemnified or have their insurance costs met out of the ~~Rūnanga's~~Rūnanga 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 Rūnanga or any member of the Ngāti Mutunga Group, where those proceedings do not arise out of any failure by the ~~Trustee~~Kaitiaki, 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 Rūnanga or any member of the Ngāti Mutunga Group with the object of fulfilling the ~~Rūnanga's~~Rūnanga Purposes.

21.2. Indemnity and insurance costs to be just and equitable:

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

21.3. Indemnity and insurance re specific trusts:

If any assets are held by the Rūnanga on any separate specific trust, then any ~~Trustee~~Kaitiaki, officer or employee of the Rūnanga may in respect of proceedings brought in relation to that separate specific trust only be indemnified or have their insurance costs met out of those assets.

21.4. Record of decisions:

All decisions made under this *clause 21* to give or approve indemnities or meet or approve any insurance costs ~~shall~~must 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.

22. NGĀTI MUTUNGA NOT TO BE BROUGHT INTO DISREPUTE

22.1. ~~Trustees~~Ngā Kaitiaki not to bring into disrepute:

No ~~Trustee~~Kaitiaki shall act in any manner which brings or is likely to bring the Rūnanga or any member of the Ngāti Mutunga Group into disrepute.

22.2. Directors and trustees not to bring into disrepute:

The Rūnanga ~~shall~~will also require that any directors or trustees appointed by or at the direction of the Rūnanga to any ~~company (or as applicable) any trust in which the Rūnanga has an interest of the Companies, the Trust or any Subsidiary~~ do not act in a manner which brings or is likely to bring the Rūnanga or any member of the Ngāti Mutunga Group into disrepute.

~~22.3. Trustee may be censured or removed:~~

22.3. ~~Any Trustee that~~Censure or removal from office:

~~Any Kaitiaki (or any director of any of the Companies or trustee of the Trust)~~ acts in a manner that brings or is likely to bring into disrepute the Rūnanga or any member of the Ngāti Mutunga Group may, by a resolution passed by a majority of not less than 75% of the other ~~Trustees~~Ngā Kaitiaki, be formally censured or removed from office ~~by the Rūnanga~~.

22.4. Procedure where allegation made of bringing into disrepute

If an allegation is made to the Rūnanga that a Kaitiaki (or any director of any of the Companies or trustee of the Trust) has acted in a manner which brings or is likely to bring the Rūnanga or any Subsidiary into disrepute, the Rūnanga must implement the following procedure:

- (a) a written notice of the allegation must be served by the Rūnanga on the Kaitiaki, director or trustee;
- (b) the Kaitiaki, director or trustee will have 20 Business Days to respond to the allegation and the response must be in writing and delivered to the Rūnanga;
- (c) if no response is received, the Rūnanga may exercise the rights of censure or removal in *clause 1.1*;
- (d) if the Rūnanga is not satisfied with the response received from the trustee or director and wishes to consider exercising the rights of censure or removal in *clause 1.1*, it must first take reasonable steps to resolve the matter with the Kaitiaki, trustee or director concerned by mediation or other alternative dispute resolution procedure acceptable to the Rūnanga and Kaitiaki, director or trustee concerned (both acting reasonably); and
- (e) if the mediation or alternative dispute resolution procedure has not resolved the matter to the satisfaction of the Rūnanga and the Kaitiaki, trustee or director concerned within 40 Business Days of the notice of the allegation being given to the Kaitiaki, trustee or director, the Rūnanga may exercise the rights of censure or removal in *clause 1.1*.

22.4-22.5. **Censure or removal to be notified:**

The censure or removal of a TrusteeKaitiaki in accordance with this *clause* ~~shall~~must, together with reasons, be reported to the Members of Ngāti Mutunga at the next annual general meeting of the Rūnanga following ~~such that~~ censure or removal.

22.5-22.6. **Effect of ~~Removal~~removal:**

A TrusteeKaitiaki removed from office in accordance with *clause* 1.1 ~~shall~~will cease to hold office as a TrusteeKaitiaki forthwith and ~~shall~~will not be entitled to be re-elected as a TrusteeKaitiaki for a period of not less than ~~3~~three years following his or her removal.

22.6-22.7. **Replacement of TrusteeKaitiaki:**

The removal of a TrusteeKaitiaki in accordance with *clause* 1.1 ~~shall~~will give rise to a casual vacancy which ~~shall~~will be filled in accordance with *rule* ~~4.6~~3.5 of the Second Schedule.

23. GIFTS OR DONATIONS

23.1. Rūnanga may accept specific trusts:

Notwithstanding any other provisions in this Charter, the Rūnanga may accept or otherwise deal with any Property upon trust for the purposes of the Rūnanga or for any specific purpose that comes within the Rūnanga'sRūnanga Purposes. Such a trust may include any trust for the benefit of the Members of Ngāti Mutunga or any of them. Any Property held by the Rūnanga ~~pursuant to in accordance with~~ this *clause* ~~shall~~must be dealt with in accordance with the terms of the trust and ~~shall~~will not constitute part of the Rūnanga Assets.

23.2. Specific trusts to be separate:

If the Rūnanga accepts a trust for any specific purpose as outlined in *clause* 23.1 ~~above~~ it must keep the Property subject to such trust and any income derived from it separate from the Rūnanga'sRūnanga Assets, and administer that Property and income as a separate specific trust in terms of the trust under which it was accepted.

23.3. Use of specific trust assets:

The Rūnanga ~~shall~~must not use the assets of any separate specific trust to make good any deficit, loss, damage or breach of trust relating to any other assets that the Rūnanga may hold, and the Rūnanga ~~shall~~must also not use the Rūnanga'sRūnanga Assets to make good any deficit, loss, damage or breach of trust relating to any specific trust.

23.4. Expenses of specific trusts:

Each separate specific trust ~~shall~~will bear its own administration expenses plus a fair proportion (determined by the Rūnanga) of the administration expenses applicable to the Rūnanga.

24. RECEIPTS FOR PAYMENTS

24.1 The receipt of the Rūnanga signed by any person or persons authorised to give receipts on behalf of the Rūnanga, ~~shall~~will be a ~~complete discharge~~sufficient confirmation from the Rūnanga ~~for that payment it has received~~ Property in accordance with clause 23.1.

25. CUSTODIAN TRUSTEE

25.1 The Rūnanga may appoint or incorporate a custodian trustee and on any such appointment or incorporation the following provisions ~~shall~~will have effect:

- (a) the Rūnanga'sRūnanga Assets may be vested in the custodian trustee as if the custodian trustee were a sole Trustee~~trustee~~;
- (b) the management of the Rūnanga'sRūnanga Assets and the exercise of all powers and discretions exercisable by the Rūnanga under this Charter shall remain vested in the Rūnanga as fully and effectively as if there were no custodian trustee;
- (c) the sole function of the custodian trustee shall be to hold the Rūnanga Assets ~~property~~,

invest its funds and dispose of the [assets](#)[Rūnanga Assets](#) in accordance with any direction in writing by the Rūnanga for which purpose the custodian trustee shall execute all such documents and perform all such acts as the Rūnanga in writing direct;

- (d) the custodian trustee shall not be liable for acting on any such direction provided that if the custodian trustee is of the opinion that any such direction conflicts with the trusts or the law or exposes the custodian trustee to any liability or is otherwise objectionable the custodian trustee may apply to the Court for directions and any order giving any such directions shall bind both the custodian trustee and the Rūnanga;
- (e) the custodian trustee shall not be liable for any act or default on the part of any of the Rūnanga;
- (f) all actions and proceedings touching or concerning the [Runanga's](#)[Rūnanga](#) Assets may be brought or defended in the name of the custodian trustee at the written direction of the Rūnanga and the custodian trustee shall not be liable for the costs; and
- (g) no person dealing with the custodian trustee shall be concerned to enquire as to the concurrence or otherwise of the Rūnanga or be affected by notice of the fact that the Rūnanga has not concurred.

26. AMENDMENTS TO CHARTER

26.1. Special Resolution required:

Subject to *clause 26.2*, all amendments to the Charter ~~shall~~[may](#) only be made with the approval of a Special Resolution passed in accordance with the Fourth Schedule.

26.2. Limitations on ~~Amendment~~[amendment](#):

No amendment ~~shall~~[may](#) be made to the Charter which:

- (a) changes the [Runanga's](#)[Rūnanga](#) Purposes so that the Rūnanga is no longer required to act for the collective benefit of the present and future Members of Ngāti Mutunga;
- (b) changes this *clause 26.2*;
- (c) changes *clause 27*;
- (d) changes the requirement for a Special Resolution (as defined from time to time) in *clause 26.1*; or
- (e) is inconsistent with the [Maori](#)[Māori](#) Fisheries Act 2004.

Provided that no amendment may be made earlier than two ~~(2)~~ years after the date on which the Rūnanga is recognised by Te Ohu Kai Moana Trustee Limited as the Mandated Iwi Organisation for Ngāti Mutunga if the amendment relates to any matter provided for by or under the [Maori](#)[Māori](#) Fisheries Act 2004 unless the amendment is required as a consequence of a rule made or amended under section 25 of the [Maori](#)[Māori](#) Fisheries Act 2004.

26.3. Amendment to make Rūnanga a charity:

Notwithstanding any other provision in this Charter to the contrary, this Charter may be amended, and the benefits conferred hereunder altered, in order for the Rūnanga to become a charity and to qualify for any tax exemptions available from time to time for charitable entities under the provisions of the Income Tax Act 2004, provided that any such amendment:

- (a) is made in accordance with *clause 26.1*; and
- (b) does not change the [Runanga's](#)[Rūnanga](#) Purposes so that the Rūnanga is no longer required to act for the benefit of the present and future Members of Ngāti Mutunga.

26.4. **Consideration of proposals:**

Every Adult Member of Ngāti Mutunga may put forward for consideration by the Rūnanga proposals for amendments to the Charter. Any proposal put forward under this *clause* 26.4 must be in writing and addressed to the Chairperson at the registered office of the Rūnanga. Any proposal put forward under this *clause* 26.4 must be considered by the Rūnanga at their next available meeting.

26.5. **Proposals to be discarded:**

Where a proposal for amendments to the Charter does not comply with *clause* 26.2, the Rūnanga may discard the proposal and the Rūnanga will not be required to call a special general meeting in accordance with the Fourth Schedule.

27. **TERMINATION OF TRUST**

27.1 Subject to *clause* 26.2:

- (a) the trust established by this Charter ~~shall~~may only be terminated or dissolved if the Adult Registered Members of Ngāti Mutunga have, by Special Resolution, resolved that it has become impossible, impracticable or inexpedient to carry out the ~~Rūnanga's~~Rūnanga Purposes; and
- (b) on the termination or dissolution of this trust, the ~~Rūnanga's~~Rūnanga Assets, after the payment of costs, debts and liabilities ~~shall~~, must be paid to another trust or entity that has been established for the benefit of the present and future Members of Ngāti Mutunga.

28. **PERPETUITIES**

28.1 Unless stated otherwise in the Settlement Act, the perpetuity period for the Rūnanga is the period that commences on the date of this Charter and ends eighty years less one day after that date of this Charter, that period being within the perpetuities period permitted by section 6 of the Perpetuities Act 1964 and the perpetuities period applicable to the Rūnanga is hereby specified accordingly.

29. **ARCHIVING OF RECORDS**

29.1. **Records to be held for seven years:**

All minutes and other records of any proceedings of ~~the Rūnanga and any companies and other entities~~each entity in the Ngāti Mutunga Group ~~shall~~must be held by the Rūnanga and ~~those companies and other entities~~the relevant entity for a period of seven years.

29.2. **Records to be archived:**

At the expiry of seven years the Rūnanga ~~shall~~will archive the records ~~of the Rūnanga and the companies and other entities~~referred to in ~~the Ngāti Mutunga Group~~clause 29.1.

29.3. **Records may be retained for longer:**

Notwithstanding *clauses* 29.1 and 29.2 the Rūnanga and any of the ~~companies and~~ other entities within the Ngāti Mutunga Group may hold onto any records for a period exceeding seven years if in their discretion such records contain information that is commercially or otherwise sensitive or is still required by the Rūnanga or relevant entity to which the information relates.

30. **DISPUTE RESOLUTION**

30.1. **Disputes relating to membership:**

~~In the event that~~ Where a dispute arises ~~regarding membership or otherwise in connection with relation to a decision by the Rūnanga under rule 3 of the tikanga, roo, kawa, whakapapa and kōrero~~First Schedule to decline an application for registration as a Registered Member of Ngāti Mutunga ~~then that~~, Ngā Kaitiaki must:

- (a) refer the matter for recommendation to the Whakapapa Committee;
- (b) consider the recommendation from the Whakapapa Committee; and
- (c) ~~notify (in writing) the person who raised the dispute shall be referred in first instance to the Rūnanga of the Rūnanga's decision and the principal reason for that decision within 40 Business Days of the Rūnanga receiving notice of the dispute.~~

30.2. **Notice of ~~Disputed~~dispute:**

All disputes referred to in clause 30.1:

- (a) ~~must be in writing to the Rūnanga in accordance with clause 30.1 shall be submitted to and the Rūnanga by notice in writing and the Rūnanga shall must~~ acknowledge receipt in writing within 10 ~~working days of the date~~Business Days of receipt of the notice.;
- (b) ~~Reference of~~ must set out the grounds the submitter relies upon with sufficient particularity to enable the Whakapapa Committee to ascertain precisely the basis upon which the dispute has arisen; and
- (c) must be accompanied by evidence to substantiate the grounds relied upon by the submitter.

30.3. **Dispute of decision:**

~~If a dispute is not settled within 30 days of the receipt by the Rūnanga of written person who provides notice of the dispute in accordance with writing of a dispute referred to in clause 30.2 then it shall be referred to a Disputes committee constituted in accordance with clauses 30.4 and 30.5.~~

~~30.4. Dispute committee to be appointed as required:~~

~~There shall not be a permanent Disputes Committee. Disputes Committees shall be appointed on a case by case basis, having regard to the precise subject matter of the dispute, in question, and only after the expiry of the 30 day period referred to in 30.1, disputes the outcome provided under clause 30.3.~~

~~30.5. Appointment and composition of Disputes Committee:~~

~~A Disputes Committee shall comprise three members who shall be appointed by the Rūnanga as follows:~~

- (a) ~~one independent (non-Ngāti Mutunga) member nominated by the President from time to time of the Taranaki District Law Society or his or her nominee, such member to be a barrister or solicitor with 7 or more years experience, to act as the chair of the Dispute Committee; and~~
- (b) ~~two Members of Ngāti Mutunga appointed for 30.1(c), that person may exercise their skills and expertise in dealing with the issues that are the subject of the relevant dispute, provided that such members cannot also be Trustees or employees of the Rūnanga.~~

~~30.6. Role of Disputes Committee:~~

~~The role of a Disputes Committee shall be to facilitate and make findings and decisions on the disputes referred to it.~~

~~30.7. Deliberations of Disputes Committee:~~

~~In dealing with any dispute a Disputes Committee shall, subject to meeting the requirements of natural justice, have the sole discretion to call for evidence and determine the manner in which a dispute before it should be dealt with. The findings and decisions of a Disputes Committee shall be final and binding on the parties.~~

30.8. Disputes Committee may convene hui:

~~In facilitating the resolution of any dispute a Disputes Committee may convene a general meeting of Ngāti Mutunga in order to discuss the matters that are in dispute.~~

30.9. Hui to meet notice requirements: rights under Part 5 of the Māori

~~Any general meeting called by a Disputes Committee in order to try to settle any disputes shall be called in accordance with the requirements as to notice and meeting procedure that apply in respect of general meetings of Ngāti Mutunga as set out in this Charter.~~

30.10. Notification of Outcome:

~~A Disputes Committee shall give its findings and decision, together with the reasons therefore, in writing to the Rūnanga and any other party to the dispute.~~

30.11. Fisheries Disputes:

~~Notwithstanding clauses 30.1 to 30.10, if a dispute arises pursuant to section 180(1)(m) of the Maori Fisheries Act 2004, such dispute shall be determined in accordance with Part 5 of that Act.~~

30.12. Fisheries Disputes Procedure:

~~Where in accordance with clause 30.11 a dispute arises pursuant relating to section 180(1)(m) of the Maori Fisheries Act 2004, the disputes procedure contained in clauses 30.1 to 30.10 shall be deemed to constitute the process for resolving the dispute that is required to be engaged in pursuant to section 181(1) of the Maori Fisheries Act 2004. Māori Fisheries Act 2004:~~

Part 5 of the Māori Fisheries Act 2004 will apply in relation to disputes under the Māori Fisheries Act 2004 while the Rūnanga is the Mandated Iwi Organisation.

31. DISPOSAL OF INCOME SHARES AND SETTLEMENT QUOTA

31.1. Disposal of Income Shares and Settlement Quota:

Any proposal in relation to the disposal of Income Shares ~~pursuant to under~~ section 70 of the ~~Maori Māori~~ Fisheries Act 2004 or in relation to the disposal of Settlement Quota ~~pursuant to under~~ sections 159, 162 or 172 of the ~~Maori Māori~~ Fisheries Act 2004 may only proceed if a Special Resolution has been passed in accordance with the Fourth Schedule.

31.2. Transfers between entities:

This *clause 31* does not apply to transfers between entities within the Ngāti Mutunga Group provided that those entities comply with the relevant provisions of the ~~Maori Māori~~ Fisheries Act 2004.

32. RECOGNITION OF NEW MANDATED IWI ORGANISATION

Any

32.1 proposal in relation to recognising a new Mandated Iwi Organisation in place of the Rūnanga under sections 18A to 18G of the Māori Fisheries Act 2004 may only proceed if a Special Resolution has been passed in accordance with the Fourth Schedule.

33. METHOD OF CONTRACTING

33.1. Deeds

A deed that is to be entered into by the Rūnanga may be signed on behalf of the Rūnanga by two or more Ngā Kaitiaki (one of whom must be the Chairperson or Deputy Chairperson) who

have been authorised by a resolution of the Rūnanga and whose signature must be witnessed.

33.2. Other written contracts

An obligation or contract that is required by law to be in writing, and any other written obligation or contract that is to be entered into by the Rūnanga, may be signed on behalf of the Rūnanga by a person acting under the express authority of the Rūnanga.

33.3. Other obligations

Any other obligation or contract may be entered into on behalf of the Rūnanga in writing or orally by a person acting under the express or implied authority of the Rūnanga.

DRAFT

FIRST SCHEDULE MEMBERSHIP OF NGĀTI MUTUNGA AND NGĀTI MUTUNGA REGISTER

1. RŪNANGA TO KEEP REGISTER

1.1. Rūnanga to maintain register:

The Rūnanga ~~shall will~~ administer and maintain the Ngāti Mutunga Register which is a register of the Members of Ngāti Mutunga.

1.2. Register to comply with this Schedule:

The Ngāti Mutunga Register ~~shall must~~ be confirmed and maintained in accordance with the rules and procedures set out in this Schedule.

2. CONTENTS OF REGISTER

2.1. Register to contain ~~Members' members'~~ details:

The Ngāti Mutunga Register ~~shall will contain a~~ record ~~in it of~~ the full names, dates of birth and postal ~~and email~~ addresses of the Members of Ngāti Mutunga.

2.2. Beneficiary ~~Registration Numbers~~ registration numbers:

The Rūnanga will allocate a beneficiary identification number to each Adult Registered Member of Ngāti Mutunga on the Register. The Rūnanga will immediately after allocation, notify the relevant Adult Registered Member of Ngāti Mutunga of his or her beneficiary identification number.

2.3. Access to ~~Register~~ register:

Subject to the Privacy Act 1993, Members of Ngāti Mutunga who are registered on the Ngāti Mutunga Register ~~shall will~~ also have access to their own personal information which is recorded on the Ngāti Mutunga Register.

3. APPLICATIONS FOR REGISTRATION

3.1. Form of applications:

All applications for registration as a Member of Ngāti Mutunga must be made in writing to the Rūnanga. The application must contain:

- (a) the full name, date of birth and postal ~~address and email addresses~~ of the applicant;
- (b) the name of the tupuna to which the applicant claims affiliation; ~~and~~
- (c) such evidence as the Rūnanga may from time to time require as to that applicant's status as a Member of Ngāti Mutunga and the tupuna to which the applicant claims to affiliate in terms of paragraph (b) of this rule, including details of the whakapapa (genealogical) connection of the applicant to Ngāti Mutunga and to the relevant tupuna.

3.2. Entitlement to make ~~Applications~~ applications:

An application for registration as a Member of Ngāti Mutunga may be made by:

- (a) Members of Ngāti Mutunga who are over the age of 18 years, on their own behalf or by their legal guardian;
- (b) Members of Ngāti Mutunga who are under the age of 18 years, by a person on their behalf who is their parent or legal guardian on their behalf; or
- (c) a Member of Ngāti Mutunga who is over the age of 18 years and who in the opinion of the ~~Membership Validation~~ Whakapapa Committee stands in the stead of a parent or guardian of that person.

3.3. **Compliance with Charter:**

All Members of Ngāti Mutunga who apply to register and are registered on the Ngāti Mutunga Register are, by their application and registration, deemed to agree to the terms of this Charter, including the disputes procedure set out in *clause 30* and the election, voting and meeting procedures set out in the Second Schedule, Third Schedule and Fourth Schedule.

4. **DECISIONS AS TO MEMBERSHIP**

4.1. **Membership Validation Whakapapa Committee to be established:**

The Rūnanga ~~shall~~will establish ~~a Membership Validation~~the Whakapapa Committee to make decisions on all applications made ~~pursuant to~~under rule 3.1 of this Schedule by any person for the recording in the Ngāti Mutunga Register of that person's membership of Ngāti Mutunga.

4.2. **Composition of Membership Validation Whakapapa Committee:**

The ~~Membership Validation~~Whakapapa Committee ~~shall~~will comprise ~~five~~5 members of Ngāti Mutunga, appointed by the Rūnanga from time to time, ~~(with a biennial review)~~, with the expertise and knowledge of Ngāti Mutunga whakapapa necessary to make determinations regarding membership applications. ~~Trustees Ngā Kaitiaki~~ with the required expertise and knowledge of Ngāti Mutunga whakapapa may be appointed to the ~~Membership Validation~~Whakapapa Committee.

4.3. **Consideration of applications:**

All applications for membership ~~pursuant to~~under rule 3.1 of this Schedule together with any supporting evidence ~~shall~~must be forwarded by the Rūnanga to the ~~Membership Validation~~Whakapapa Committee.

4.4. **Decisions to be made on applications:**

Upon receipt of an application for membership in accordance with rule 3.1 of this Schedule the ~~Membership Validation~~Whakapapa Committee ~~shall~~will consider the application and ~~shall~~will make a decision as to whether the application should be accepted as to the applicant's status as a Member of Ngāti Mutunga.

4.5. **Successful applications to be notified and registered:**

In the event that the ~~Membership Validation~~Whakapapa Committee decides that the application should be accepted then such decision ~~shall~~must be notified in writing to the Rūnanga, which ~~shall~~must in turn notify the applicant and enter the applicant's name and other relevant details in the appropriate part of the Ngāti Mutunga Register.

4.6. **Notification of unsuccessful applicants:**

In the event that the ~~Membership Validation~~Whakapapa Committee decides to decline the application (whether as to the status of the applicant as a Member of Ngāti Mutunga) then such decision ~~shall~~must be conveyed in writing to the Rūnanga together with the reasons for the decision. The Rūnanga ~~shall~~must then notify the applicant in writing of the decision together with the reasons given for the decision.

4.7. **Unsuccessful applicant may reapply:**

Any applicant whose application has been declined may at any time seek to have his or her application reconsidered by the ~~Membership Validation~~Whakapapa Committee provided that such application for reconsideration may only be made on the basis of new evidence (being evidence that was not submitted or considered as part of the initial or, if more than one, any previous application) as to the applicant's status as a Member of Ngāti Mutunga.

5. **MAINTENANCE OF REGISTER**

5.1. **Rūnanga to establish policies:**

The Rūnanga ~~shall~~will take such steps and institute such policies as are necessary to ensure that the Ngāti Mutunga Register is maintained in a condition that is as up to date, accurate and complete as possible in recording the Members of Ngāti Mutunga, including taking steps to

ensure that, upon the receipt of appropriate evidence, the names of any deceased Members of Ngāti Mutunga are ~~transferred to Part C of~~ removed from the active Ngāti Mutunga Register.

5.2. Assistance in identifying membership:

In maintaining the Ngāti Mutunga Register, the Rūnanga ~~shall~~will include in ~~the~~its policies ~~that it develops policies~~ways for assisting in the identification and registration of those Members of Ngāti Mutunga that are currently not ~~for the time being~~registered on the Ngāti Mutunga Register. Such policies ~~shall~~will include ~~policies as to~~ the nature of the assistance that the Rūnanga will provide to those persons that believe that they are Members of Ngāti Mutunga but for whatever reason are not able to establish such membership.

5.3. Responsibility of Members of Ngāti Mutunga:

Notwithstanding *rules 1.1 and 6.1* of this Schedule it ~~shall~~will be the responsibility of each person who is a Member of Ngāti Mutunga (or in the case of those persons under 18 years, the parent or guardian of that person) to ensure that his or her name is included in the Ngāti Mutunga Register and that his or her full postal address and email address for the time being is provided and updated.

5.4. Consequences of registration:

Registration of any person in the Ngāti Mutunga Register as a Member of Ngāti Mutunga ~~shall~~will be conclusive evidence of that person's status as a Member of Ngāti Mutunga.

6. INITIAL NGĀTI MUTUNGA REGISTER

6.1. Information from Iwi Authority register:

The Rūnanga ~~shall~~must include on the Ngāti Mutunga Register the full names, dates of birth and postal addresses of every Member of Ngāti Mutunga whose name and other details are, immediately before the Settlement Date, on the register prepared by the Iwi Authority.

7. PRIVATE NOTICE

7.1. Requests for Private Notice:

Any Member of Ngāti Mutunga may at any time make a written request to receive a Private Notice for general meetings and electronic and postal ballot papers relating to:

- (a) the election of ~~Trustees~~Ngā Kaitiaki;
- (b) any amendment to this Charter ~~or the constitutional documents of any Asset Holding Company~~;
- (c) approval of a major transaction;
- (d) termination of the Rūnanga;
- ~~(e)~~(e) the disposal of Income Shares or Settlement Quota; ~~or~~
- (f) the conversion of Quota into Settlement Quota; or
- ~~(e)~~(g) the recognition of a new Mandated Iwi Organisation in place of the Rūnanga.

SECOND SCHEDULE ELECTIONS OF ~~TRUSTEES~~ NGĀ KAITIAKI

1. PROCEDURE

1.1. This Schedule to apply:

~~The Trustees shall~~ Ngā Kaitiaki will be appointed in accordance with the rules and procedures set out in this Schedule.

2. ELIGIBILITY FOR APPOINTMENT

2.1. ~~Trustee~~ Ngā Kaitiaki to be registered:

To be ~~elected a Trustee must, appointed to the office of Kaitiaki, any nominee for election~~ (as at the closing date for nominations,) must be recorded in the Ngāti Mutunga Register as an Adult Registered Member of Ngāti Mutunga.

2.2. ~~Trustees~~ Disqualification from being elected

A nominee for the office of Kaitiaki is disqualified from being elected if that person:

- (a) is or has been disqualified from being appointed or holding office as a company director under the Companies Act 1955 or the Companies Act 1993 or an officer of a charity under the Charities Act 2005;
- (b) is bankrupt, or has within five years been adjudged bankrupt;
- (c) has ever been convicted of:
 - (i) an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961;
or
 - (ii) an offence referred to under section 373(4) of the Companies Act 1993,
unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004;
- (d) is or ever has been removed as a trustee of a trust by order of Court on the grounds of breach of trust, lack of competence or failure to carry out the duties of a trustee satisfactorily;
- (e) is physically or mentally incapacitated to the extent that he or she is unable to perform the duties of a Kaitiaki;
- (f) is subject to a property order made under section 30 or 31 of the Protection of Personal Property Rights Act 1988;
- (g) has been convicted in the last 10 years of an offence punishable by more than three years imprisonment (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004);
- (h) has been removed from the office of Kaitiaki under clause 22.3 within the past three years; and
- (i) has done anything or been associated with any group where that action or association may bring the Rūnanga into disrepute (any allegation that a nominee is disqualified under this rule 2.2(i) must be dealt with in accordance with clause 22 as if the nominee was a Kaitiaki).

2.2.2.3. Ngā Kaitiaki not to be Rūnanga employees:

A ~~Trustee shall~~ Kaitiaki may not hold the position of ~~General Manager~~ Pouwhakahaere nor shall ~~may~~ a ~~Trustee~~ Kaitiaki be employed as an employee of the Rūnanga.

2.3.2.4. Trustees Kaitiaki may be Directors directors:

Nothing in rule 2.2 of this Schedule or elsewhere prevents a ~~Trustee~~ Kaitiaki from holding office as a director or trustee of any member of the Ngāti Mutunga Group, provided that where the Rūnanga is a Mandated Iwi Organisation for the purposes of the ~~Maori~~ Māori Fisheries Act 2004, ~~no Ngā Kaitiaki must not compromise~~ more than 40% of the ~~Trustees must hold total number of directors, trustees or office as a director or trustee holders of any of the Fisheries Asset Holding Company or Fisheries Enterprise as defined in the said Act.~~

2.4.2.5. Number of Trustees Ngā Kaitiaki to be Limited limited:

There ~~shall~~ must be not more than ~~5~~ seven and not less than ~~3~~ Trustees.

3. EXISTING TRUSTEES TO HOLD OFFICE

3.1. Existing Trustees to hold office:

~~Pending the holding of elections in accordance with this Schedule the initial Trustees of the Rūnanga shall be those persons holding office as trustees of the Iwi Authority immediately before the date of this Charter, in accordance with the rules applicable to the appointment of such trustees to the Iwi Authority~~ three Ngā Kaitiaki.

4.3. TERM OF OFFICE

4.1.3.1. Term of Office office and sequence of appointment of Ngā Kaitiaki

Subject to ~~rules~~ rules 4.2.3.2, 3.4, 3.5, and 3.6 of this Schedule ~~the Trustees from time to time shall:~~

- (a) ~~Ngā Kaitiaki will each~~ hold office for a term of ~~3~~ three years; ~~and~~

4.2. Retirement and rotation of initial Trustees:

~~The initial Trustees shall retire from office with elections having been held for their respective positions as Trustee as follows:~~

- (b) ~~As at the date of the annual general meeting of the Rūnanga in the first Income Year following the sequence of appointment of Ngā Kaitiaki will be three Ngā Kaitiaki appointed together and (if there is a total of seven Ngā Kaitiaki holding office) four Ngā Kaitiaki appointed together (or, if there are to be less than seven Ngā Kaitiaki holding office, the other Kaitiaki who were not appointed in the group of three).~~

3.2. Ending of term of Kaitiaki:

- (a) ~~Each Kaitiaki will hold office until the Chief Returning Officer certifies the Settlement Date, two~~ result of the initial Trustees shall retire and an election shall be held for two Trustee positions;
- (b) ~~As at the date of the annual general meeting of the Rūnanga in the second Income Year following the Settlement Date, a further two of the initial Trustees shall retire and an election shall be held for two Trustee positions; and~~
- (c) ~~As at the date of the annual general meeting of the Rūnanga in the third Income Year following the Settlement Date, the remaining two initial Trustees, being those that did not retire in accordance with paragraphs (a) and (b) above, shall retire and an election shall be held for one Trustee position.~~

4.3. ~~Order of retirement of initial Trustees:~~

~~The order of retirement of the initial Trustees under rule 4.2 of this Schedule shall be determined by agreement failing which the determination shall be made by lot.~~

4.4. ~~Term following retirement of initial Trustees:~~

~~Following the retirement of the initial Trustees in accordance with rule 4.2 of this Schedule, each Trustee shall hold office until the conclusion of the annual general meeting of the Rūnanga in the third Income Year following his or her appointment. However, if because of a review of the election of a Trustee's replacement under rule 13 of this Schedule the appointment of that Trustee's replacement has not been completed as at the expiry of the Trustee's term, then that Trustee shall continue to hold office by virtue of his or her previous appointment until the review process is completed. For the purposes of calculating the term of the replacement Trustee, that replacement Trustee shall, once he or she takes office, be deemed to have taken office on the date upon which the term of office of the previous Trustee expired, being the date of the relevant annual general meeting and communicates the result of that election to the Rūnanga.~~

4.5-3.3. ~~Eligibility of retiring Trustees~~ Ngā Kaitiaki for re-election:

~~Retiring Trustees shall~~ Ngā Kaitiaki who cease to hold office will be eligible for reappointment.

3.4. ~~Ngā Kaitiaki power to alter term~~

~~If for any reason, the sequence of appointment of Ngā Kaitiaki as becomes misaligned from the sequence set out in rule 3.1 of this Schedule, upon this misalignment coming to the attention of the Chairperson, the Chairperson will promptly notify the other Ngā Kaitiaki of the misalignment and, at the next meeting of Ngā Kaitiaki after that notification, require that Ngā Kaitiaki correct that misalignment by:~~

- ~~(a) agreeing as to who amongst them will retire early in order to restore the correct sequence of appointment of Ngā Kaitiaki; or~~
- ~~(b) if Ngā Kaitiaki cannot agree, Ngā Kaitiaki must draw lots to determine who amongst them will retire early in order to restore the correct sequence of appointment of Ngā Kaitiaki,~~

~~and record the details of which Kaitiaki will retire early (and when) in the minute book of the Rūnanga.~~

4.6-3.5. ~~Casual vacancies:~~

~~Should:~~

~~If:~~

- ~~(a) there be~~ no person elected to ~~replace~~ hold a Trustee following that Trustee's retirement under rule 4.2 of this Schedule Kaitiaki position; or
- ~~(b) for any reason, a~~ casual vacancy ~~arise~~ arises prior to the expiry of any Trustee's the term of office of any Kaitiaki,

~~then if that vacancy shall~~ occurs more than nine months prior to the next scheduled election of Ngā Kaitiaki (as provided for in rule 4.1 of this Schedule) that vacancy must be filled by the holding of a further election in accordance with this Schedule but not otherwise.

4.7-3.6. ~~Term of casual appointments:~~

~~In the case of an appointment made pursuant to rule 4.6 under rule 3.5, the appointed Kaitiaki will hold office until the next scheduled election of Ngā Kaitiaki (as provided for in rule 4.1 of this Schedule the Trustee thereby appointed shall, as the case may be, hold office:~~

~~(a) in-). That next scheduled election must include an election for a Kaitiaki who will (so as to maintain the case of a Trustee appointed pursuant to rule (a), three and four sequence of appointment of Ngā Kaitiaki) be elected for the same term as that Trustee would have been appointed had he or she been appointed, immediately following the retirement of the previous Trustee, under rule 4.2 of this Schedule; or~~

~~(b) in the case remainder of a Trustee appointed pursuant to rule (b), for the balance of the term of office of the Trustee that he or she has replaced Kaitiaki whose ceasing to hold office (for whatever reason) resulted in the casual vacancy.~~

5.4. TIMING OF ELECTIONS

~~5.1 The elections for Trustees in any given Income Year must, except in the case of elections to fill casual vacancies under rule 4.6 or to the extent that any review under rule 13 of this Schedule has been sought in respect of an election, be concluded by the time of the annual general meeting of the Rūnanga in that Income Year.~~

~~4.1 Subject to rule 3.5 of this Schedule and any determination of an Electoral Review Officer in accordance with rule 13.4 of this Schedule that an election should be conducted again, not more than two elections for Ngā Kaitiaki positions may be conducted within any period of three Income Years. Elections must be timed so as to ensure that the three year term of office of Ngā Kaitiaki and the three and four sequence of appointment of Ngā Kaitiaki are maintained as set out in rule 3.1.~~

6.5. MAKING OF NOMINATIONS

6.1-5.1. Calling for nominations:

The Rūnanga ~~shall~~must give notice calling for nominations for those ~~Trustee~~Ngā Kaitiaki positions for which elections are required at least ~~3~~three months before the annual general meeting of the Rūnanga for ~~that the relevant~~ Income Year, ~~(or, in the case of an election required under rules 3.5 and 13.4 of this Schedule, a special general meeting)~~ and in any event in sufficient time for the election to be concluded in accordance with ~~rule 4.1~~ of this Schedule. Such notice ~~shall~~must specify the method of making nominations, and the latest date by which nominations must be made and lodged with the Rūnanga or such other person as the notice directs.

6.2-5.2. Timing for nominations:

All nominations must be lodged with the Rūnanga no later than 21 days following the date upon which the notice calling for nominations is first given.

6.3-5.3. Form of notice:

All notices given under this rule ~~shall~~must be given in the following manner:

(a) ~~by post~~Private Notice to each Member of Ngāti Mutunga shown on the Ngāti Mutunga Register as entitled to vote at the election of ~~Trustees~~Ngā Kaitiaki (being an Adult Registered Member of Ngāti Mutunga who is recorded on the Ngāti Mutunga Register) and to any other Member of Ngāti Mutunga over the age of 18 years who has made a written request for a ~~notice~~Private Notice; and

~~(b) by newspaper advertisement published on at least 2 separate days and inserted prominently in any major metropolitan newspapers and/or any provincial newspaper circulating in regions where the Rūnanga considers that a significant number of Members of Ngāti Mutunga reside; and~~

~~(c) by such other means as the Rūnanga may determine.~~

~~(b) by Public Notice.~~

6.4.5.4. Inclusion of invitation to register:

~~Any such notice shall~~Any notice under rule 5.3 of this Schedule must also invite applications from qualified persons for inclusion of their names in the Ngāti Mutunga Register.

6.5.5.5. Nomination to be in writing:

The nomination of a candidate for election as a ~~Trustee shall~~Kaitiaki must be in writing signed by not less than five ~~(5)~~ Adult Registered Members of Ngāti Mutunga shown on the Ngāti Mutunga Register as being entitled to vote in respect of the election of that candidate.

6.6.5.6. Consent of nominee:

The consent of each candidate to his nomination ~~shall~~must be endorsed on the nomination paper, provided that a candidate may at any time, by notice to the Rūnanga, withdraw his or her nomination.

7.6. HOLDING OF ELECTIONS

7.1.6.1. Mode of ~~Voting~~voting at ~~Election~~elections:

Subject to rule 6.2 of this Schedule, voting at all elections ~~shall~~must be by way of secret ballot. Voting forms may ~~either~~ be delivered ~~to the Chief Returning Officer by post or:~~

- (a) at a ~~Wahi Pooti. A Wahi Pooti may, to the extent notified in any advertisement issued in accordance with rule 7.2 of this Schedule, Wāhi Pōti which must be available to receive voting forms in respect of the election of Trustees. votes at an annual general meeting (or, in the case of an election required under rules 3.5 or 13.4 of this Schedule, a special general meeting) to be held prior to the close of voting in the election; or~~

7.2. — Wahi Pooti to be held:

- (b) ~~Subject to rule 7.3 of this Schedule, a Wahi Pooti shall be advertised in the newspaper or newspapers circulating in the area where the Wahi Pooti is to be held. Such an advertisement must be run at least 28 days prior to the date of the Wahi Pooti. The Wahi Pooti shall be held on the closing date for the election as determined by the Rūnanga:~~

- (i) ~~by post to the physical address of the Chief Returning Officer notified by the Rūnanga; or~~
- (ii) ~~electronically to a digital or electronic address of the Chief Returning Officer notified by the Rūnanga; or~~
- (iii) ~~by both post and electronically.~~

7.3.6.2. No elections where nominees equal vacancies:

In the event that the total number of nominations of ~~Trustees~~Ngā Kaitiaki is equal to the total number of vacancies, no election ~~shall~~will be necessary and the person or persons nominated ~~shall~~will be deemed to have been duly appointed.

7.4.6.3. Eligibility to vote:

Each Adult Member of Ngāti Mutunga is eligible to vote in an election, provided that:

- (a) each such Adult Member of Ngāti Mutunga will only be eligible to cast one vote in an election; ~~or~~
- (b) each such Adult Member of Ngāti Mutunga is either an Adult Registered Member of Ngāti Mutunga or has completed and sent with their voting form an application form for registration as an Adult Registered Member of Ngāti Mutunga.

7.5.6.4. Provisional votes:

Where an Adult Member of Ngāti Mutunga is not also an Adult Registered Member of Ngāti Mutunga, and has voted in accordance with rule 6.3 of this Schedule:

~~(e)(a)~~ such vote is provisional until such time as the application form for registration as an Adult Registered Member of Ngāti Mutunga is approved by the [Membership Validation Whakapapa](#) Committee as set out in the First Schedule; and

~~(e)(b)~~ where the application form for registration as an Adult Registered Member of Ngāti Mutunga is declined in accordance with the First Schedule, the ~~said~~ vote will be invalidated.

8.7. NOTICE OF ELECTIONS

8.1.7.1. Notice to be given:

Immediately after the closing date for nominations, the Rūnanga ~~shall~~must, where an election is required:

(a) fix a closing date for the election (being the last day upon which a vote may be validly cast in the election); and

~~(b) — subject to rules 7.2 and 8.2, set a date and venue for the Wahi Pōti.~~

~~(b) — subject to rule 7.2 of this Schedule, set a date and venue for the annual general meeting (or in the case of an election required under rules 3.5 and 13.4 of this Schedule, the special general meeting) at which the Wāhi Pōti will be available.~~

8.2.7.2. Period of ~~Notice~~notice:

The Rūnanga ~~shall~~must give not less than 28 ~~days~~days' notice of the closing date for the elections and the method by which votes may be cast as set out in *rule 6.1* of this Schedule.

8.3.7.3. Method of ~~Giving Notice~~giving notice:

Notice under *rule 7.2* of this Schedule ~~shall~~must be given by:

(a) ~~posting notice~~Private Notice to each Member of Ngāti Mutunga shown on the Ngāti Mutunga Register as entitled to vote at the election (being an Adult Registered Member of Ngāti Mutunga who is recorded in the Ngāti Mutunga Register as a Member of Ngāti Mutunga) and to any Adult Member of Ngāti Mutunga who has made a written request for a notice in accordance with *rule (b)6.4(b)* of this Schedule; and

~~(c) — inserting a prominent advertisement on at least 2 separate days in appropriate major metropolitan newspapers and in any provincial newspapers circulating in regions where the Rūnanga considers that a significant number of Members of Ngāti Mutunga reside; and~~

~~(d) — advertising on a radio station or radio stations broadcasting in the district or districts where the Rūnanga considers that a significant number of Members of Ngāti Mutunga reside.~~

~~(b) —~~ Public Notice.

8.4.7.4. General ~~Content~~content of ~~Notices~~notices:

Every notice given in accordance with *rule (a) and (b)7.3* of this Schedule ~~shall~~must contain:

~~(e)(a)~~ a list of the candidates for election as Trustees Kaitiaki;

~~(f) — the date, time and place of the Wahi Pōti; and~~

~~(b) — the date, time and place of the annual general meeting (or, in the case of an election required under rules 3.5 and 13.4 of this Schedule, the special general meeting) at which the Wāhi Pōti will be available; and~~

~~(a)(c)~~ the method by which votes may be cast as set out in *rule 6.1* of this Schedule.

8.5.7.5. Additional ~~Content~~content of ~~Postal~~Private Notice:

Each notice given in accordance with rule ~~(a)~~7.3(a) of this Schedule ~~shall~~must also contain:

(a) a voting form that complies with rule ~~9.4~~7.7 of this Schedule;

~~(g)~~(b) details of the procedure to be followed in making a vote ~~(as applicable)~~ by post ~~or electronically~~, including the date by which the voting form must be received by the Chief Returning Officer; and

~~(h)~~(c) a statement that voting forms may ~~either be posted or delivered to the Chief Returning Officer at a Wāhi Pōti.~~;

(i) to the Chief Returning Officer at the annual general meeting (or, in the case of an election required under rules 3.5 and 13.4 of this Schedule, the special general meeting) at which the Wāhi Pōti will be available; and

(ii) (as applicable) posted to the physical address of the Chief Returning Officer or delivered electronically to the digital or electronic address of the Chief Returning Officer.

8.6.7.6. Additional ~~Information~~information in ~~Notices~~notices:

Each notice given in accordance with rule ~~(b) and (c)~~7.5 of this Schedule ~~shall~~must also give details about how voting forms may be obtained and where any relevant explanatory documents may be viewed or obtained.

9. POSTAL VOTING

9.1.7.7. Other details to accompany vote:

Each voting form must contain information that is sufficient to identify the elector and the voting documents issued to that elector.

8. TIMING OF VOTING

9.2.8.1. Timing of ~~Postal Votes~~votes:

Votes must be made no later than the closing date for voting in the election of ~~the Trustees~~Ngā Kaitiaki to which the ~~postal~~-vote relates. Votes sent by post which are otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than 3~~five~~ days after the closing date for the election, but only if the envelope containing the voting form is date stamped on or before the closing date for the election.

10.9. APPOINTMENT OF CHIEF RETURNING OFFICER

10.1.9.1. Appointment of Chief Returning Officer:

For the purposes of elections, the Rūnanga ~~shall~~must appoint as required a Chief Returning Officer who ~~shall~~must not be a ~~Trustee~~Kaitiaki or employee of the Rūnanga, and who ~~shall~~must be a person of standing within the community. The Chief Returning Officer ~~shall~~will be responsible for co-ordinating ~~Trustee~~Ngā Kaitiaki elections and may appoint such other persons ('nominee') as he or she considers necessary to assist with that task provided that such persons ~~shall~~must also not be ~~Trustees~~Ngā Kaitiaki or employees of the Rūnanga.

10.2.9.2. Chief Returning Officer to receive voting forms:

All postal or electronic voting forms must be addressed to the Chief Returning Officer (as applicable) to the electronic or physical address notified by the Rūnanga.

10.3.9.3. Chief Returning Officer to be present at ~~Wāhi Pōti~~Wāhi Pōti:

~~The Chief Returning Officer or his or her nominee must be present at all times at the Wāhi Pōti.~~ The Chief Returning Officer or his or her nominee;

(a) must be present at all times at the Wāhi Pōti;

(b) ~~will be available to collect any completed voting forms at the Wahi Pooti. The Chief Returning Officer or his or her nominee shall~~ Wāhi Pōti; and

(c) must also ensure that additional voting forms are available at ~~Wahi Pooti~~ the Wāhi Pōti.

10.4.9.4. Only one vote to be cast:

The Chief Returning Officer ~~shall~~ must ensure that appropriate measures are in place to ensure that only one vote is cast by each Adult Registered Member of Ngāti Mutunga and each Adult Member of Ngāti Mutunga who is eligible to vote, and votes, in the relevant election.

10.5.9.5. Recording of votes:

A record ~~shall~~ must be kept by the Chief Returning Officer of all votes received, including separate records of votes received from Adult Registered Members of Ngāti Mutunga and votes received from Adult Members of Ngāti Mutunga.

11.10. COUNTING OF VOTES

11.1.10.1. All votes to be counted:

Upon the expiry of the date for the receipt of ~~postal~~ votes, the Chief Returning Officer ~~shall~~ must record and count all votes validly cast.

11.2.10.2. Certification and notifying election result:

Once all votes have been counted and the result of the election determined by the Chief Returning Officer, the Chief Returning Officer ~~shall~~ must certify the result of the election and communicate the result of the election to the Rūnanga. The Rūnanga ~~shall thereafter advise~~ must then notify the candidates ~~of the result and~~ give notice of the same at result on its website (and by any other means that the Rūnanga determines is appropriate) and note the results at its next annual general meeting of the Rūnanga in accordance with clause 14.1(d).

12.11. RETENTION OF ELECTION RECORDS

12.1.11.1. Compiling and sealing voting records:

The Chief Returning Officer ~~shall~~ must, as soon as practicable after he or she has certified the result of the election, place all voting forms and other voting records into a sealed packet. The Chief Returning Officer ~~shall~~ must endorse upon the sealed packet a description of the contents of that packet together with the final date for voting in that election. The Chief Returning Officer ~~shall~~ must then sign the endorsement and forward the sealed packet to the Rūnanga.

12.2.11.2. Retention and disposal of packets:

Subject to ~~rule 14.1(b)~~ 13.1(b) of this Schedule, the sealed packets received from the Chief Returning Officer ~~shall~~ must be safely kept unopened by the Rūnanga for a period of ~~4~~ one year from the closing date for making votes in the election to which the packet relates. At the expiry of that ~~4~~ one year period the packets ~~shall~~ must be destroyed unopened.

13.12. REVIEW OF ELECTION RESULTS

13.1.12.1. Candidates may seek review:

Any candidate may, within 14 days after the certification of the election result and the giving of notice by the Rūnanga in respect of that election, seek a review of that election.

13.2.12.2. Appointment of Electoral Review Officer:

For the purposes of carrying out reviews in respect of any election the Rūnanga ~~shall~~ must ensure that an Electoral Review Officer is appointed. The Election Review Officer ~~shall~~ will be the person nominated from time to time by the President of the New Plymouth ~~District~~ branch of the New Zealand Law Society or his or her nominee.

13.3.12.3. Electoral Review Officer to conduct reviews:

All reviews ~~shall~~ must be carried out by the Electoral Review Officer from time to time.

13.4.12.4. Form of request for review:

All applications for a review ~~shall~~must be submitted to the Rūnanga and must:

- (a) ~~shall~~ be in writing;
- (b) ~~shall~~ set out the grounds for the review, ~~which grounds shall be set out~~ with sufficient particularity to enable the Electoral Review Officer to ascertain precisely the basis upon which the review is being sought; and
- (c) ~~shall~~ be accompanied by any evidence that the applicant for review has to substantiate the grounds given in the application.

13.5.12.5. Service of application on other candidates:

The application for review and any accompanying evidence ~~shall~~must also be served upon all other candidates in the election to which the review relates, either at the same time, or as close thereto as is possible, as the review application is lodged with the Rūnanga.

13.6.12.6. Costs:

Upon making an application for review the applicant ~~shall~~must also lodge with the Rūnanga the sum of \$500 in lieu of the costs of undertaking the review. That sum ~~shall~~must be held by the Rūnanga pending the outcome of the review application. If the application is successful then the \$500 ~~shall~~must be refunded to the applicant, otherwise it ~~shall~~will be used to off-set the costs of the review.

14.13. CONDUCT OF REVIEW

14.1.13.1. Notification of Electoral Review Officer:

Upon the receipt of an application for review the Rūnanga ~~shall~~must notify the Electoral Review Officer and provide to him or her:

- (a) a copy of the application and any accompanying evidence; and
- (b) the sealed packet of voting forms and other voting documents received from the Chief Returning Officer for that election.

14.2.13.2. Electoral Review Officer to exercise wide powers:

Subject to compliance by the Electoral Review Officer with the rules of natural justice the Electoral Review Officer ~~shall~~will have the power to inquire into and decide upon any matter relating to a review in such manner as he or she thinks fit and may in particular seek such further evidence or reports as he or she deems necessary including any reports or evidence from the Chief Returning Officer for the relevant election.

14.3.13.3. Electoral Review Officer to be guided by substantial merits:

In reaching his or her conclusion on any review the Electoral Review Officer ~~shall~~will be guided by the substantial merits of the application without regard to legal forms or technicalities, including any technical defect in complying with the requirements of this Charter, the intention being that no election ~~shall~~will be declared invalid by reason of such technical defect if the Electoral Review Officer is satisfied that the election was so conducted as to be substantially in compliance with the requirements of this Charter and that such defect did not materially affect the result of the election.

14.4.13.4. Certification of result of review:

At the conclusion of the Electoral Review Officer's consideration of the review he or she ~~shall~~must determine whether the successful candidate, or any other candidate, was duly elected, or whether the election was void and should be conducted again, and ~~shall~~must forthwith certify his or her decision with reasons to the Rūnanga. The Rūnanga ~~shall~~must then give notice of the result of the review and advise the candidates of the outcome.

~~14.5.13.5.~~ **Decision to be final:**

All decisions of the Electoral Review Officer ~~shall~~will be final and there ~~shall~~will be no other rights of review or appeal granted by the Rūnanga.

15.14. TERMINATION OF OFFICE OF ~~TRUSTEES~~NGĀ KAITIAKI

~~15.1.14.1.~~ **Termination of office of ~~Trustees~~Ngā Kaitiaki:**

Notwithstanding the forgoing rules of this Schedule, a ~~Trustee shall~~Kaitiaki will cease to hold office if he or she:

- (a) retires from office by giving written notice to the Rūnanga;
- (b) completes his or her term of office and is not reappointed;
- (c) refuses to act;
- (d) is absent without leave from ~~3~~three consecutive ordinary meetings of ~~the Trustees~~Ngā Kaitiaki without good reason or without the permission of the Chairperson;
- (e) becomes physically or mentally incapacitated to the extent that he or she is unable to perform the duties of a ~~Trustee~~Kaitiaki;
- (f) becomes bankrupt or makes any composition or arrangement with his or her creditors;
- ~~(g) is convicted of an indictable offence; or~~
- ~~(g) has within the last 3 years been becomes disqualified from holding office under rules 2.2 (a) to (g) or 2.3 of this Schedule; or~~

~~(a)(h)~~ is removed from the office of ~~Trustee~~Kaitiaki in accordance with *clause 1.1*.

16.15. RECORD OF CHANGES OF ~~TRUSTEES~~NGĀ KAITIAKI

~~16.1.15.1.~~ **Record of changes of ~~Trustees~~Ngā Kaitiaki:**

Upon:

- ~~(a) the notification of every appointment, retirement, re-appointment or termination of office of any ~~Trustee, Kaitiaki~~; and upon the appointment, or revocation~~
- ~~(b) the issue of the appointment, a certificate by any ~~Trustee of an alternate~~an Electoral Review Officer that a successful candidate was duly elected or the election was void and should be conducted again, under rule ~~14~~13.4 of this Schedule,~~

the Rūnanga will ensure that an entry is made in the minute book of the Rūnanga to that effect.

THIRD SCHEDULE PROCEEDINGS OF TRUSTEES Ngā Kaitiaki

1. TRUSTEES Ngā Kaitiaki TO REGULATE MEETINGS

~~The Trustees shall~~ Ngā Kaitiaki will meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Any three Trustees Ngā Kaitiaki may at any time by notice in writing to the Rūnanga summon a meeting of ~~the Trustees Ngā Kaitiaki~~ and the Rūnanga ~~shall~~ must take such steps as are necessary to convene such meeting.

2. NOTICE OF MEETING

2.1. **Notice to Trustees Ngā Kaitiaki:**

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

2.2. **Content of notice:**

Every notice of a meeting ~~shall~~ must 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 Trustees Ngā Kaitiaki~~ 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~~ may be transacted at any meeting of Trustees Ngā Kaitiaki other than the business expressly referred to in the notice calling the meeting.

2.5. **Deficiency of notice:**

Subject to *rule 2.4* of this Schedule, no deficiency in the giving of notice for any meeting of ~~Trustees shall~~ Ngā Kaitiaki will otherwise invalidate such meeting or the proceedings at such meeting.

3. QUORUM

3.1 ~~Three Trustees shall~~ A majority of Ngā Kaitiaki will constitute a quorum at meetings of ~~the Trustees Ngā Kaitiaki~~.

4. CHAIRPERSON AND DEPUTY CHAIRPERSON

4.1. Trustees Ngā Kaitiaki to elect:

At the first meeting of ~~the Trustees Ngā Kaitiaki~~ following ~~an election the Trustees shall~~ the annual general meeting in each year Ngā Kaitiaki must appoint one of their number to be chairperson ("Chairperson") and (at their discretion) one to be deputy chairperson ("Deputy Chairperson"). The Chairperson and Deputy Chairperson must have each previously served for at least one term three years as a Kaitiaki before being appointed as Chairperson (or Deputy Chairperson).

4.2. **Voting on election:**

Where there is more than one candidate for Chairperson (or as the case may be Deputy Chairperson) then a vote will be taken and the person receiving the most votes in favour of his or her appointment will become Chairperson (or Deputy Chairperson).

4.3. **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 ~~Trustee~~TrusteesNgā Kaitiaki or is removed from office by ~~the TrusteesNgā Kaitiaki~~ 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 election ~~shall~~must be held for the position.

5. PROCEEDINGS AT MEETINGS

5.1. **Decisions by majority vote:**

Unless stated otherwise in this Charter, questions arising at any meeting of ~~Trustees~~TrusteesNgā Kaitiaki ~~will~~ be decided by a majority of votes. In the case of an equality of votes, the Chairperson ~~shall~~will have a second or casting vote.

5.2. **Chairperson:**

The Chairperson ~~shall~~must take the chair at all the meetings of ~~the TrusteesNgā Kaitiaki~~. If the Chairperson is not present then the Deputy Chairperson, if there is one, ~~shall~~must take the Chair. If there is no Deputy Chairperson or the Deputy Chairperson is also not present then ~~the TrusteesNgā Kaitiaki~~ present ~~shall~~must elect one of their number to be Chairperson of the meeting.

5.3. **Vacancies:**

~~The TrusteesNgā Kaitiaki~~ 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 ~~TrusteesNgā Kaitiaki~~ may act only for the purpose of advising of the vacancy and taking the steps necessary to procure the election of new ~~TrusteesNgā Kaitiaki~~ to fill any vacancy or vacancies, and for no other purpose.

5.4. **Defects of appointment:**

All acts done by any meeting of ~~the TrusteesNgā Kaitiaki~~ or of any committee ~~shall~~will, notwithstanding that it is afterwards discovered that there was some defect in the appointment of such ~~Trustee~~TrusteesNgā Kaitiaki 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 ~~TrusteesNgā Kaitiaki~~ 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.

6. DELEGATION BY ~~TRUSTEES~~TRUSTEESNgā KAITIAKI

6.1. **~~TrusteesNgā Kaitiaki~~ may delegate:**

~~The TrusteesNgā Kaitiaki~~ may from time to time as they think expedient for carrying out any of the ~~Runanga's~~Runanga Purposes delegate any one or more of their powers under this Charter to a committee, ~~Trustee~~TrusteesNgā Kaitiaki, employee or other person.

6.2. **~~TrusteesNgā Kaitiaki~~ to remain responsible:**

Notwithstanding the delegation by ~~the TrusteesNgā Kaitiaki~~ of any of their powers under *rule* 6.1 of this Schedule, ~~the Trustees~~TrusteesNgā Kaitiaki ~~shall~~will remain responsible for the exercise of that power by the delegate as if ~~the TrusteesNgā Kaitiaki~~ had exercised the power themselves, unless ~~the TrusteesNgā Kaitiaki~~:

- (a) believed on reasonable grounds when making the delegation that the delegate would exercise the power in accordance with the provisions of this Charter and the duties owed by ~~the TrusteesNgā Kaitiaki~~ in the exercise of their office under this Charter; 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 Charter, any committee established by ~~the Trustees~~Ngā Kaitiaki 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 Trustees~~Ngā Kaitiaki of all persons co-opted to the committee.

7. RESOLUTIONS

- 7.1 A written resolution signed by all ~~the Trustees~~Ngā Kaitiaki or by all the members of a committee ~~shall~~will be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of ~~the Trustees~~Ngā Kaitiaki 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 Trustees~~Ngā Kaitiaki or members of the committee (as the case may be).

8. MINUTES

8.1. Minutes to be kept:

~~The Trustees shall~~Ngā Kaitiaki must keep a proper record in a minute book of all decisions taken and business transacted at every meeting of ~~the Trustees~~Ngā Kaitiaki.

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~~Chairperson of that meeting ~~shall~~will be evidence of those proceedings.

8.3. Minutes to be evidence of proper conduct:

Where minutes of the proceedings at a meeting of ~~the Trustees~~Ngā Kaitiaki have been made in accordance with the provisions of this *rule 8* then, until the contrary is proved, the meeting ~~shall~~will be deemed to have been properly convened and its proceedings to have been properly conducted.

9. TELECONFERENCE MEETINGS

- 9.1 For the purposes of these rules a teleconference (or other audio or audio-visual communication) meeting between a number of ~~Trustees~~Ngā Kaitiaki or committee members who constitute a quorum ~~shall~~will be deemed to constitute a meeting of ~~the Trustees~~Ngā Kaitiaki or the committee members (as the case may be). All the provisions in these rules relating to meetings ~~shall~~will apply to teleconference meetings so long as the following conditions are met:

- (a) all of ~~the Trustees~~Ngā Kaitiaki or committee members (as the case may be) for the time being entitled to receive notice of a meeting ~~shall~~will be entitled to notice of a ~~Teleconference Meeting~~teleconference meeting and to be linked for the purposes of such a meeting. Notice of a ~~Teleconference Meeting~~teleconference meeting may be given on the telephone;
- (b) throughout the ~~Teleconference Meeting~~teleconference meeting each participant must be able to hear each of the other participants taking part;
- (c) at the beginning of the ~~Teleconference Meeting~~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~~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~~will be conclusively presumed to have been present and to have formed part of the quorum at

all times during the ~~Teleconference Meeting~~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~~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.

DRAFT

10. ATTENDANCES OF MEMBERS

10.1. Attendance at Rūnanga meetings

Members of Ngāti Mutunga may attend meetings of the Rūnanga on notice and at the discretion of the Chairperson.

10.2. Participation at Rūnanga meetings

Members of the Rūnanga must not actively participate at meetings of the Rūnanga without the prior approval of the Chairperson.

DRAFT

FOURTH SCHEDULE PROCEDURE FOR PASSING SPECIAL RESOLUTION

1. THIS SCHEDULE TO APPLY

1.1. A Special Resolution to:

- (a) approve a Major Transaction in accordance with *clause 2.5*;
 - (b) amend this Charter in accordance with *clause 26*;
 - (c) terminate the Rūnanga in accordance with *clause 27*; ~~or~~
 - (d) dispose of Income Shares or Settlement Quota in accordance with *clause 31*; or
 - (e) shall recognise a new Mandated Iwi Organisation in place of the Rūnanga in accordance with clause 32
- may only be passed as set out in this Schedule.

2. ~~POSTAL VOTING AND ON~~ SPECIAL ~~GENERAL MEETING~~ RESOLUTIONS

2.1. ~~2.1~~ Voting on a Special Resolution ~~shall will~~ occur ~~either~~ by:

- (a) placing voting forms into a ~~ballet box~~ Wāhi Pōti in person at the special general meeting held for the purposes of considering the Special Resolution, ~~or; and~~
- (b) as determined by the Rūnanga:
 - (i) by post, to a physical address of the Chief Returning Officer notified by the Rūnanga; or
 - (ii) electronically to a digital or electronic address of the Chief Returning Officer notified by the Rūnanga; or
 - (iii) by both post and electronically.

3. VOTING

3.1. **Approval for a Special Resolution:**

Subject to *rules 3.2 and 3.3* of this Schedule, in order for a Special Resolution to be passed it must receive the approval of not less than 75% of those Adult Registered Members of Ngāti Mutunga who validly cast a vote in favour of the proposed Special Resolution in accordance with this Schedule.

3.2. **Specific Special Resolution:**

In order for Special Resolutions to be passed which relate to amendments to this Charter in accordance with *clause 26* ~~and~~, disposal of Income Shares or Settlement Quota in accordance with *clause 31* and recognition of a new mandated iwi organisation in place of the Rūnanga in accordance with clause 32, they must receive the approval of not less than 75% of those Adult Registered Members of Ngāti Mutunga and those Adult Members of Ngāti Mutunga who validly cast a vote in favour of the proposed Special Resolution in accordance with this Schedule.

3.3. **Eligibility to vote on specific Special Resolutions:**

Each Adult Member of Ngāti Mutunga is eligible to vote in accordance with *rule 3.2* of this Schedule, provided that:

- (i) each such Adult Member of Ngāti Mutunga will only be eligible to cast one vote;

- (ii) each such Adult Member of Ngāti Mutunga must complete an application form for registration as an Adult Registered Member of Ngāti Mutunga, and may also make a written request to receive Private Notice of any special general meetings and ~~for postal ballot papers relating to rules 1.1(b) and 1.1(d), postal or electronic ballot papers relating to rules 1.1(b), 1.1(d) and 1.1(e) of this schedule,~~ at the same time that they complete their voting form;
- (iii) such vote is provisional until such time as the ~~said~~ application form for registration as an Adult Registered Member of Ngāti Mutunga is approved by the ~~Membership Validation Whakapapa~~ Committee as set out in the First Schedule; and
- (iv) where the ~~said~~ application form for registration as an Adult Registered Member of Ngāti Mutunga is declined in accordance with the First Schedule, the ~~said~~ vote will be invalidated.

4. SPECIAL GENERAL MEETING REQUIRED

- 4.1 A special general meeting of the Rūnanga must be called for the purposes of considering one or more Special Resolutions. No other business may be transacted at such special general meeting.

5. NOTICE

5.1. Notice of special general meeting:

The Rūnanga ~~shall~~must give not less than ~~twenty-eight (28) days~~ days notice of the date, time and place of the special general meeting called for the purposes of considering any Special Resolution (with the intent that notice of the postal and/or electronic vote and the special general meeting ~~shall~~must be given in the same notice).

5.2. Method of giving notice:

Notice of a special general meeting called for the purposes of considering a Special Resolution ~~shall~~must be by:

- (a) ~~in writing and posted~~ Private Notice to ~~all Adult Registered Member~~ each Member of Ngāti Mutunga ~~at the last address shown for each such on the Ngāti Mutunga Register as entitled to vote (being an Adult Registered Member of Ngāti Mutunga or who is recorded in the Ngāti Mutunga Register as a Member of Ngāti Mutunga)~~ and to any Adult Member of Ngāti Mutunga who has made a written request for a notice in accordance with ~~rule (ii)~~ rule 3.3(ii) of this Schedule; and

~~(b) advertised prominently in any major metropolitan newspapers circulating in New Zealand and in any provincial newspapers circulating in regions where the Rūnanga consider that a significant number of Members of Ngāti Mutunga reside.~~

(b) Public Notice.

5.3. Content of notice to members:

All ~~notices~~ Private Notices given in accordance with ~~rule (a)~~ rule 5.2(a) of this Schedule ~~shall~~must contain:

- (a) the date, time and place of the special general meeting where a Wāhi Pōti will be available, called for the purposes of considering the Special Resolution;

(b) the agenda for the meeting;

~~(b)(c)~~ details of the proposed Special Resolution;

~~(e)(d)~~ details of the reasons for the proposed Special Resolution and the effect that the Special Resolution will have;

~~(d)~~(e) details of the procedure to be followed in making ~~a~~ postal ~~vote~~ and/or electronic votes, including the date ~~postal~~ and time at which voting closes;

~~(e)~~(f) a statement ~~that postal~~ about how completed votes may ~~either~~ be delivered to the Chief Returning Officer at the special general meeting, ~~or posted; and~~ and by post or electronic means in accordance with rule 2.1 of this Schedule;

~~(f)~~(g) a voting form—; and

(h) in the case of a Special Resolution relating to rule 1.1(e) of this Schedule:

(i) that a vote is to be taken to approve the proposal to have the new organisation recognised in place of the Rūnanga; and

(ii) if the new organisation seeks recognition as a mandated iwi organisation by meeting the criteria in section 14 of the Māori Fisheries Act 2004, that a vote is to be taken to ratify the constitutional documents of the new organisation; and

(i) any other information specified by or under the Māori Fisheries Act 2004.

5.4. **Content of ~~advertisement~~Public Notices:**

All ~~advertisements published in accordance with rule (b) shall~~Public Notices must contain—;

~~(g)~~(a) the matters referred in rule (a) and (b) 5.3(a), 5.3(b) and 5.3(c) together with details of how and where any further information can be obtained—; and

(b) ~~POSTAL VOTING~~in the case of a Special Resolution relating to rule 1.1(e) of this Schedule, the information set out in rules 5.3(h) and (i) and of this Schedule.

~~6.~~

~~6.1.5.5.~~ **Other details to accompany vote:**

Each voting form must contain sufficient information to identify the voter and the voting documents issued to that voter.

6. TIMING OF VOTING

~~6.2.6.1.~~ **Timing of ~~Postal Votes~~votes:**

Votes must be cast no later than the closing date for voting. Votes sent by post which are otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than three days after the closing date, but only if the envelope containing the voting form is date stamped on or before the closing date for voting ~~closes~~.

~~6.3.6.2.~~ **~~Postal Votes~~ may be received at the special general meeting:**

Voting forms may be delivered to the Chief Returning Officer at the special general meeting, rather than being posted— or sent electronically.

7. APPOINTMENT OF CHIEF RETURNING OFFICER

7.1. **Appointment of Chief Returning Officer:**

For the purposes of the Special Resolution, the Rūnanga ~~shall~~must appoint a Chief Returning Officer who ~~shall~~must not be a ~~Trustee~~Kaitiaki or employee of the Rūnanga, and who ~~shall~~must be a person of standing within the community.

7.2. **Chief Returning Officer to receive voting forms:**

Voting forms must be—;

(a) placed into the Wāhi Pōti provided at the special general meeting; or

(b) addressed to the Chief Returning Officer at the physical or electronic address notified by the Rūnanga.

7.3. **Chief Returning Officer to be present at ~~Special General Meetings~~special general meeting:**

The Chief Returning Officer must be present at the special general meeting. The Chief Returning Officer will be available to collect any completed voting forms at the special general meeting. The Chief Returning Officer ~~shall~~must also ensure that additional voting forms are available at the special general meeting.

7.4. **Only one vote to be cast:**

The Chief Returning Officer must ensure that appropriate measures are in place to ensure that only one vote is cast by each Adult Registered Member of Ngāti Mutunga and/or each Adult Member of Ngāti Mutunga as the case may be who votes on the ~~special resolution~~Special Resolution.

7.5. **Recording of votes:**

A record ~~shall~~must be kept by the Chief Returning Officer of all votes received.

8. COUNTING OF VOTES

8.1. **All votes to be counted:**

Upon the expiry of the date for the receipt of votes, the Chief Returning Officer ~~shall~~must record and count all votes validly cast, provided that a vote by an Adult Member of Ngāti Mutunga ~~shall~~will not be counted or valid until ~~rules 7.53.3(i) to (iii) of the Second~~rules 7.53.3(i) to (iii) of this Schedule ~~is~~have been complied with.

8.2. **Certification and notifying result:**

Once all votes have been counted and the result of the Special Resolution determined by the Chief Returning Officer, the Chief Returning Officer ~~shall~~must certify the result of the Special Resolution and communicate the result to the Rūnanga.

9. PROCEEDINGS AT SPECIAL GENERAL MEETING

9.1 Except as otherwise set out in this Schedule the provisions of *clause 14* ~~shall~~will apply to the holding of any special general meeting called for the purposes of considering a Special Resolution and the meeting ~~shall~~must be conducted accordingly.

SIGNED BY JAMIE TUUTA as an Initial Trustee

In the presence of:

(Signature)

Name: _____

Occupation: _____

Address: _____

SIGNED BY HURIMOANA (PADDY) HAAMI as an Initial Trustee

In the presence of:

(Signature)

Name: _____

Occupation: _____

Address: _____

SIGNED BY MIRIAMA EVANS as an Initial Trustee

In the presence of:

(Signature)

Name: _____

Occupation: _____

Address: _____

SIGNED BY EWAI TUUTA as an Initial Trustee

In the presence of:

(Signature)

Name: _____

Occupation: _____

Address: _____

SIGNED BY LEWIS CALLAGHAN as an Initial Trustee

In the presence of:

(Signature)

Name: _____

Occupation: _____

Address: _____

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