
Te Putea Whakatupu Trust Deed

TE OHU KAI MOANA TRUSTEE LIMITED (Te Ohu)

TE PUTEA WHAKATUPU TRUSTEE LIMITED (Te Putea
Whakatupu Trustee)

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Date:

PARTIES

Te Ohu Kai Moana Trustee Limited a company formed under the Companies Act 1993 as required by section 33(2) of the Maori Fisheries Act (*Te Ohu*)

Te Putea Whakatupu Trustee Limited a company formed under the Companies Act 1993 as required by section 80(2) of the Maori Fisheries Act (*Te Putea Whakatupu Trustee*)

BACKGROUND

- A. Under section 79 of the Maori Fisheries Act, Te Ohu must establish a trust for the purpose set out in section 81 of that Act.
- B. Te Putea Whakatupu Trustee has been formed under the Companies Act 1993 in accordance with section 80 of the Maori Fisheries Act.
- C. In accordance with sections 90 and 137(1)(a) of the Maori Fisheries Act, certain moneys must be paid or may be paid to Te Putea Whakatupu Trustee by Te Ohu to be held by Te Putea Whakatupu Trustee subject to the Maori Fisheries Act and to the trusts and other provisions set out in this deed.

NOW THIS DEED RECORDS:

1 DEFINITIONS AND CONSTRUCTION

1.1 Defined terms

In this deed, unless the context requires otherwise:

Fisheries has the meaning given to it in section 5 of the Maori Fisheries Act;

Fishing has the meaning given to it in section 5 of the Maori Fisheries Act;

Investment Plan means the proposed investment of the Trust Fund capital;

Iwi has the meaning given to it in section 5 of the Maori Fisheries Act;

Mandated Iwi Organisation has the meaning given to it in section 5 of the Maori Fisheries Act;

Maori Fisheries Act means the Maori Fisheries Act 2004;

Reserved Power means a power described in the Schedule;

Te Ohu Kai Moana means the Trust established in accordance with section 31 of the Maori Fisheries Act;

Te Ohu means Te Ohu Kai Moana Trustee Limited, the corporate trustee of Te Ohu Kai Moana, established as required by section 33(2) of the Maori Fisheries Act;

Te Putea Whakatupu Trust means the Trust established by this deed, in accordance with section 79 of the Maori Fisheries Act;

Te Putea Whakatupu Trustee means Te Putea Whakatupu Trustee Limited, the corporate trustee of Te Putea Whakatupu Trust, established as required by section 80 of the Maori Fisheries Act; and

Trust Fund means the payments made by Te Ohu to Te Putea Whakatupu Trustee in accordance with section 90 of the Maori Fisheries Act and includes any related earnings or capital gains and any other money, investments or other property, rights, or commitment received or acquired by Te Putea Whakatupu Trustee with the intention that it be held by Te Putea Whakatupu Trustee subject to the trusts and other provisions set out in this deed.

1.2 **Maori Fisheries Act terms**

Expressions used in this deed and defined in the Maori Fisheries Act (whether generally, or for the purposes of one or more particular provisions) have the same meaning given to them by the Maori Fisheries Act as it may be amended from time to time.

1.3 **Construction**

In the construction of this deed, unless the context requires otherwise, a reference to an enactment is a reference to that enactment as amended from time to time, and to any enactment made in substitution or consolidation of that enactment.

1.4 **Precedence of Maori Fisheries Act**

To the extent that a provision of this deed is inconsistent with the Maori Fisheries Act the provision has no effect.

2 **CREATION OF TE PUTEA WHAKATUPU TRUST**

2.1 **Creation of trust**

By this deed Te Ohu establishes a trust called Te Putea Whakatupu Trust.

2.2 **Declaration of trusts**

Te Putea Whakatupu Trustee acknowledges that it is the trustee of Te Putea Whakatupu Trust and that it holds and will distribute the Trust Fund upon the

trusts and with the powers and duties set out in this deed, the Maori Fisheries Act, the constitution of Te Putea Whakatupu Trustee, and at general law.

3 PURPOSE OF TE PUTEA WHAKATUPU TRUST

3.1 The purpose of Te Putea Whakatupu Trust is to hold and manage the Trust Fund on trust for and on behalf of the beneficiaries under the Deed of Settlement, in order to promote education, training, and research, including matters that relate to Fisheries, Fishing, and fisheries-related activities, but not in a manner that could adversely affect the charitable status (if any) of the Trust.

3.2 In achieving the purpose of Te Putea Whakatupu Trust, Te Putea Whakatupu Trustee must:

- (a) manage the Trust Fund; and
- (b) distribute the annual trust income for activities that include:
 - (i) promoting educational and training programmes, courses, and schemes within New Zealand for Maori, with a view to providing educational and training opportunities, including those that have application to the fishing industry;
 - (ii) funding the development of skills of Maori, including those relevant to the fishing industry;
 - (iii) promoting the advancement of Maori by:
 - (A) offering or funding scholarships and grants to enable Maori students to meet the entry requirements of wananga, universities, or other tertiary institutions in New Zealand or overseas; and
 - (B) establishing scholarships and grants, or funding wananga, universities or other tertiary institutions in New Zealand to offer scholarships and grants, with a view to encouraging Maori to develop their education and skills;
 - (iv) promoting research and development by wananga, universities, or other tertiary institutions in New Zealand or overseas into (but not limited to):
 - (A) the involvement of Maori in Fishing and fisheries-related activities; and
 - (B) matters affecting Maori fishing;

- (v) facilitating access of Maori working in, or wishing to work in, industry (including the fishing industry), to:
 - (A) education and training courses; and
 - (B) conferences, presentations, and other learning experiences;
- (vi) other activities that are necessary to foster or promote the activities set out in clauses 3.2(b)(i) to (v).

4 **BENEFITS OF TE PUTEA WHAKATUPU TRUST**

The benefits of Te Putea Whakatupu Trust must be made available as widely as possible to all Maori, having regard to:

- 4.1 the extent to which Mandated Iwi Organisations are providing, or are able to provide, benefits for members of their Iwi that are the same or similar to those that are able to be provided by Te Putea Whakatupu Trustee; and
- 4.2 the interests of Maori who:
 - (a) do not associate with their Iwi; or
 - (b) do not receive benefits from a Mandated Iwi Organisation.

5 **CAPACITY OF TE PUTEA WHAKATUPU TRUSTEE**

5.1 **General Capacity**

For the purpose of performing its functions and duties under this Deed, the Maori Fisheries Act or any other Act, Te Putea Whakatupu Trustee:

- (a) has full powers to act in its role as the trustee of Te Putea Whakatupu Trust;
- (b) is empowered to make all decisions of Te Putea Whakatupu Trust;
- (c) may perform any functions or exercise any powers conferred on it or Te Putea Whakatupu Trust by the Maori Fisheries Act or any other Act;
- (d) subject to the restrictions in clauses 5.2 and 5.3, has full capacity to do any act or enter into any transaction; and
- (e) for the purposes of paragraph (d) has full rights, powers and privileges.

5.2 **General Restrictions**

Clauses 5.1(d) and (e) apply subject to:

- (a) the provisions of the Maori Fisheries Act and any other enactment;
- (b) this deed (and in particular the restrictions in clause 5.3) and the constitution of Te Putea Whakatupu Trustee; and
- (c) the general law.

5.3 **Specific Restrictions**

Te Putea Whakatupu Trustee must not:

- (a) undertake any business other than what is necessary for the purpose of the Te Putea Whakatupu Trust; or
- (b) expend or distribute trust capital, except on termination of the Te Putea Whakatupu Trust.

5.4 **Te Putea Whakatupu Trustee's Reserved Powers**

- (a) Te Putea Whakatupu Trustee has the Reserved Powers specified in the Schedule, but may exercise those powers only with the prior written approval of Te Ohu.
- (b) In seeking approval, Te Putea Whakatupu Trustee must give Te Ohu written notice of its intention to exercise the particular Reserved Power. It must also state in the notice details of the manner in which it intends to exercise the Reserved Power.
- (c) Any person dealing with Te Putea Whakatupu Trustee may assume without enquiry that Te Putea Whakatupu Trustee has complied with the provisions of clause 5.4(b) in exercising any Reserved Power and that Te Ohu has given its approval.
- (d) The granting or withholding of approval by Te Ohu under clause 5.4:
 - (i) is not a fiduciary power; and
 - (ii) does not make Te Ohu Kai Moana, Te Ohu, or any director of Te Ohu liable for any act or omission of Te Putea Whakatupu Trustee.
- (e) Within 14 days of receiving Te Putea Whakatupu Trustee's notice, or within such longer period nominated by Te Ohu and advised to Te Putea Whakatupu Trustee before the end of the 14 day period, Te Ohu must give Te Putea Whakatupu Trustee written notice of Te Ohu's decision either

granting or withholding approval. Te Ohu is not obliged to state reasons for its decision.

- (f) If Te Ohu fails to give a written notice to Te Putea Whakatupu Trustee in accordance with clause 5.4(e), Te Ohu is to be regarded as having declined its approval.
- (g) Having obtained Te Ohu's written approval, Te Putea Whakatupu Trustee may exercise the Reserved Power, but strictly in accordance with the approval.
- (h) Te Ohu may from time to time give a direction to Te Putea Whakatupu Trustee that Te Putea Whakatupu Trustee may act on any matter or class of matter only with the prior written approval of Te Ohu. Upon the receipt of such direction, Te Putea Whakatupu Trustee must amend this deed (within the time frame stipulated in clause 1.2 of the Schedule) by adding those notified matters or classes of matters to the Reserved Powers in the Schedule.

6 OBLIGATIONS OF TE PUTEA WHAKATUPU TRUSTEE

6.1 Records

Te Putea Whakatupu Trustee must maintain complete and accurate records, including:

- (a) minutes of meetings of Te Putea Whakatupu Trustee or of any committee appointed by Te Putea Whakatupu Trustee;
- (b) copies of any resolutions of Te Putea Whakatupu Trustee; and
- (c) complete and accurate books and accounts.

6.2 Decisions and disclosure

- (a) Te Putea Whakatupu Trustee must record all material decisions taken by Te Putea Whakatupu Trustee.
- (b) Reasons for Te Putea Whakatupu Trustee's decisions must be disclosed to Te Ohu Kai Moana, but Te Putea Whakatupu Trustee is not otherwise obliged to disclose any reasons for its decisions, unless required to do so by order of the Court.

6.3 Dealing with Trust money

- (a) Te Putea Whakatupu Trustee must ensure that all money received by or on behalf of Te Putea Whakatupu Trust is paid immediately to the credit of Te

Putea Whakatupu Trust in an account or accounts with a bank or banks selected from time to time by Te Putea Whakatupu Trustee.

- (b) All cheques and other negotiable instruments, withdrawal slips and receipts for money and transfers must be signed, drawn, accepted, endorsed or otherwise executed or authorised (as the case may be) on behalf of Te Putea Whakatupu Trust in such manner as Te Putea Whakatupu Trustee decides from time to time.
- (c) Te Putea Whakatupu Trust may set off any amount owing by any person to Te Putea Whakatupu Trustee against any payment it would otherwise make to that person.

6.4 **Reliance on others**

- (a) Te Putea Whakatupu Trustee, when exercising powers or performing duties as a trustee, may rely on reports, statements, financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - (i) an employee of Te Putea Whakatupu Trust or the Te Ohu Kai Moana group whom Te Putea Whakatupu Trustee believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (ii) a professional adviser or expert in relation to matters which Te Putea Whakatupu Trustee believes on reasonable grounds to be within the person's professional or expert competence;
 - (iii) a director of Te Putea Whakatupu Trustee, or committee of directors of Te Putea Whakatupu Trustee, in relation to matters within the director's or committee's designated authority.
- (b) Clause 6.4(a) applies to Te Putea Whakatupu Trustee only if Te Putea Whakatupu Trustee:
 - (i) acts in good faith; and
 - (ii) makes proper inquiry where the need for inquiry is indicated by the circumstances; and
 - (iii) has no knowledge that such reliance is unwarranted.

7 ANNUAL PLAN

7.1 Annual plan must be prepared and approved

The directors of Te Putea Whakatupu Trustee must, prior to the commencement of each financial year, prepare, and obtain the approval of Te Ohu for, an annual plan that includes the information specified in clause 7.2.

7.2 Content of annual plan

The annual plan must specify the following information:

- (a) the strategic vision of Te Putea Whakatupu Trust, including details of how Te Putea Whakatupu Trust will further the purpose set out in clause 3;
- (b) the distribution policy of Te Putea Whakatupu Trustee; and
- (c) the budget for Te Putea Whakatupu Trustee; and
- (d) any investment plan of Te Putea Whakatupu Trustee; and
- (e) the administrative services available to Te Putea Whakatupu Trustee.

8 REPORTING, ACCOUNTING AND AUDIT OBLIGATIONS

8.1 Financial Year

The financial year of the Te Wai Maori Trust is the period of 12 consecutive months commencing on 1 October.

8.2 Annual report

- (a) The directors of Te Putea Whakatupu Trustee must report to Te Ohu, within four months after the end of each financial year, on:
 - (i) the performance of Te Putea Whakatupu Trustee, assessed against its approved annual plan;
 - (ii) distributions made by Te Putea Whakatupu Trustee, assessed against its distribution policy;
 - (iii) investments made (if any) and returns on investments (if any); and
 - (iv) any matter required by Te Ohu in order to meet its reporting obligations.

- (b) The annual report must contain audited financial statements (including separate accounts of Te Putea Whakatupu Trustee's activities and distributions).

8.3 **Separate accounts**

The directors of Te Putea Whakatupu Trustee must keep separate accounts for and report separately on:

- (a) the distributions made by Te Putea Whakatupu Trustee;
- (b) the cost of administering Te Putea Whakatupu Trust; and
- (c) the cost of administering the distributions; and
- (d) the fees (in bands of \$10,000) and reimbursing allowances or actual and reasonable expenses paid to the directors of Te Putea Whakatupu Trustee; and
- (e) contracts for service entered into by Te Putea Whakatupu Trustee or any of its directors.

8.4 **Financial statements must be audited**

Te Putea Whakatupu Trustee must ensure that the financial statements of Te Putea Whakatupu Trust for each financial year are audited by a chartered accountant in public practice.

8.5 **Six monthly reporting**

Te Putea Whakatupu Trustee must (in relation to each six month period immediately following the end of each financial year) provide to Te Ohu:

- (a) unaudited interim financial statements; and
- (b) a report which details the extent to which Te Putea Whakatupu Trustee has performed against its approved annual plan for that period; and
- (c) assistance funding granted by Te Putea Whakatupu Trustee; and
- (d) such other information as Te Ohu directs.

9 **REMUNERATION AND EXPENSES OF DIRECTORS**

The directors of Te Putea Whakatupu Trustee are entitled to be paid fees and reimbursing allowances or actual and reasonable expenses in accordance with the provisions included in the annual plan of Te Ohu and payable by Te Putea

Whakatupu Trustee as contemplated by section 37(f)(ii) of the Maori Fisheries Act.

10 **AUDIT OF TE PUTEA WHAKATUPU TRUSTEE**

- (a) Not later than 4 years after the commencement of the Maori Fisheries Act (which occurred on 26 September 2004), Te Putea Whakatupu Trustee must arrange for an audit of Te Putea Whakatupu Trustee as required by section 105(1)(c) of the Maori Fisheries Act.
- (b) Subsequent audits of Te Putea Whakatupu Trustee must be arranged and conducted in accordance with section 106 of the Maori Fisheries Act, if required.
- (c) The audits to be carried out under this clause 10 must consider and report on the matters set out in section 108 of the Maori Fisheries Act.
- (d) As required by section 111(1) of the Maori Fisheries Act, the audits to be carried out under this clause 10 must also consider and report on the contribution that Te Putea Whakatupu Trustee has made towards promoting education, training, and research in relation to Maori involvement in Fisheries, Fishing, and fishing-related activities.
- (e) Not later than 40 working days after receiving an audit report from an audit carried out under this clause 10, Te Putea Whakatupu Trustee must follow the procedure set out in section 112 of the Maori Fisheries Act.

11 **INCOME TRUSTS**

11.1 **Power to pay or appropriate income**

Subject to clause 11.2, Te Putea Whakatupu Trustee may pay or appropriate, or decide to pay or appropriate, as much of the income arising from the Trust Fund in a financial year as it considers appropriate for or towards the purpose of Te Putea Whakatupu Trust by way of distributions to Maori, Mandated Iwi Organisations and other Maori organisations for the purpose of Te Putea Whakatupu Trust.

11.2 **Provisions relating to payments and appropriations of income**

- (a) In respect of any financial year, Te Putea Whakatupu Trustee may not make any payments or appropriations (including by way of grants of assistance) under clause 11.1 until its annual plan in relation to that financial year has been approved by Te Ohu, and then only in accordance with that approved annual plan.

- (b) In any financial year, Te Putea Whakatupu Trustee may appropriate all or part of the income derived or to be derived from the Trust Fund during that Financial Year even though, at the time of appropriation, it has not received the income being appropriated.
- (c) If Te Putea Whakatupu Trustee appropriates any income for the purpose of Te Putea Whakatupu Trust the recipient of that income takes an absolute and indefeasible interest in that income as from the date on which it is appropriated.

11.3 Provisions relating to grants of assistance

- (a) Te Putea Whakatupu Trustee may impose such conditions as it thinks fit in making any grants of assistance under clause 11.1, including (but not limited to) the provision of information by the recipient of the grant in relation to:
 - (i) performance targets; and
 - (ii) progress against those targets; and
 - (iii) the receipt and use of the grant; and
 - (iv) financial statements and reports.
- (b) Te Putea Whakatupu Trustee may decline to make distributions if it considers that, in a particular case, the Iwi concerned can or should be able to provide similar benefits to its members from income derived from settlement assets.

11.4 Power to retain income

Te Putea Whakatupu Trustee need not distribute all of the income arising from the Trust Fund in a financial year, but may, to the extent it considers prudent and in accordance with its approved annual plan, retain or decide to retain all or part of that income to establish or augment any reserve fund, which may be used at any later time for the purpose for which income arising from the Trust Fund may be used.

12 RECEIPTS

12.1 Receipt of gifts and grants

Te Putea Whakatupu Trustee may receive solicited and unsolicited gifts or grants from the Crown or other persons of any real or personal property for the purpose of Te Putea Whakatupu Trust or for any specific purpose that comes within the purpose of Te Putea Whakatupu Trust.

12.2 Receipts for payments

The receipt of the secretary, treasurer or other person or persons appearing to Te Putea Whakatupu Trustee to be authorised to give receipts on behalf of the recipient of any payment made under this deed, is a complete discharge to Te Putea Whakatupu Trustee for that payment.

13 PROHIBITION OF BENEFIT OR ADVANTAGE IN CARRYING OUT TRUST

- (a) If Te Putea Whakatupu Trust has charitable status for taxation purposes, Te Putea Whakatupu Trustee must ensure that no benefit, advantage or income may be afforded to, or received, gained, achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able in any way (whether directly or indirectly) to determine, or to materially influence the determination of:
- (i) the nature or amount of that benefit, advantage or income; or
 - (ii) the circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.
- (b) A person who in the course of, and as part of the carrying on of his or her business of a professional public practice, is rendering professional services to Te Putea Whakatupu Trust or to any entity by which the purpose of Te Putea Whakatupu Trust is carried out, is not, by reason only of doing so, in breach of the terms of this clause.
- (c) For the purposes of this clause 13, *Related Person*, in relation to any business to which section CB4(1)(e) of the Income Tax Act 1994 applies, means a person specified in paragraphs (i) to (iv) of the 2nd proviso to that section, the persons currently specified being:
- (i) a settlor or trustee of the trust by which the business is carried on; or
 - (ii) a shareholder or director of the company by which the business is carried on; or
 - (iii) a settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or
 - (iv) that person, where he or she and the settlor, trustee, shareholder or director already mentioned in this definition, are associated persons for the purposes of the Income Tax Act 1994.

14 INDEMNITY OF TE PUTEA WHAKATUPU TRUSTEE

- (a) Without prejudice to the right of indemnity by law given to trustees (and except to the extent to which Te Putea Whakatupu Trustee, or any director, employee, attorney or agent of Te Putea Whakatupu Trust has the benefit of an insurance policy referred to in clause 16), Te Putea Whakatupu Trustee and each of its directors, employees, attorneys or agents are entitled to be reimbursed for and are hereby indemnified out of the Trust Fund in respect of:
- (i) all liabilities (and expenditure) that are properly incurred in the execution or purported execution of the trusts under this deed or the exercise or purported exercise of any powers, authorities or discretions under this deed; and
 - (ii) against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted or in any way relating to this deed,

and Te Putea Whakatupu Trustee may retain and pay out of the Trust Fund all sums necessary to effect and satisfy that indemnity.

- (b) However, paragraph (a) does not apply in respect of any liabilities, expenses, actions, proceedings, costs, losses, claims or demands arising out of fraud or dishonesty on the part of Te Putea Whakatupu Trust or the particular director, employee, attorney or agent seeking the indemnity.
- (c) For the purposes of clause 14(a)(i), a director's remuneration, reimbursement allowances or actual and reasonable expenses will only be "properly incurred" if done so in accordance with the annual plan of Te Ohu Kai Moana as contemplated by section 37(f) and (g) of the Maori Fisheries Act.

15 ENGAGEMENT OF DIRECTORS AND RELATED PARTIES

Where Te Putea Whakatupu Trust requires particular skills for a particular task and a director in his or her professional capacity has those skills, or is a partner, director or employee of a firm or company which has those skills, Te Putea Whakatupu Trust can engage that director or the firm or company of which the director is a partner, director or employee, for to undertake that task as a contractor. However, any remuneration paid to that director, firm or company must be authorised by the other directors and certified by those directors as being fair and reasonable (having regard to the level of remuneration that would be paid in an arms-length transaction).

16 **INSURANCE**

Te Putea Whakatupu Trustee is authorised to take out a trustee’s or director’s indemnity insurance policy or policies in relation to itself, any of the directors of Te Putea Whakatupu Trustee and any person employed by Te Putea Whakatupu Trustee, and to pay the premiums in respect of that policy or those policies out of the Trust Fund.

17 **ADMINISTRATIVE SERVICES FOR TRUSTEES**

Te Putea Whakatupu Trustee may acquire administrative services (with charges to be agreed, as appropriate) from Te Ohu.

This Deed is executed on the day of 2005

Executed for and on behalf of **Te Ohu Kai Moana Trustee Limited** as trustee of Te Ohu Kai Moana by:

Director

Director

Executed before and on behalf of **Te Putea Whakatupu Trustee Limited** as trustee of Te Putea Whakatupu Trust by

Director

Director

**SCHEDULE: TE PUTEA WHAKATUPU TRUSTEE'S RESERVED POWERS
(TO BE EXERCISED ONLY WITH THE APPROVAL OF TE OHU)**

1 To amend the Trust Deed

- 1.1 To amend this deed by written resolution of all of the directors. However, a resolution for the amendment of this deed is effective only if:
- (a) each director was given written notice of the proposed resolution (as approved by Te Ohu) at least 5 days before
 - (i) the date of any meeting at which the proposed amendment is to be voted on; or
 - (ii) the date the resolution is passed by the directors, if the proposed amendment is not to be voted on at a meeting, but is to be signed or assented to by all of the directors by written resolution.
 - (b) the amendment is compatible with the purpose of Te Putea Whakatupu Trust, stated in clause 3.1 of this deed;
 - (c) the amendment does not conflict with the provisions of the Maori Fisheries Act or the constitution of the Te Wai Maori Trustee; and
 - (d) if Te Putea Whakatupu Trust has charitable status for taxation purposes, the amendment does not prejudice any charitable nature of Te Putea Whakatupu Trust.
- 1.2 Notwithstanding clause 1.1 of this Schedule, under clause 5.4(h) of this deed, Te Ohu may direct Te Putea Whakatupu Trustee to make changes to the Trust Deed. If Te Putea Whakatupu Trustee receives a direction from Te Ohu, Te Putea Whakatupu Trustee must, within 14 working days of receipt of the direction, take all necessary steps to amend the Trust Deed to effect the changes required by Te Ohu, as set out in its direction. However, the amendment will only be effective:
- (a) if the amendment does not conflict with the provisions of the Maori Fisheries Act; and
 - (b) if Te Putea Whakatupu Trust has charitable status for taxation purposes, if the amendment does not prejudice any charitable nature of Te Putea Whakatupu Trust.
- 1.3 If Te Putea Whakatupu Trust has charitable status for taxation purposes, clauses 3 and 13 of this deed and clauses 1 and 2 of this Schedule must not be amended unless Te Putea Whakatupu Trustee has first obtained written confirmation from the Commissioner of Inland Revenue (or any charities commission or similar

entity then having the jurisdiction) that the proposed amendment does not prejudice the charitable nature of the purposes of Te Putea Whakatupu Trust.

2 **To wind up**

2.1 To wind up Te Putea Whakatupu Trust by written resolution of all of the directors. However, a resolution to wind up Te Putea Whakatupu Trust is only effective if, following any review of the governance structure, role and performance of Te Putea Whakatupu Trust under:

- (a) sections 105 and 106 of the Maori Fisheries Act (as set out in clause 10 of this deed); or
- (b) section 114 of the Maori Fisheries Act,

a recommendation for wind up has received approval consistent with section 124(3) of the Maori Fisheries Act.

2.2 On the winding up of Te Putea Whakatupu Trust by Te Putea Whakatupu Trustee, Te Putea Whakatupu Trustee must give the Trust Fund, after the payment of costs, debts and liabilities, in the percentages specified in Column 3 of Part I of Schedule 3 of the Maori Fisheries Act for the relevant Iwi:

- (a) to each Mandated Iwi Organisation that has charitable status; or
- (b) in the case of a Mandated Iwi Organisation that does not have charitable status, to an entity with charitable status nominated by the relevant Mandated Iwi Organisation, for the benefit of the relevant Iwi and its members, or
- (c) if no Mandated Iwi Organisation with charitable status exists, or no nomination is made under clause 2.2(b) of this Schedule is made, to an entity with charitable status nominated by Te Ohu to benefit the relevant Iwi and its members.

3 **To invest**

In any Financial Year, to invest the Trust Fund and the income from it in any form of investment and to vary such investment from time to time. However, Te Putea Whakatupu Trustee must only invest the Trust Fund in accordance with the policies specified in the Investment Plan that forms part of the approved annual plan relating to that Financial Year.

4 **To borrow**

To borrow money with or without security.

5 **To guarantee**

To give any guarantee or indemnity and to give security in support of any guarantee or indemnity.

6 **To carry on business**

To carry on the business of investment of the Trust Fund for the purposes of Te Putea Whakatupu Trust, and no other business.

7 **To make loans and advances**

To make any loans or advances, out of a reserve fund set aside for that purpose for any of the purposes of Te Putea Whakatupu (including by way of distributions) or otherwise as contemplated by the Maori Fisheries Act that are consistent with the purposes of the Te Putea Whakatupu Trust. Loans or advances may be made with or without security and with or without payment of interest and on such terms and conditions as Te Putea Whakatupu Trustee thinks fit. However, clause 11.3 of the Trust Deed applies to any loans or advances made by way of distributions.