

**Trust Deed of the  
Ngāti Apa  
Charitable Trust**



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DEED Dated 2008

PARTIES [Names of First Trustees]  
[Names of First Trustees]  
[Names of First Trustees]  
[Names of First Trustees]

## INTRODUCTION

[Introductory text to be included here]

## TRUST TERMS

### 1. INTERPRETATION

#### Definitions

1.1 In this Deed, unless the context otherwise requires:

**Assets** means Trust property of any kind, whether tangible or intangible.

**Charitable Entity** has the same meaning as section 4(1) of the Charities Act 2005.

**Charitable Purposes** means every purpose within New Zealand which in accordance with the laws of New Zealand for the time being is charitable, whether such purpose involves the relief of poverty, the advancement of education or religion, or any other object or purpose that is charitable within the laws of New Zealand and includes the meaning of charitable purpose as defined in s.OB1 of the Income Tax Act 2004.

**Constituent Rōpū** has the same meaning as the charter of the Parent Body.

**Constituent Rōpū Entity** means any legal entity or trust set up by a Constituent Rōpū that represents all or some Members of Ngāti Apa.

**Deed** means this Deed and includes any valid amendments to this Deed.

**Distribution Policy** means the policy laid down in Schedule 1 of this Deed.

**Income Available for Distribution** has the meaning as determined by paragraph 3 of Schedule 1 of this Deed.

**Inland Revenue Acts** has the meaning given to it in section 3(1) of the Tax Administration Act 1994.

**Iwi** means Ngāti Apa.

**Members of Ngāti Apa** has the same meaning as the charter of the Parent Body.

**Ngāti Apa** has the same meaning as the charter of the Parent Body.

**Nominee** means any legal entity designated by a Constituent Rōpū to receive on its behalf any share of the Income Available for Distribution in accordance with the

**Comment [SK1]:** May need to widen this definition to include the same beneficiary class as in the TRONA Society Inc membership definition.

Distribution Policy.

**Parent Body** means Te Rūnanga o Ngāti Apa, the Trust created to receive and hold settlement assets from the Crown in settlement of Ngāti Apa's historical claims.

**Secretary** means any person appointed under clause 4.7 to perform general secretarial and administrative functions for the Trust.

**Tikanga** means the customary values and practices of Ngāti Apa.

**Trust** means Ngāti Apa Charitable Trust established by this Deed

**Trust Fund** means all the assets and liabilities including income that are from time to time held by the Trustees on the trusts of this Deed.

**Trustees** means the persons appointed by the Parent Body under clause 4.

**Working Day** means the days Monday through Friday exclusive of any public holiday and excluding 24 December to 2 January (inclusive).

### **Interpretation of Schedules**

- 1.2 In the interpretation of each schedule to the Deed, unless the context otherwise requires:
- (a) terms or expressions have the meanings given to them by the Deed; and
  - (b) a reference to a paragraph is a reference to a paragraph of that schedule.

### **Statutes**

- 1.3 Reference to a statute or statutory provision in the Deed includes that statute or provision as amended, modified, re-enacted or replaced from time to time.

### **General References**

- 1.4 References in the Deed to:
- (a) a person includes an individual, body corporate, an association of persons (whether corporate or not) and a trust (in each case, whether or not having separate legal personality);
  - (b) one gender includes the other gender;
  - (c) the singular includes the plural and vice versa;
  - (d) clauses and sub-clauses are references to clauses and sub-clauses in this Deed; and
  - (e) the Deed includes its Schedules.

### **Headings**

- 1.5 Headings are for ease of reference only and must be ignored in interpreting the

Deed.

## **2. ESTABLISHMENT OF TRUST**

### **Acknowledgement of Trust**

- 2.1 The Trustees acknowledge and declare that they hold the Trust Fund upon the trusts and with the powers set out in this Deed. The name of the Trust established by this Deed is the Ngāti Apa Charitable Trust.

## **3. KAUPAPA/PURPOSES**

### **Purposes**

- 3.1 The purposes for which the Ngāti Apa Charitable Trust is established are to receive, hold, manage and administer the Trust Fund for every charitable purpose benefiting Ngāti Apa whether it relates to the relief of poverty, the advancement of education or religion or any other matter beneficial to the community of Ngāti Apa and all the members of Ngāti Apa irrespective of where those members reside and for every Charitable Purpose benefiting:

- (a) Maori who are not members of the Ngāti Apa; and
- (b) Members of the community generally.

- 3.2 In giving effect to the purposes in clause 3.1, the Trustees may make distributions of income to the Constituent Rōpū (or their Nominees) in accordance with the Distribution Policy.

### **Incidental Purposes**

- 3.3 Incidental to, and to give effect to the purposes in clause 3.1 the Trust may perform any other lawful function, but only if doing so would not adversely affect the charitable status of the Trust.

### **No non-charitable objects and purposes**

- 3.4 The objects and purposes of the Trust shall not include or extend to any matter or thing which is or shall be held or determined to be non-charitable within the laws of New Zealand and the powers and purposes of the Trustees shall be restricted accordingly and limited to New Zealand.

## **4. APPOINTMENT AND POWERS OF TRUSTEES, AND MANAGEMENT OF THE TRUST**

### **Number of Trustees**

- 4.1 The Trust must have 4 or 5 Trustees who are appointed by the Parent Body and who may be removed by the Parent Body in its absolute discretion (and for the avoidance of doubt the first Trustees are those who have signed this Deed.)

### **Cessation of office of Trustee**

- 4.2 Any person shall cease to be a Trustee if he or she:
- (a) resigns as a Trustee by giving notice in writing to the Trust; or
  - (b) fails or neglects to attend three consecutive meetings of the Trustees without leave or absence, unless it appears to the other Trustees at their first meeting after the last of such absences that there is a proper reason for

such non-attendance; or

- (c) becomes of unsound mind, becomes a person in respect of whose affairs an order under the Protection of Personal and Property Rights Act 1988 is made, or otherwise becomes unfit or unable to act as a Trustee; or
- (d) is or becomes a bankrupt who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled; or
- (e) is or has ever been convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961, or an offence under section 373(4) of the Companies Act 1993; or
- (f) dies; or
- (g) is or becomes disqualified to be an officer of a charitable entity within the meaning of section 16(2) of the Charities Act 2005; or
- (h) is removed by the Parent Body.

4.3 The Trustee concerned shall cease to hold office:

- (a) in a case where sub-paragraph 4.2(a) applies from the date the notice of retirement shall have been delivered to the Trust;
- (c) in the case where sub-paragraph 4.2(b) applies from the date of the first meeting of Trustees after that Trustee's third consecutive absence without leave; and
- (d) in cases where sub-paragraphs 4.2(d) to 4.2(g) apply, from the date on which the Trust was notified in writing of the relevant fact together with such evidence as the Trustees may reasonably require; and
- (e) in the case of where sub-paragraph 4.2(h) applies, immediately following a valid resolution of the trustees of the Parent Body, whether or not such resolution is in fact communicated to the Trustee so removed.

**Powers of Trustees**

4.4 To achieve the purposes of the Trust:

- (a) the Trustees shall have in the administration, management and investment of the Trust Fund all the rights, powers and privileges of a natural person;
- (b) subject always to the trusts imposed by this Deed, the Trustees may deal with the Trust Fund as if the Trustees were the absolute owners of and beneficially entitled to the Trust Fund including;
- (c) accordingly, in addition to any specific powers vested in the Trustees by law, in dealing with the Trust Fund or acting as Trustees of the Trust, the Trustees may do any act or thing or procure the doing of any act or thing or enter into any obligation whatever, including, without limitation, exercising unrestricted powers to borrow and raise money, and to give securities and guarantees;
- (d) except as otherwise expressly provided by this Deed, the Trustees may exercise all the powers and discretions vested in the Trustees by this Deed in the absolute and uncontrolled discretion of the Trustees, at such time or times, upon such terms and conditions, and in such manner as the Trustees may decide;
- (e) if any dividend or distribution is received which in the opinion of the Trustees has been paid or made out of profits other than trading profits of the financial year in respect of which the dividend or distribution has been paid or made,

the Trustees may decide how much of that- dividend or distribution ought to be treated as capital and how much as income of the Trust Fund. Such decision shall be made by the Trustees after considering the nature of the profit used to pay or make the dividend or distribution, and the account to which the dividend or distribution has been debited in the books of the person making such payment or distribution. The Trustees shall not be liable to any person in respect of the payment of any moneys in accordance with any decision made by the Trustees under this clause 4.4;

- (f) the Trustees may at any time, after payment of or provision for all reasonable costs, charges and expenses of the Trustees in respect of the establishment, management and administration of the Trust, pay or apply all or any of the income of the Trust for the purpose or purposes contained in clause 3.1;
- (g) if any income of any financial year of the Trust shall not be paid or applied in accordance with clause 3.1 during or within six months from the end of that financial year the Trustees must accumulate that income, and any income so accumulated must be added to and form part of the capital of the Trust Fund and is subject to the trusts and powers declared in this Deed in respect of the capital of the Trust Fund; and
- (h) the Trustees may at any time pay or apply all or any of the capital of the Trust for the purpose or purposes contained in clause 3.1.

#### **4.5 Management of the Trust - General**

- (a) The Trustees shall have the absolute management and entire control of the Trust Fund.
- (b) The Trustees may from time to time appoint, remunerate and dismiss officers or employees of the Trust.
- (c) Any individual may be appointed as an officer or employee of the Trust but no Trustee may be appointed as an employee.
- (d) The Trustees may appoint an incorporated or unincorporated entity to provide services to the Trust. In any case where the entity directly or indirectly procures, causes, permits or otherwise howsoever makes a Trustee available to carry out management services, the appointment shall be of no effect and neither that entity nor that person shall have any authority on behalf of nor claim against the Trust, unless prior to that appointment the full terms and conditions of the proposed appointment shall have been disclosed in writing to all the Trustees, and the Trustees shall have voted unanimously (subject to clause 4.12) in support of that appointment on those terms.
- (e) The office of the Trust shall be at such place as the Trustees from time to time may notify by such means as the Trustees determine to the Members of Ngāti Apa and in any website, letterhead, formal written contract or printed publications of the Trust.

#### **4.6 Meetings of Trustees**

- (a) The Trustees shall meet to conduct business at such intervals as the Trustees may decide, but not less frequently than 4 times in each year. The Trustees may invite to such meeting whomever the Trustees may decide will assist with their deliberations.
- (b) Except as expressly provided otherwise by this Deed any matter requiring

decision at a meeting of the Trustees shall be decided by a simple majority of the Trustees personally present and voting on the matter.

- (c) In the event of an equality of votes the Chairperson shall not have a second or casting vote.
- (d) Except as expressly provided otherwise by this Deed a resolution in writing signed by all the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and constituted. Any such resolution may consist of several like documents each signed by one or more Trustees. Any such document sent by a Trustee by facsimile or such other electronic means as shall be determined by the Trustees from time to time shall be deemed to have been duly signed by that Trustee.
- (e) Any Trustee may at any time give notice convening a meeting of the Trustees. Such notice shall be given by letter posted to each Trustee at least 15 Working Days before the date of the proposed meeting. The notice shall state the time and place of the meeting and, in sufficient terms, the nature of the business to be transacted.
- (f) The quorum for a meeting of Trustees shall be a majority of the Trustees who, for the time being, hold office pursuant to clause 4.1.
- (g) The Trustees may act notwithstanding any vacancy in their body but shall advise the Parent Body to appoint such new Trustee/s as may be required.
- (h) The contemporaneous linking together of the Trustees by telephone or other electronic means of communication shall constitute a meeting of the Trustees and the provisions of this clause 4.6 as to meetings of the Trustees shall apply to such meetings provided the following conditions are met:
  - (i) each Trustee shall be entitled to notice of such a meeting and to be linked by electronic means for the purposes of the meeting;
  - (ii) each of the Trustees taking part in the meeting must be able to hear each of the other Trustees taking part during the whole of the meeting;
  - (iii) at the commencement and conclusion- of the meeting the Chairperson must call upon each Trustee to acknowledge their attendance;
  - (iv) a Trustee may not withdraw from such a meeting unless that Trustee has previously obtained the express consent of the Chairperson of the meeting to do so;
  - (v) a Trustee shall be conclusively presumed to have been present and to have formed part of the quorum of such a meeting at all times during the meeting unless that Trustee has previously obtained the express consent of the Chairperson to withdraw from such a meeting.
- (i) Minutes of the proceedings of all meetings of the Trustees shall be recorded in a book to be kept for that purpose by the Secretary and shall be signed by the Chairperson of the meeting at which the minutes are confirmed. Every such minute purporting to be so signed shall be prima facie evidence of the matters recorded. A minute of the proceedings of any meeting by telephone or other electronic means of communication shall be sufficient evidence of the observance of all necessary formalities if the minute of the meeting signed by the Chairperson of the meeting shall contain a certificate to that effect.

**4.7 Chairperson and Secretary:**

- (a) The Trustees shall elect one Trustee to act as Chairperson from year to year.
- (b) The Trustees shall appoint a non-voting Secretary who may be honorary, or may be a full-time or part-time employee of the Trust or the Parent Body.

**4.8 Delegation of powers:**

- (a) The Trustees may delegate in writing to any committee of any Trustee, Trustees or employee who is the chief executive of the Trust, such of the powers of the Trustees as the Trustees may decide, provided that in the case of any entity appointed under clause 4.5(d) make available a Trustee to discharge a chief executive's duties, the delegation shall be personal to the person provided by that entity in that capacity.
- (b) Any person or committee acting under delegated power shall act in accordance with the terms of this Deed and, in the absence of proof to the contrary, shall also be presumed to be acting within the terms of the delegation;
- (c) The Trustees may revoke wholly or partly any delegation of the powers of the Trustees at any time;
- (d) Subject to any directions given by the Trustees, any person or committee to which any powers of the Trustees have been delegated may conduct that person's or the committee's affairs as that person or the committee may decide;
- (e) The Trustees must, in delegating the powers of the Trustees, provide restrictions or rules by or within which such delegated powers are to be exercised in accordance with this clause and in each case must require the delegate to report to the Trustees on any action or decision taken as delegate.

**4.9 Accounts and Audit:**

- (a) The Trustees shall keep an account or accounts at such bank or banks as the Trustees may decide. Cheques, withdrawals and authorities shall be signed or endorsed, as the case may be, by such person or persons (including in all instances at least one Trustee) as the Trustees may decide;
- (b) The Trustees shall cause true accounts for each financial year to be kept in accordance with generally accepted accounting practice of all receipts, credits, payments, assets and liabilities of the Trust Fund and all such other matters necessary for showing the true state and condition of the Trust. The accounts of the Trust shall be audited at least once in each year by a chartered accountant (not being a Trustee) appointed in that capacity by the Trustees; and
- (c) Nothing in this clause 4.9 shall derogate from any other obligations of the Trustees in respect of accounts and audits.

**Reliance on Advice**

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

- (a) an employee of Ngāti Apa Charitable Trust whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned;
- (b) a professional adviser or expert in relation to matters which the Trustees believe on reasonable grounds to be within the person's professional or expert competence;
- (c) a committee of Trustees appointed and acting in accordance with clause 4.8.

4.11 Clause 4.10 applies only if the Trustee:

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

#### **Disclosure of Interest**

4.12 Any Trustee who is or may be in any other capacity whatever interested or concerned directly or indirectly in any property or undertaking in which the Trust is or may be in any way concerned or involved shall disclose the nature and extent of that Trustee's interest to the other Trustees, and shall not take part in any deliberations or decision of the Trustees concerning any matter in which that Trustee is or may be interested other than as a Trustee of the Trust, and shall be disregarded for the purpose of forming a quorum for any such deliberation or decision.

#### **Definition of Interested Trustee**

4.13 A Trustee will be interested in a matter if the Trustee:

- (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 by the Trust or any subsidiary of the Trust;
- (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.

#### **Recording of Interest**

4.14 A disclosure of interest by a Trustee shall be recorded in the minute book of the Trust. Immediately following his or her appointment as a Trustee, each Trustee must enter into the minute book and must disclose in writing to the other, the name of any iwi of which he or she is a member, and the Trustee must also, at any time after his or her appointment, enter into the Minute Book and disclose to the next meeting of the Trustees, any interest of which that Trustee becomes aware.

#### **No private pecuniary profit**

4.15 No private pecuniary profit may be made by any person from the Trust, except that:

- (a) any Trustee may receive full reimbursement for all expenses properly incurred by that Trustee in connection with the affairs of the Trust; the Trust may pay reasonable remuneration to any Trustee, officer or employee of the Trust in return for services actually rendered to the Trust

- (including the provision of services as Trustee);
- (b) any Trustee may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Trustee or by any entity of which that Trustee is a partner, member, employee or associate in connection with the affairs of the Trust;
  - (c) any Trustee may retain any remuneration properly payable to that Trustee by any entity with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatever, notwithstanding that that Trustee's connection with that entity is in any way attributable to that Trustee's connection with the Trust;

provided that:

- (i) before any such reimbursement paid to a Trustee may be regarded as properly incurred by that Trustee or any such remuneration paid to a Trustee may be regarded as reasonable or properly payable or any such charges may be regarded as usual, the amount of that reimbursement, remuneration or charge must have been approved as such by a resolution of Trustees and in the case of an appointment referred to in clause 4.5(d), the provisions of that clause have been complied with;
  - (ii) the Trustees must disclose in their annual report referred to in clause 5.2 next published after payment of that disbursement, remuneration or charge, in respect of all such reimbursements, remuneration or charges:
    - (aa) the amount thereof received by each Trustee or any such firm or entity;
    - (bb) the nature of the reimbursement and the nature and extent of the services rendered or time expended;
    - (cc) the method of calculation of the reimbursement, remuneration or charge; and
- 4.16 Subject to clause 4.15, in the exercise of the powers conferred by this Deed, each Trustee in the discharge of any duty or exercise of any discretion as Trustee shall ensure that any person who is:
- (a) a Trustee;
  - (b) a shareholder or director of any company by which any business of the Trust is carried on;
  - (c) a settlor or a trustee of any trust that is a shareholder of any company by which any business of the Trust is carried on;
  - (d) any associated person (as defined in **section OD 7 of the Income Tax Act 1994**) of either a director, or any person referred to in clauses 4.12 to 4.15,

does not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence the determination of, the nature or the amount of any benefit or advantage or income or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person, and any payment made to any person in or following breach of this clause 4.16 shall be void.

#### **Appointment and removal of Custodian Trustee**

- 4.17 The Trustees may at any time by deed appoint any appropriate corporation to be the custodian trustee of the Trust Fund, or any part of the Trust Fund, upon the terms of this Deed or any further terms as the Trustees may decide and for the

avoidance of doubt the Custodian Trustee must when exercising its powers act in accordance with this Deed. The Trustees may at any time by deed revoke any such appointment or otherwise act pursuant to the provisions of section 50 of the Trustee Act 1956.

#### 4.18 **Incorporation:**

- (a) The Trustees may at any time apply for incorporation under Part II of the Charitable Trusts Act 1957 under such name as the Trustees may decide. Upon incorporation the powers and discretions conferred upon the Trustees by law or by this Deed shall be conferred upon the Trustees as a trust board.
- (b) Upon incorporation under the Charitable Trusts Act 1957 the Trust shall have a common seal which shall be affixed by the authority of the Trustees previously given to any document requiring execution by the Trustees. Every such affixing shall be attested by two Trustees and shall be sufficient evidence of authority to affix the seal.
- (c) No person dealing with the Trustees shall be bound or concerned to see or inquire as to the authority to affix the seal, or to inquire as to the authority under which any document was sealed or in whose presence it was sealed.

### 5. **GENERAL MEETINGS OF IWI AND REPORTING**

#### **Reporting Responsibilities**

- 5.1 Without derogating from its duties under any enactment or at law, the Trust has the reporting responsibilities in relation to its own performance.

#### **Trust to hold an Annual General Meeting**

- 5.2 Each year, the Trust must hold a General Meeting at which it provides an opportunity for the Members of Ngāti Apa to consider:
- (a) **Annual Report:** the annual report for the previous financial year that reports against the objectives set out in the annual plan for the previous year, including:
    - (ii) a comparison of the Trust's performance against the objectives set out in the annual plan, including:
      - (aa) changes in the value of the Trust's assets; and
      - (bb) profit distribution; and
    - (iii) the annual audited financial report, prepared to the standards specified in the Parent Body's charter; and
  - (b) **Annual Plan:** an annual plan for the next financial year.

#### **Information must be made available in writing**

- 5.3 Information referred to in clause 5.2 must be made available on request in writing by any Member of Ngāti Apa.

### 6. **WINDING UP OF TRUST**

- 6.1 If at any time the Trustees decide that for any reason it is no longer practicable or desirable to carry out the purposes of the Trust the Trustees may decide to wind up the Trust and to vest the assets of the Trust in such one or more Charitable Entities in New Zealand for their Charitable Purposes in such manner, upon such

terms, and in such proportions as the Trustees may decide, provided that:

- (a) any such winding up must first be approved by the Parent Body;
- (b) if the Trust is then incorporated under the Charitable Trusts Act 1957 the assets of the Trust shall be disposed of in accordance with the provisions of that Act.

## **7. ALTERATION OF TERMS OF DEED**

### **Changes to the Deed**

7.1 The Trustees have power to amend, revoke or add to the provisions of the Deed provided that:

- (a) the amendment is first approved by the Parent Body; and
- (c) notwithstanding the terms of this Deed, no amendment to this Deed shall be made, and if purported to be made shall be of no legal effect, if the consequence of that amendment is to prejudice in a material manner the Trust's entitlement to charitable status under the law of New Zealand, or its entitlement to an income tax exemption under the **Income Tax Act 2004** in respect of income derived by it.

## **8. RESETTLEMENT**

### **Power to resettle**

8.1 The Trustees have power at any time or times by deed, to settle or resettle upon trust in any manner which in the opinion of the Trustees is for the advancement and benefit of the Members of Ngāti Apa, the whole or any portion or portions of the capital or income of the Trust Fund provided that:

- (a) any such settlement or resettlement must be first approved by the Parent Body;
- (b) the resettlement is upon trust for the benefit of all Members of Ngāti Apa;
- (c) the resettlement is upon trusts for Charitable Purposes.

**SIGNATURE**

[Trustee] by:

and witnessed by:

\_\_\_\_\_  
Signature of trustee

\_\_\_\_\_  
Name of trustee

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

[Trustee] by:

and witnessed by:

\_\_\_\_\_  
Signature of trustee

\_\_\_\_\_  
Name of trustee

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

[Trustee] by:

and witnessed by:

\_\_\_\_\_  
Signature of trustee

\_\_\_\_\_  
Name of trustee

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

[Trustee] by:

and witnessed by:

\_\_\_\_\_  
Signature of trustee

\_\_\_\_\_  
Name of trustee

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence



## SCHEDULE 1: DISTRIBUTION POLICY

1. The purposes of the Trust laid down in clause 3.1 of this Deed may be given effect to (in whole or in part) through the payment of the Income Available for Distribution to the Constituent Rōpū or their Nominees in accordance with this Schedule 1, provided that to be eligible to receive such payment, each Constituent Rōpū or Nominee must:
  - (a) hold all its assets and income on trust for Charitable Purposes for the benefit of some or all Members of Ngāti Apa; and
  - (b) have applied for and received from the Inland Revenue Department confirmation that it is exempt from income tax; and
  - (c) be a Charitable Entity within the meaning of the Charities Act 2005.
2. Should a Constituent Rōpū or its Nominee not comply with any one or more of the eligibility criteria in paragraph 2, the Trustees shall not distribute any Income Available for Distribution to that Constituent Rōpū or Nominee.
3. The Income Available for Distribution in any income year shall be the amount the Trustees determine to be the income derived in any year in accordance with the provisions of this Deed, after the payment of or provision for all reasonable costs, charges and expenses of the Trustees in respect of the establishment, management and administration of the Trust, less any monies to be retained for the use of the Trustees in the furtherance of the purposes of the Trust laid down in clause 3.1.
4. The respective shares of funds to be paid to the Constituent Rōpū or Nominees in any one year shall be determined by the Trustees in their absolute discretion.