

**Tūpuna Taonga o Tāmaki Makaurau  
Trust Limited**

**Constitution**

## TABLE OF CONTENTS

1.	DEFINITIONS AND INTERPRETATIONS .....	3
2.	COMPANIES ACT .....	4
3.	TERMS OF TRUST DEED .....	4
4.	ACTIVITIES OF THE COMPANY .....	5
5.	CAPACITY AND POWERS .....	5
6.	NUMBER OF SHARES .....	5
7.	SHAREHOLDERS .....	5
8.	ISSUE OF NEW SHARES / ACQUISITION OF OWN SHARES .....	6
9.	TRANSFER ACROSS SHARE GROUPS .....	6
10.	NO AFFECT ON SHARE GROUP RIGHTS .....	7
11.	RIGHTS OF SHARE GROUPS .....	7
12.	SHARES TO BE AND REMAIN WITH SHAREHOLDER .....	7
13.	NO DISTRIBUTION RIGHTS .....	7
14.	SHARE REGISTER .....	7
15.	DIRECTORS .....	8
16.	MEETINGS OF THE COMPANY .....	8
17.	CONFLICTS OF INTEREST .....	8
18.	INDEMNITIES AND INSURANCE .....	8
19.	ADMINISTRATION .....	8
20.	CONTRACTS .....	9
21.	AMENDMENTS TO THE CONSTITUTION .....	10

## 1. DEFINITIONS AND INTERPRETATIONS

### 1.1 Defined Terms

In this Constitution, unless the context otherwise requires:

*“Acceding Tāmaki Makaurau Collective Member”* has the meaning given to it by the Trust Deed;

*“Board”* means the board of Directors of the Company;

*“Chairperson”* has the meaning given to it by the Trust Deed;

*“Companies Act”* means the Companies Act 1993;

*“Company”* means Tūpuna Taonga o Tāmaki Makaurau Taonga Trust Limited, incorporated as company number [xxx].

*“Constitution”* means this document as from time to time altered or varied;

*“Directors”* means the directors of the Company;

*“Distribution”* has the meaning given to it in the Companies Act;

*“Dividend”* has the meaning given to it in the Companies Act;

*“Initial Directors”* has the meaning given to it by the Trust Deed;

*“Marutūāhu Rōpū”* has the meaning given to it by the Trust Deed;

*“Ngāti Whātua Rōpū”* has the meaning given to it by the Trust Deed;

*“Representative Entity”* has the meaning given to it by the Trust Deed;

*“Rōpū”* has the meaning given to it by the Trust Deed;

*“Shareholders’ Agreement”* has the meaning given to it by the Trust Deed;

*“Tāmaki Makaurau Collective Deed”* has the meaning given to it by the Trust Deed;

*“Tāmaki Makaurau Collective Member”* has the meaning given to it by the Trust Deed;

*“Tāmaki Makaurau Collective Legislation”* has the meaning given to it by the Trust Deed;

*“Tūpuna Taonga o Tāmaki Makaurau Taonga Trust or Taonga Trust”* means the Trust established by the Trust Deed;

“*Trust Deed*” means the trust deed dated on or about even date, which establishes Taonga Trust and includes schedules to that deed and any amendments validly made to that Deed;

“*Unanimous Shareholder Resolution*” has the meaning given to it by the Trust Deed.

“*Waiohua Tāmaki Rōpū*” has the meaning given to it by the Trust Deed

## 1.2 Interpretation

In this Constitution, 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 shall be to a clause of this Constitution;
- (f) headings appear as a matter of convenience only and shall not affect the interpretation of this Constitution; and

any term that is not defined in this Constitution and that is defined in the Trust Deed, shall have the meaning given to it in the Trust Deed.

## 2. COMPANIES ACT

### 2.1 Companies Act

The provisions of the Companies Act are negated, modified, adopted and extended in the way provided in this Constitution and the Trust Deed.

### 2.2 Terms

In this Constitution, terms defined in the Companies Act (whether generally, or for the purposes of one of more particular provisions) have the meanings given to them by the Companies Act.

## 3. TERMS OF TRUST DEED

### 3.1 Application of Terms of Trust Deed

The terms of the Trust Deed that relate to the Company, the Directors and the Shareholders apply as if they are included in this Constitution. If there are any terms of the Trust Deed which conflict with the terms of the Companies Act, the terms of the Trust Deed shall prevail.

#### **4. ACTIVITIES OF THE COMPANY**

##### **4.1 Sole Purpose of the Company**

The sole purpose of the Company is to act as the trustee of Tūpuna Taonga o Tāmaki Makaurau Taonga Trust

#### **5. CAPACITY AND POWERS**

##### **5.1 Rights, Powers, Duties and Obligations**

The Company, the Board, each Director and each Shareholder have the rights, powers, duties and obligations set out in the Companies Act except to the extent that they are negated or modified, by this Constitution, the Trust Deed or the Tāmaki Makaurau Collective Legislation. In particular, the powers and duties of the Company as trustee of Tūpuna Taonga o Tāmaki Makaurau Taonga Trust set out in Clause 10 of the Trust Deed apply.

##### **5.2 Full Capacity**

Subject to this Constitution, the Tāmaki Makaurau Collective Legislation, the Companies Act, the Trust Deed, any other enactment and the general law, the Company has both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any business or activity, do any act, or enter into any transaction.

#### **6. NUMBER OF SHARES**

Subject to Clause 8, the Trustee must have the number of shares equating to the number of Acceding Tāmaki Makaurau Collective Members. Shares must always be held in accordance with this Schedule.

#### **7. SHAREHOLDERS**

Subject to the terms of Schedule 3 of the Trust Deed, the Shareholders shall be the Acceding Tāmaki Makaurau Collective Members for the time being, each acting through its Representative Entity, which Acceding Tāmaki Makaurau Collective Members shall hold one (1) share each in the following share Groups:

**Group A**

The Acceding Tāmaki Makaurau Collective Members of the Marutūāhu Rōpū.

**Group B**

The Acceding Tāmaki Makaurau Collective Members of the Ngāti Whatua Rōpū.

**Group C**

The Acceding Tāmaki Makaurau Collective Members of the Waiohū Tāmaki Rōpū.

**8. ISSUE OF NEW SHARES / ACQUISITION OF OWN SHARES**

- 8.1 Upon Tāmaki Makaurau Collective Members becoming Acceding Tāmaki Makaurau Collective Members, their respective Representative Entities shall be entitled to be registered as Shareholders in the relevant identified Share Group and the Directors shall issue one (1) share for each such Acceding Tāmaki Makaurau Collective Member.
- 8.2 No further shares in the Trustee may be issued/the Trustee may not acquire its own shares (as applicable) unless a Unanimous Shareholder Resolution is passed to:
- (a) increase the number of Shareholders following a further iwi, hapu or group (not being a Tāmaki Makaurau Collective Member) being admitted as a constituent member of a Rōpū; or
  - (b) decrease the number of Shareholders following an amalgamation of Tāmaki Makaurau Collective Members.

**9. TRANSFER ACROSS SHARE GROUPS**

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

#### **10. NO EFFECT ON SHARE GROUP RIGHTS**

An increase or decrease in Shareholders or the transfer of an existing Shareholder to a different Share Group pursuant to Clauses 8.2 and 9 respectively will not effect the rights attaching to the respective Share Groups pursuant to Clause 11 and the number of Share Groups shall be fixed at three (3).

#### **11. RIGHTS OF SHARE GROUPS**

11.1 Each share shall have the right to one vote (by Share Group) on a poll at a meeting of the Shareholders on any Ordinary Shareholder Resolution, Extraordinary Shareholder Resolution or Unanimous Shareholder Resolution.

11.2 In addition, the Shareholders in each Share Group, by a simple majority in that Share Group, together shall have the right to appoint and remove two (2) directors to the Board in accordance with the procedure for the appointment of Directors set out in Schedule 2 of the Trust Deed.

#### **12. SHARES TO BE AND REMAIN WITH SHAREHOLDER**

Notwithstanding any other provision in this Constitution, all Shares in the Company must be and remain owned and controlled by each Shareholder in that capacity and not otherwise. No shares may be disposed of other than in accordance with this Constitution and the Shareholders' Agreement.

#### **13. NO DISTRIBUTION RIGHTS**

No Distribution or Dividend shall be paid directly to any Shareholder at any time.

#### **14. SHARE REGISTER**

As required by section 87 of the Companies Act, the Company must maintain, or appoint an agent to maintain, a share register. The Company

shall ensure that the share register is promptly updated whenever there is any change in Shareholders of the Company.

## **15. DIRECTORS**

### **15.1 Number of Directors**

The number of Directors shall be six (6) subject to the terms of the Trust Deed.

### **15.2 Appointment of Directors**

The Directors shall be appointed in accordance with the Trust Deed. The Board must ensure that a notice of change of directors is delivered to the Registrar for registration each time a Director changes. The outgoing Director must sign the notice of change of directors.

### **15.3 Term of Appointment of Directors**

The term of appointment of Directors shall be 2 or 4 years for the Initial Directors and 4 years for all subsequent Directors in accordance with the Trust Deed.

## **16. MEETINGS OF THE COMPANY**

### **16.1 First and Third Schedule of the Companies Act Do Not Apply**

The provisions of the first and third Schedules to the Companies Act are deleted and replaced as provided in Schedules 1 and 4 of the Trust Deed respectively.

## **17. CONFLICTS OF INTEREST**

### **17.1 Trust Deed Provisions to Apply**

All provisions in the Trust Deed relating to conflicts of interests shall apply, including the requirement to maintain an interests register.

## **18. INDEMNITIES AND INSURANCE**

### **18.1 Trust Deed Provisions to Apply**

All provisions in the Trust Deed relating to indemnities and insurance shall apply.

## **19. ADMINISTRATION**

### 19.1 **Attorneys**

The Company may appoint a person or persons as its attorney or attorneys either jointly or jointly and severally and either generally or in relation to a specified matter in accordance with the Companies Act.

### 19.2 **Registered Office**

Subject to compliance with the Act, the address for service of the Company shall be the registered office of the Company or such other place as is from time to time determined by the Directors.

### 19.3 **Negotiable Instruments**

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors from time to time determine.

## 20. **CONTRACTS**

### 20.1 **Contracts by Deed**

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

- (a) two Directors; or
- (b) an Authorised Signatory, appointed in accordance with Clause 20.3; or
- (c) an attorney;

on behalf of or by direction of the Company.

### 20.2 **Contracts in Writing**

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

- (a) two Directors; or
- (b) an Authorised Signatory, appointed in accordance with Clause 20.3; or
- (c) an attorney;

on behalf of or by direction of the Company.

### **20.3 Process for Appointing Authorised Signatory**

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

### **20.4 Oral Contracts**

Any contract which, if made by private persons, may be made orally, may be made in the same manner by or on behalf of the Company by any Director or the Chief Executive Officer, in either case acting by direction of the Company.

### **20.5 Contracts Pursuant to Resolution**

Notwithstanding anything to the contrary in this Clause 15, no contract made by or on behalf of the Company shall be invalid by reason only that it was not made in the manner provided by this clause if it was made pursuant to a Resolution of the Directors, in accordance with the Trust Deed.

## **21. AMENDMENTS TO THE CONSTITUTION**

### **21.1 General**

Subject to the Trust Deed, this Constitution shall not be amended or revoked except by a Unanimous Shareholder Resolution.

### **21.2 Limitations on Amendment**

No amendment shall be made to this Constitution which:

- (a) is contrary to the terms of the Trust Deed;
- (b) changes Clause 3.1;
- (c) changes Clause 4.1; or
- (d) changes Clause 8.1.