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**RULES OF PROCEDURE FOR  
MEDIATION  
in the Kingdom of Tonga**

**Edited by Janine Ford LLB**

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## INTRODUCTION

Mediation is a confidential and informal way of resolving a dispute with the help of a neutral third person (a mediator).

The mediator works with the parties to the dispute to help them reach a mutually agreeable, practical and lasting solution to their differences.

Settling a dispute through mediation is a quicker, less expensive option than taking a case through the standard legal channels.

There are now a number of qualified mediators in the Kingdom who have all received specialized training in conflict resolution and in working with difficult situations.

There are two ways in which a dispute can be referred to mediation:

First, if court proceedings have been issued in a civil or land case, the judge may refer the dispute to a mediator before setting the case down for trial: **Court-referred mediation.**

Secondly, prior to any court proceedings being issued, the parties themselves may reach agreement to refer the dispute to mediation: **Pre-litigation mediation.**

This booklet sets out the rules applicable to both types of mediation.

The rules are made pursuant to clause 89 of the Act of Constitution of Tonga and section 6 of the Supreme Court Act (Cap 10).

I recommend and encourage all parties to a dispute to seriously consider and explore the mediation option.

**Anthony D Ford**

**Chief Justice**

**June 2009**

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## **RULES FOR COURT-REFERRED MEDIATION**

**Rule 1. Application of rules**

**Rule 2. Purpose of rules**

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## **RULES FOR COURT-REFERRED MEDIATION**

### **RULE 1. APPLICATION OF RULES**

These rules shall come into effect on 1 July 2009 and shall apply to all cases referred to mediation by a judge as from that date. They are supplementary to but subject to the provisions of Order 45 of the Supreme Court Rules 2007.

### **RULE 2. PURPOSE OF RULES**

The purpose of these rules is to provide for the process and procedure of court-referred mediation in the Kingdom of Tonga in accordance with the overriding objective of promoting a fair, efficient and expeditious resolution of disputes which are the subject of litigation before the court.

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### **RULE 3. JURISDICTION**

Any party to litigation before a court in the Kingdom shall, subject to the operation of rule 8(a) of these rules, be deemed to have submitted to court-referred mediation directed by a judge pursuant to these rules.

### **RULE 4. DEFINITIONS**

"court" means the Supreme Court, the Land Court, or the Magistrates' Court.

"judge" includes a magistrate.

"mediator" means a duly qualified mediator.

"Mediation Coordinator" means a Registrar of the Court or other person suitably qualified in mediation appointed from time to time by the Chief Justice after consultation with the Chief Magistrate to be the Mediation Coordinator.

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## **RULE 5. FUNCTION OF MEDIATION COORDINATOR**

- (a) The Mediation Coordinator shall be responsible for the administration and operation of all mediations in the Kingdom.
- (b) The Mediation Coordinator shall ensure (subject to the provision of adequate financial resources) that a panel of mediators is available on Tongatapu, Vava'u, Ha'apai and such other outlying islands as the Chief Justice may from time to time designate.
- (c) In allocating a mediator to a particular case, the Mediation Coordinator shall ensure that the mediator has no financial or personal interest in the result of the mediation or the way in which it is conducted and that there are no circumstances likely to create a presumption of bias or a perception of actual or apprehended bias.
- (d) Where a mediation is conducted by a mediator not employed in the public service, the Mediation Coordinator shall pay to the mediator from a mediation fees account a mediator's fee in the amount prescribed by the Chief Justice from time to time.
- (e) The Mediation Coordinator shall keep in a Register Book statistics of all cases referred to mediation including: file number; names of parties; age and sex of parties; nature of dispute; approximate value of dispute; representatives (if any); name of mediator; date

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of filing of proceedings in registry; date of referral to mediation; date of mediation; duration of mediation; outcome of mediation -- "settled/not settled", "settled in part", or "adjourned" and, if settled, the amount or nature of the settlement.

- (f) The Mediation Coordinator shall also be responsible for keeping proper records of all financial transactions relating to mediations.
- (g) The Mediation Coordinator shall report to the Chief Justice from time to time as may be required on the mediation statistics and financial transactions.

## **RULE 6. NATURE OF MEDIATION**

Mediation under these rules is a confidential, private dispute resolution process initiated by the court in which a neutral person (the mediator) is appointed to assist the parties in exploring options to achieve a negotiated final settlement of the dispute out-of-court before the matter goes to trial.

## **RULE 7. MEDIATION FEE**

- (a) A mediation fee on each mediation of \$100 (or such other amount as may be prescribed from time to time by the Chief Justice) plus consumption tax shall be payable by the parties in equal proportions (unless the judge orders otherwise) to the Registrar of the Supreme Court in accordance with rule 8(b).

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- (b) Any default by a party in payment of the mediation fee may result in the matter being listed before the court to determine the appropriate sanction for the party in default, which sanction may, if appropriate, include penalty for contempt of court.
- (c) Upon completion of a mediation the Mediation Coordinator shall pay to the mediator if he or she is not employed in the public service a mediator's fee in an amount equal to 50 percent of the mediation fee (excluding consumption tax).
- (d) The balance of the mediation fee (after allowing for the payment of the mediator's fee (if any) and consumption tax) shall be treated as a court filing fee.
- (e) Apart from the mediation fee, unless otherwise agreed between the parties, each party shall bear its own costs in relation to the mediation regardless of the outcome.

## **RULE 8. REFERENCE TO MEDIATION**

- (a) A judge may, after consultation with counsel and/or the parties, make an order at any time referring a proceeding before the court to mediation pursuant to Order 45 of the Supreme Court Rules 2007 and any such referral shall be deemed to be subject to these rules.
- (b) Unless a judge orders otherwise, the mediation fee shall be paid by each party no later than seven (7) days prior to the commencement of the mediation. At the time of making the mediation referral, the judge shall confirm the

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amount payable by each party and the date for payment.

- (c) The judge shall note on the court file the agreed mediation date which shall, unless there are extenuating circumstances, be within 30 days of the referral being made and then refer the file to the Mediation Coordinator.
- (d) The Mediation Coordinator shall confirm by notice to the parties the name of the mediator appointed (who could be the Mediation Coordinator), the venue and date and time of the mediation and the notice shall include a brief outline of how the mediation hearing will be conducted.
- (e) Service of any notice or other documentation relating to the mediation shall be effected in accordance with the provisions of the Supreme Court Rules 2007.

## **RULE 9. REPRESENTATION AT MEDIATION**

- (a) Where a party is an individual, he or she must attend in person (unless for sound reasons such personal attendance is excused by a judge either upon referral or at a subsequent date).
- (b) A party may be represented or assisted by counsel and/or up to two other persons of their choice.
- (c) Where a party is a company, government body or an organisation, such party may participate through a person or persons authorised to

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speaking on its behalf assisted if desired by counsel or other person(s) of their choice.

- (d) The names and roles of such representatives shall be communicated to all parties and to the mediator prior to the commencement of the mediation.
- (e) In the event of a dispute, the mediator shall determine any issue relating to representation.

**RULE 10. INTERPRETERS**

If a party requires an interpreter at the mediation and is not, for some good reason, able to make arrangements to have an interpreter present then the party must notify the Mediation Coordinator at least one week before the mediation and the Mediation Coordinator may, if he or she deems it appropriate, make arrangements for a court interpreter to be present.

**RULE 11. NON-APPEARANCE AT MEDIATION**

If after receiving notice, a party fails to appear at a mediation hearing then the mediator shall notify the referring judge of the non-appearance and, in the absence of extenuating circumstances, the judge shall award costs against the defaulting party.

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**RULE 12. ROLE OF THE MEDIATOR**

- (a) The principal functions of the mediator are those set out in Order 45 Rule 4 of the Supreme Court Rules 2007.
- (b) The mediator shall assist the parties to identify the issues between them and explore options and endeavour to achieve the expeditious resolution of the dispute by agreement between them.
- (c) The mediator may conduct the mediation in such manner as he or she considers appropriate taking into account the circumstances of the case, the wishes of the parties and the overriding objective of promoting a fair, efficient and expeditious resolution of the dispute.
- (d) The mediator has the discretion to conduct all or part of the mediation with or without the representatives of the parties present.
- (e) The mediator may initiate private and confidential meetings with each party at any time during the mediation. What is said at any such meeting to the mediator is strictly confidential unless the party authorises the mediator to divulge what is said to the other party(ies).
- (f) If, at any time, it becomes apparent to the mediator that circumstances exist which might reasonably create justifiable doubts as to his or her impartiality or independence, or create a

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presumption or perception of actual or apprehended bias on the part of the mediator, then the mediator shall disclose that information immediately to the Mediation Coordinator who shall, unless the parties agree otherwise, appoint another mediator.

- (g) The mediator may, but only as a last resort, adjourn a mediation.
- (h) There shall be no stenographic record of the mediation proceedings.

### **RULE 13. ROLE OF THE PARTIES**

- (a) The parties shall participate in the mediation in good faith in a forthright manner and in a genuine attempt to resolve the dispute.
- (b) A party may request a private and confidential meeting with the mediator at any time.
- (c) The parties shall give full assistance to enable the mediation to proceed and be concluded in a timely manner.
- (d) Each party attending the mediation shall have full authority to resolve the dispute or be accompanied by a person with such authority or be able in the course of the mediation to obtain authority to settle the dispute.

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**RULE 14. CONDUCT OF THE MEDIATION**

- (a) The provisions of this rule shall apply in all mediations which do not result in a settlement agreement.
- (b) Confidential information disclosed to a mediator by the parties or participants in the course of the mediation shall not be divulged by the mediator.
- (c) All notes, records, reports or other documents received or made by the mediator while serving in that capacity shall be confidential during the course of the mediation and shall be destroyed by the mediator at the conclusion of the mediation.
- (d) The mediator shall not divulge any such records or testify in regard to the mediation in any adversarial proceedings or judicial forum unless directed to do so by a judge.
- (e) Unless authorised by the parties, the mediator shall not give any information gained in the mediation to the court other than a report of "not settled".
- (f) The parties shall maintain the confidentiality of the mediation and shall not rely on or introduce as evidence in any court proceedings admissions made or views expressed or suggestions made by another party in the course of the mediation hearing. Any such admissions or views shall be inadmissible as evidence in any legal proceedings.



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- (g) Parties shall not seek to introduce as evidence in any court proceedings any proposals made or views expressed by the mediator or documents, notes or other information obtained during the mediation proceeding.

## **RULE 15. TERMINATION OF MEDIATION**

- (a) The mediation shall be terminated:
  - (i) by written settlement agreement between the parties;
  - (ii) by a declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile.
- (b) The mediator shall communicate the outcome of the mediation to the Mediation Coordinator in writing within three days of termination.
- (c) The Mediation Coordinator shall report to the referring judge on the outcome of every mediation within three days of receiving notice from the mediator or, in the event that the Mediation Coordinator is the mediator, from the date of the termination of the mediation.

## **RULE 16. SETTLEMENT**

- (a) In the event that the mediation is successful resulting in a binding settlement, the mediator shall record the settlement in writing and he or she shall date the settlement agreement and

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witness the signatures of the parties thereto.

- (b) The mediator shall forthwith refer the executed settlement agreement together with the court file to the judge who made the referral or, in his or her absence, to the Chief Justice or Chief Magistrate and the respective judge shall thereupon confirm the settlement in the form of a consent court order which upon sealing and issuance from the court shall be enforceable as a consent judgment under the Supreme Court Rules 2007.

## 17. CONFIDENTIALITY ORDERS

- (a) If the parties so request, a judge may make a confidentiality order in relation to a mediated settlement agreement and in such event the court order recording the settlement shall be substantially in the following terms:

[Set out the heading and appropriate recitals recording the reference to mediation]

IT IS ORDERED:

1. By consent of the parties judgment is hereby entered in accordance with the terms of the written settlement agreement executed between the parties dated (*insert date*)
2. The terms of the settlement agreement shall remain confidential unless a judge orders disclosure in connection with enforcement proceedings.

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- (b) In making a confidentiality order under this rule a judge may make such other order and give such directions as he thinks fit including directions relating to custody of the settlement agreement and the particulars to be included in the Register Book maintained by the Mediation Coordinator.

#### **RULE 18. MATTERS NOT PROVIDED FOR**

In the event of an issue arising which is not covered by these rules or Order 45 of the Supreme Court Rules 2007, the Mediation Coordinator may, after consultation with the referring judge if he or she thinks fit, make such determination as the Mediation Coordinator considers appropriate having regard to the purpose of these rules.

#### **RULE 19. EXCLUSION OF LIABILITY**

The Mediation Coordinator and any mediator acting pursuant to these rules shall be exempt from any civil liability save for the consequences of fraud or dishonesty.

#### **RULE 20. INTERPRETATION**

In the event of any difference in meaning arising between the English text and the Tongan text of these rules, the meaning of the English text shall prevail.

Anthony D. Ford  
Chief Justice  
June 2009

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## **RULES FOR PRE-LITIGATION MEDIATION**

**Rule 1. Application of rules**

**Rule 2. Purpose of rules**

**Rule 3. Definitions**

**Rule 4. Invoking mediation**

**Rule 5. Notice of preliminary meeting**

**Rule 6. Agreement to mediate**

**Rule 7. Mediation fees**

**Rule 8. Confirming mediation**

**Rule 9. Role of the parties**

**Rule 10. Representation at mediation**

**Rule 11. Interpreters**

**Rule 12. Conduct of the mediation**

**Rule 13. Termination of mediation**

**Rule 14. Settlement agreement**

**Rule 15. Enforcement**

**Rule 16. Failure to reach agreement**

**Rule 17. Matters not provided for**

**Rule 18. Exclusion of liability**

**SCHEDULE 1. Pre-litigation Agreement to Mediate**

**SCHEDULE 2. Allocation of costs**

**SCHEDULE 3. Confirmation of mediation**

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**RULE 1. APPLICATION OF RULES**

These rules shall come into effect on 1 July 2009 and shall be binding in any pre-litigation mediation where the parties have signed an agreement to mediate which stipulates that the pre-litigation mediation rules shall apply.

**RULE 2. PURPOSE OF RULES**

The purpose of these rules is to provide for the process and procedure of mediation in the Kingdom of Tonga, other than court-referred mediation, in accordance with the overriding objective of promoting a fair, efficient and expeditious resolution of the dispute between the parties.

**RULE 3. DEFINITIONS**

"mediator" means a mediator as defined in the principal rules.

"Mediation Coordinator" means a Mediation Coordinator appointed pursuant to the principal rules.

"party" includes an individual, company, a government body or organisation.

"principal rules" means the rules of procedure for court referred mediation.

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#### **RULE 4. INVOKING MEDIATION**

- (a) Any party desirous of resolving a dispute (in this part of the rules, unless the context requires otherwise, referred to as "the first party") with another party or parties without having to issue proceedings in any court may make a request to the Mediation Coordinator to convene or attempt to convene a mediation.
- (b) The request to the Mediation Coordinator shall be in writing. It shall contain confirmation that the first party is familiar with the rules for pre-litigation mediation. It shall also specify clearly the name(s) and address of the other party(ies) and provide full particulars of the nature of the dispute.
- (c) The written request must be accompanied by a deposit of \$50 (or such other amount as may be prescribed from time to time by the Chief Justice) payable to the Registrar of the Supreme Court.
- (d) Upon receipt of a written request for mediation, the Mediation Coordinator shall consider the nature of the dispute and make an assessment as to whether it is an appropriate matter to refer to mediation.
- (e) If the Mediation Coordinator forms the view that the alleged dispute is not a proper matter for mediation for any reason he or she shall advise the first party accordingly and refund the deposit.

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## **RULE 5. NOTICE OF PRELIMINARY MEETING**

- (a) If the Mediation Coordinator forms the view that the alleged dispute is an appropriate matter for referral to mediation he or she shall give notice to the other party(ies) named in the notice of dispute and invite the other party(ies) to attend a preliminary meeting at a suggested time and date to ascertain whether the other party(ies) would be agreeable to having the dispute referred to mediation in accordance with the provisions of these rules. If the Mediation Coordinator thinks it appropriate, a preliminary meeting may be held by telephone or other means of communication.
- (b) The Mediation Coordinator may also give such notice, if he or she thinks it appropriate, to a party not named in the first party's request.
- (c) Unless the Mediation Coordinator knows that the other party(ies) understands the English language, the notice of dispute under this rule shall be in the Tongan language.
- (d) The Mediation Coordinator shall also arrange for the first party and the mediator allocated under rule 8 if any to be in attendance at the preliminary meeting.
- (e) If the other party(ies) does not turn up at the preliminary meeting or does not agree to enter into an agreement to mediate, the Mediation Coordinator may deduct from the deposit an appropriate amount to compensate the Mediation Controller and/or the mediator (if such person is not employed in the public service) in respect of their attendance and refund the balance to the first party.

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**RULE 6. AGREEMENT TO MEDIATE**

- (a) If the parties agree at the preliminary meeting to have the dispute referred to mediation then the Mediation Coordinator shall arrange for an appropriate agreement to mediate to be drawn up and signed by all parties which may be in the form of the agreement set out in Schedule 1 to these rules.
- (b) The Mediation Coordinator shall include in the agreement to mediate a brief description of the nature of the dispute.

**RULE 7. MEDIATION FEES**

- (a) At the preliminary meeting the Mediation Coordinator shall confirm the amount of the mediation fee payable to the Registrar of the Supreme Court (or such other entity as may be approved from time to time by the Chief Justice) which, unless there are exceptional circumstances, will be the mediation fee prescribed from time to time in the principal rules.
- (b) The Mediation Coordinator shall also determine the proportion of the mediation fee payable by each party and fix the date by which time the parties' respective proportions must be paid.
- (c) Unless there are special circumstances, the contribution to the mediation fee payable by each party shall be apportioned equally.
- (d) The proportion payable by each party and the

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date by which the said amount is to be paid shall be recorded in the agreement to mediate.

- (e) The difference between the deposit paid by the first party and the first party's proportion of the mediation fee (if any) shall be refunded to the first party.
- (f) Where a mediation is conducted by a mediator not employed in the public service, the Mediation Coordinator shall pay to the mediator the mediator's fee prescribed under the principal rules.
- (g) The balance of the mediation fee (after allowing for the payment of consumption tax) shall be deposited by the Mediation Coordinator in a mediation account to be used for the advancement of mediation in the Kingdom in a manner to be approved by the Chief Justice from time to time after consultation with the Chief Magistrate.
- (h) Apart from the mediation fee, each party will meet its own costs of and in connection with the mediation.

## **RULE 8. CONFIRMING MEDIATION**

- (a) Prior to or at the preliminary meeting the Mediation Coordinator shall allocate a mediator (who may be the Mediation Coordinator) and either prior to or at the preliminary meeting fix a date, time and venue for the mediation.
- (b) In allocating a mediator, the Mediation Coordinator shall ensure that the mediator has

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no financial or personal interest in the result of the mediation or the way in which it is conducted and that there are no circumstances likely to create a presumption or perception of actual or apprehended bias.

- (c) A mediation may (if the parties consent) follow on immediately upon the conclusion of the preliminary meeting and in that event the Mediation Coordinator shall issue such directions as he or she thinks appropriate to facilitate the prompt referral.

## **RULE 9.      ROLE OF THE PARTIES**

- (a) The parties shall participate in the mediation in good faith in a forthright manner and in a genuine attempt to resolve the dispute.
- (b) Each party will comply with reasonable requests made by the mediator to promote the efficient and expeditious resolution of the dispute.
- (c) A party may request a private and confidential meeting with the mediator at any time.
- (d) The parties shall give full assistance to enable the mediation to proceed and be concluded in a timely manner.
- (e) Each party attending the mediation shall have full authority to resolve the dispute or be accompanied by a person with such authority or be able during the course of the mediation to obtain authority to settle the dispute.

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## **RULE 10. REPRESENTATION AT MEDIATION**

- (a) Unless their presence is excused by the Mediation Coordinator prior to the mediation on the grounds of extenuating circumstances, where a party is an individual that party shall attend the mediation in person and may be represented or assisted by counsel and/or up to two other persons.
- (b) Where a party is a company, government body or an organisation, such party may participate through a representative(s) on its behalf assisted by counsel or persons of the party's choice.
- (c) The names and roles of such representatives shall (whenever possible) be communicated to all parties and to the mediator prior to the commencement of the mediation.
- (d) In the event of a dispute, the mediator shall determine any issue relating to representation.

## **RULE 11. INTERPRETERS**

- (a) The parties shall provide their own interpreter if necessary.
- (b) If at any time the Mediation Coordinator or the mediator considers it desirable to have an interpreter present he or she shall advise the parties and may require the parties to make a proportional payment (fixed by the Mediation Coordinator or the mediator) towards the interpreter's costs.

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## **RULE 12. CONDUCT OF THE MEDIATION**

The mediation shall be conducted so far as is practicable in accordance with the procedure prescribed in the principal rules and, with any necessary modification, that procedure shall be deemed to be incorporated into these rules.

## **RULE 13. TERMINATION OF MEDIATION**

- (a) A party may at any time prior to or in the course of the mediation terminate the mediation by giving written notice terminating the mediation to the mediator.
- (b) Upon any such termination, the mediator may make such decision as he or she thinks just in relation to the retention, disposal or refund of monies paid towards the mediation fee.
- (c) In all other cases the mediation shall be terminated:
  - (i) by a written settlement agreement between the parties;
  - (ii) by a declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile.
- (d) The mediator shall communicate the outcome of the mediation to the Mediation Coordinator in writing within three days of termination.

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#### **RULE 14. SETTLEMENT AGREEMENT**

- (a) Any written settlement agreement of the dispute shall be drawn up and executed by the parties at the earliest possible time after the terms of settlement have been agreed upon.
- (b) The settlement agreement may be drawn up by the mediator or the parties' legal representatives.
- (c) A copy of the executed settlement agreement, witnessed by the mediator, shall be made available to each party and to the Mediation Coordinator.

#### **RULE 15. ENFORCEMENT**

- (a) Any party is at liberty to enforce a settlement agreement by appropriate action through the court.
- (b) In any enforcement proceedings a party may adduce evidence of and incidental to the existence and terms of the settlement agreement (including evidence from the mediator) but evidence of what was said and done under the protection of the confidentiality of the mediation shall be inadmissible unless a judge otherwise orders in the special circumstances of the case.

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**RULE 16. FAILURE TO REACH AGREEMENT**

- (a) Where there is a failure to reach a settlement agreement, the parties shall maintain the confidentiality of the mediation and shall not rely on or introduce as evidence in any court proceedings admissions made or views expressed or suggestions made by another party in the course of the mediation.
- (b) Evidence relating to any such admissions, views or suggestions shall be inadmissible in any legal proceedings.

**RULE 17. MATTERS NOT PROVIDED FOR**

In the event of an issue arising which is not covered by these rules or by the provisions of the principal rules or this agreement to mediate, the mediator may, after consultation with the Mediation Coordinator if the mediator thinks fit, make such determination as he or she thinks appropriate having regard to the purpose of these rules and such determination shall be binding on the parties.

**RULE 18. EXCLUSION OF LIABILITY**

- (a) The Mediation Coordinator and any mediator acting pursuant to these rules shall be exempt from any civil liability save for the consequences of fraud or dishonesty.
- (b) Each party hereby indemnifies the Mediation

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Coordinator and the mediator against any claim by that party or anyone claiming under or through that party, arising out of or in any way referable to any act or omission by the Mediation Coordinator or the mediator in the performance or purported performance of their respective obligations under these rules or the agreement to mediate, unless the act or omission in question is fraudulent.

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**SCHEDULE 1**

**Pre-Litigation Agreement to Mediate (Rule 6(a))**

**Parties:**

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**("the parties")**

**Mediator:**

.....  
.....

**("the mediator")**

**Recitals:**

- A. A dispute, as briefly set out in Schedule 1 to this agreement, has arisen between the parties ("**the dispute**").
- B. The parties have agreed to have the dispute referred to mediation before the mediator.
- C. The parties hereby confirm that the mediation is to be conducted in accordance with the terms of this agreement and the provisions of the rules of pre-litigation mediation (hereinafter referred to as "the rules") which the parties hereby acknowledge they are familiar with.

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**Agreement**

1. The parties hereby agree to refer the dispute to mediation in terms of the above recitals.
2. The parties appoint the mediator to conduct the mediation and the mediator accepts the appointment to mediate the dispute.
3. The mediator will assist the parties to identify the issue(s) between them and to explore options for, and if possible to achieve, the expeditious resolution of the dispute by agreement between them.
4. The parties agree to pay their respective proportion of the mediation fee as fixed by the Mediation Coordinator and confirmed in Schedule 2 to this agreement on or before the date fixed for payment.
5. The parties agree to attend the mediation at the venue, time and date set out in Schedule 3 to this agreement.
6. The mediator confirms that the mediator has had no prior dealings with any of the parties in relation to the dispute and has no interest in the dispute.
7. The parties agree to respect the confidentiality of the mediation as provided for in the rules.
8. The parties agree that in the event of an issue arising which is not covered by this agreement or the rules then the mediator may determine the matter as the mediator thinks appropriate and as provided for in the rules.
9. The parties acknowledge that the Mediation Coordinator and the mediator are exempt from civil liability in relation to the mediation as provided for in the rules save for the consequences of fraud or dishonesty.
10. In all other respects the parties and the mediator accept and hereby agree to be bound by the provisions of the rules

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**Brief description of the dispute as summarised by the Mediation Coordinator:**

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**SCHEDULE 2 (Rule 7(d))**

**The parties agree to pay their proportion of the mediation fee in accordance with the rules in the amount and by the date prescribed below:**

Party 1 *(name party, amount and date payable):*

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Party 2 *(name party, amount and date payable):*

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Party 3 *(name party, amount and date payable):*

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**SCHEDULE 3**

**Confirmation of mediation**

The mediation will be conducted before Mediator (*insert name*):

The mediation will be held on ..... day the ..... of  
..... 20..... at ..... am/pm.

DATED the ..... day of ..... 20....

**SIGNED** by (*name of mediator*).....

.....

in the presence of:

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.....

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(*Signature and address of Mediation Coordinator*)

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(*Signature and address of witness*)

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**KO E NGA AHI TU'UTU'UNI 'O E  
FOUNGA NGAUE 'A E FAKALELEI  
VA 'I HE PULE'ANGA 'O TONGA**

**'Etita'i 'e Janine Ford LLB**

**Pulusi 'e he Fakamaau'anga,  
Pule'anga 'o Tonga.  
Tokoni'i 'e he Fakamaau'anga Fetalolo 'a 'Aositelelia  
pea Fakapa'anga 'e he NZAID**

**Paaki 'e he**

**Craig Design &Print  
Invercargill, Nu'usila**

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## TALATEU

Ko e fakalelei va ko e founa ngaue 'oku fakapulipuli pea fakafaingofua ki hano veteki'aki 'o ha fakakikihi 'o tokoni'i ia 'e ha tokotaha tau'ataina (ko e tokotaha fakalelei va)

'Oku ngaue leva 'a e tokotaha fakalelei va mo e ongo fa'ahi ko ia 'oku 'i ai 'ena fakakikihi ke tokoni'i kinaua ke a'u ki ha tu'unga kuo na felotoi ki ai 'a ia 'e tu'uloa pea 'aonga foki ki he'ena fefaikehekehe'aki. Ko hono fakalelei ko ia 'o ha fakakikihi 'i he fakalelei va, 'oku vave ange ia pea si'isi'i ange 'a e fakamole ai 'i ha fakahoko ha hopo 'i he ngaahi founa anga maheni fakalao.

Kuo 'i ai foki he taimi ni ha kau fakalelei va 'i he Pule'anga ni kuo 'osi fakahoko hono ako'i kinautolu 'i he veteki 'o e ngaahi fakakikihi pea to e ngaue ki he ngaahi me'a 'oku toe faingata'a ange.

'Oku 'i ai foki 'a e founa 'e ua 'a ia 'e malava ke tuku atu ai ha fakakikihi ki he fakalelei va:

'Uluaki, kapau leva kuo fakahu atu ha hopo sivile pe kelekele, 'e fokotu'u atu leva 'e he Fakamaau Lahi 'a e hopo ko ia ki ha tokotaha fakalelei va kimu'a pea toki faka'aho 'a e hopo: **Fakalelei tukuatu 'e he Fakamaau'anga.**

Ua, kimu'a ko ia pea toki fakahu ha hopo ki he fakamaau'anga, 'e malava pe ke felotoi 'a e ongo fa'ahi 'iate kinaua pe ke tukuatu 'a 'ena fakakikihi ki he fakalelei va: **Fakalelei va kimu'a 'a e fakatonutonu.**

Ko e tohi foki ko eni 'oku 'i ai e ngaahi tu'utu'uni ki he ongo founa fakalelei va fakatou'osi. Ko e ngaahi tu'utu'uni ni kuo fa'u ia 'o fakatatau ki he Kupu 89 'o e Konisitutone 'o Tonga pea mo e kupu 6 'o e Lao Fakamaau'anga Lahi (Vahe 10)

'Oku ou fokotu'u atu mo fakaloto lahi atu ki he ngaahi fa'ahi 'i ha fakakikihi kenau fakakaukau fakamaatoato 'a hono ngaue'aki e fakalelei va.

**Anthony D Ford**

**Tu'i Fakamaau Lahi**

**Sune 2009**

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## **NGAAHI TU'UTU'UNI KI HE FOUNGA NGAUE KI HE FAKALELEI VA KUO TUKU MAI MEI HE FAKAMAAU'ANGA**

**Tu'utu'uni 1. Ko hono ngaue'aki 'o e ngaahi tu'utu'uni**

**Tu'utu'uni 2. Taumu'a 'o e ngaahi tu'utu'uni**

**Tu'utu'uni 3. Mafai**

**Tu'utu'uni 4. 'Uhinga'i lea**

**Tu'utu'uni 5. Ngaahi fatongia 'o e tokotaha fokotu'utu'u 'o  
e fakalelei va**

**Tu'utu'uni 6. Natula 'o e fakalelei va**

**Tu'utu'uni 7. Totongi 'oe fakalelei va**

**Tu'utu'uni 8. Ko hono tuku atu ki he fakalelei va**

**Tu'utu'uni 9. Fakafofonga ki he fakalelei va**

**Tu'utu'uni 10. Kau fakatonulea**

**Tu'utu'uni 11. 'Ikai ke ha 'i he fakalelei va**

**Tu'utu'uni 12. Fatongia 'o e tokotaha fakalelei va**

**Tu'utu'uni 13. Fatongia 'o e ngaahi fa'ahi**

**Tu'utu'uni 14. Founga ke fakahoko'aki e fakalelei va**

**Tu'utu'uni 15. Fakangata 'o e fakalelei va**

**Tu'utu'uni 16. Aleapau Felotoi**

**Tu'utu'uni 17. Tu'utu'uni ke fakapulipuli**

**Tu'utu'uni 18. Ngaahi me'a 'oku 'ikai ha**

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**Tu'utu'uni 19. 'Ikai ke lava ke mo'ua**

**Tu'utu'uni 20. Faka'uhinga lea**

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## **KO E NGAAHI TU'UTU'UNI KI HE FAKALELEI VA KUO TUKU MAI MEI HE FAKAMAAU'ANGA**

### **TU'UTU'UNI 1. KO HONO NGAUE'AKI 'O E NGAAHI TU'UTU'UNI**

Ko e ngaahi tu'utu'uni ni 'e kamata ngaue'aki ia mei hono 1 'o e 'aho 'o Siulai 2009 pea ke ngaue'aki ia ki he ngaahi hopo kotoa pe kuo tuku atu 'e ha Fakamaau Lahi pe Fakamaau Polisi ki he fakalelei va mei he 'aho ko ia. Ke fetongi'aki kae kei fakatatau pe ki he ngaahi tu'utu'uni 'o e Fekau 45 'o e Ngaahi Tu'utu'uni 'o e Fakamaau'anga Lahi 2007.

### **TU'UTU'UNI 2. TAUMU'A 'O E NGAAHI TU'UTU'UNI**

'Oku fakataumu'a 'a e ngaahi lao ni ke 'oatu ai 'a e ngaahi founga ngaue ke fakahoko 'i he ngaahi fakalelei va kuo tuku atu mei he fakamaau'anga 'i he Pule'anga 'o Tonga 'o fakatatau ia ki hono pou pou'i 'o ha fakamaau totonu 'oku vave mo lavame'a felave'i mo e ngaahi fakakikihi 'oku 'i he 'ao 'o e Fakamaau'anga.

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**TU'UTU'UNI 3. MAFAI**

Ka 'i ai ha fa'ahi 'oku 'i ai ha'ane fa'ahinga hopo 'i he Pule'anga ni, fakatatau ki hono ngaue'aki 'a e lao 8(a) 'o e ngaahi lao ni, 'e lau ia kuo ne tali ke fakahoko ha fakalelei va 'a ia kuo tu'utu'uni 'e ha fakamaau 'o fakatatau ki he ngaahi tu'utu'uni ni.

**TU'UTU'UNI 4. 'UHINGA'I LEA**

"Fakamaau'anga" 'uhinga ia ki he Fakamaau'anga Lahi, Fakamaau'anga Fonua, pe Fakamaau'anga Polisi.

"Tokotaha Fakalelei Va" 'uhinga ia ki ha taha fakalelei va kuo 'osi ma'u faka'ilonga.

"Tokotaha Fokotu'utu'u Fakalelei Va" 'uhinga ia ki he Failesisita 'o e Fakamaau'anga pe ko ha taha pe 'oku taau pea ma'u faka'ilonga 'i he fakalelei va ['i ha taimi] 'e fili ia 'e he Tu'i Fakamaau Lahi hili ia ha'ane talatalai fale mo e Fakamaau Polisi Pule ke hoko 'a e taha ko ia ko e Tokotaha Fokotu'utu'u Fakalelei va.

**TU'UTU'UNI 5. FATONGIA 'O E TOKOTAHA FOKOTU'UTU'U FAKALELEI VA**

- (a) Ko e Tokotaha Fokotu'utu'u Fakalelei va 'oku ne fatongia'aki 'a hono pule'i mo fakalele 'a e ngaahi fakalelei va kotoa 'i he Pule'anga ni.
- (b) Kuo pau ke fakapapau'i 'e he tokotaha fokotu'utu'u fakalelei va (fakatatau pe ki he

tu'unga fe'unga 'oku 'i ai 'a e pa'anga) 'oku 'i ai 'a e kau fakalelei va 'i Tongatapu, Vava'u, Ha'apai pea mo e ngaahi 'otumotu 'i ha taimi 'e fili ai 'e he Tu'i Fakamaau Lahi.

- (c) 'I hano fili atu 'o ha tokotaha fakalelei va ki ha hopo, kuo pau ke fakapapau'i 'e he tokotaha fokotu'utu'u 'o e fakalelei va, 'oku 'ikai 'i ai ha kaunga fakapa'anga pe fakataautaha 'a e tokotaha fakalelei va ko eni 'i he ola 'o e fakalelei va ko ia pe ko e anga ko ia hono fakahoko pea 'ikai ha makatu'unga 'e malava ke pehe na'e 'i ai ha filifili manako pe hoko ha filifili manako pe na'e fakamalohi'i ha filifili manako.
- (d) 'I hano fakahoko ko ia 'o ha fakalelei va 'e ha tokotaha fakalelei va 'oku 'ikai ko ha tokotaha ngaue fakapule'anga, 'e totongi atu leva 'e he tokotaha fokotu'utu'u fakalelei va 'a e tokotaha fakalelei va mei he tohi 'akauni fakalelei va, ha totongi fakalelei va ki ha mahu'inga 'e tuku mai 'e ha Tu'i Fakamaau Lahi mei he taimi ki he taimi.
- (e) 'E tauhi 'e he tokotaha fokotu'utu'u fakalelei va 'i he tohi Lesisita 'a e lahi 'o e ngaahi hopo kuo tuku atu ki he fakalelei va 'o kau ai 'a e: fika 'o e faile; hingoa 'o e ngaahi fa'ahi; ta'umotu'a; tangata pe fefine 'o e ngaahi fa'ahi; natula 'o e fakakikihi; fakafuofua 'o e mahu'inga 'o e fakakikihi; fakafofonga ('o kapau 'oku 'i ai);hingoa 'o e tokotaha fakalelei va;'aho na'e fakahu mai ai 'a e hopo ki he Fai'anga Lesisita; 'aho na'e tukuatu ai ki he fakalelei va;'aho 'o e fakalelei va; loloa 'o e fakalelei va; ola 'o e fakalelei va- "kuo fakalelei/'ikai fakalelei", "fakalelei fakakonga pe", pe toloi pea, kapau kuo lava 'o fakalelei'i, ko e fiha mo e natula 'o e fakalelei.

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- (f) Ko e fatongia foki 'o e tokotaha fakalelei va ke ne tauhi 'a e ngaahi lekooti totonu 'o e ngaahi fehu'aki pa'anga felave'i mo e fakalelei va.
- (g) 'E lipooti 'a e tokotaha fokotu'utu'u fakalelei va ki he Tu'i Fakamaau Lahi 'i ha ngaahi taimi 'e fiema'u ai felave'i mo e ngaahi fika 'o e fakalelei va pea mo e ngaahi fehu'aki 'a e pa'anga.

## **TU'UTU'UNI 6. NATULA 'O E FAKALELEI VA**

Ko e fakalelei va, 'i he malumalu 'o e ngaahi tu'utu'uni ni, ko ha founga 'oku fakapulipuli pea fakatautaha 'i hono fakalelei'i ha ngaahi fakakikihi 'i hano fokotu'u mai 'e he fakamaau'anga 'a ia 'oku 'i ai 'a e tokotaha tau'atana (tokotaha fakalelei va) kuo tu'utu'uni atu ke ne tokoni'i 'a e ngaahi fa'ahi 'i he ngaahi me'a 'e malava kenau felotoi ai ke fakalelei ai 'a e fakakikihi 'o tu'a mei he fakamaau'anga kimu'a ia 'oku te'eki tukuatu ke fakahoko ha hopo.

## **TU'UTU'UNI 7. TOTONGI 'O E FAKALELEI VA**

- (a) Ko e totongi 'o e fakalelei va ki he fakalelei va 'e taha ko e \$100 ( pe ko ha toe mahu'inga ange 'e taha 'e tukumai 'e he Tu'i Fakamaau Lahi) tanaki atu ki ai mo e tukupau ngaue'aki 'e totongi ia 'e he ongo fa'ahi 'i hano vahevahe tatau (tuku kehe pe ka toe 'i ai ha tu'utu'uni kehe 'a e Fakamaau ) ki he Failesisita 'o e Fakamaau'anga Lahi 'o fakatatau ki he tu'utu'uni 8 (b).
- (b) Ka 'I ai leva ha fa'ahi ia he'ikai ken e fakahoko

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e totongi ko eni, 'e 'ave leva ia ki fakamaau'anga ke fakapapau'i mei ai ha tautea fakapotopoto ki he fa'ahi ko ia 'oku 'ikai fakahoko e totongi, pea kapau leva 'oku 'i ai ha tautea, 'o ka fiema'u, 'e malava pe ke kau ai mo e tautea ki he talangata'a ki he fakamaau'anga.

- (c) 'I he lava ko ia 'o e fakalelei va 'e totongi atu leva 'e he tokotaha fokotu'utu'u fakalelei va 'a e tokotaha fakalelei va 'o kapau ko e tokotaha ko ia 'oku 'ikai ngaue fakapule'anga ha totongi 'oku tatau ia ki he peseta 'e 50 'o e totongi ko ia 'o e fakalelei va. ('ikai kau ai e tukuhau ngaue'aki)
- (d) Ko e toenga ko ia 'o e pa'anga totongi fakalelei va ( hili ko ia hono totongi atu 'o e tokotaha fakalelei va ('o kapau 'e 'i ai) pea mo e consumption tax 'e lau pe 'a e pa'anga ko ia ko e totongi fakaahu ki he fakamaau'anga.
- (e) Tukukehe ange pe 'a e totongi fakalelei va, pea makehe ange mei ha toe felotoi 'a e onho fa'ahi, 'e fu ape 'e he fa'ahi takitaha 'a 'e ne fakamole felave'i mo e fakalelei va ko eni 'o tatau ai pe pe ko e ha hono ola.

## **TU'UTU'UNI 8. KO HONO TUKU ATU KI HE FAKALELEI VA**

- (a) Ko e fakamaau hili ha'ane talatatai fale mo e kau fakafofonga pea moe pe ongo fa'ahi, ten e tu'utu'uni atu leva 'i ha fa'ahinga taimi pe ke tukuatu 'a e hopo ko eni mei he fakamaau'anga ki he fakalelei va 'o fakatatau ki he Tu'utu'uni 45 'o e Ngaahi Tu'utu'uni 'o e Fakamaau'anga Lahi 2007 pea ko hono tuku atu ko ia 'e lau pe ia 'oku 'i he malumalu 'o e ngaahi tu'utu'uni ni.

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- (b) Tukukehe pe 'o ka to e tu'utu'uni 'e e fakamaau, ko e totongi ko ia 'o e fakalelei va 'e totongi ia 'e he ongo fa'ahi 'o 'ikai tomui ange 'i he 'aho 'e fitu(7) kimu'a pea kamata 'a e fakalelei va. 'I he taimi ko e 'e tuku atu ai 'e he fakamaau 'a e hopo ki he fakalelei va, 'e fakapapau'i ai 'e he fakamaau 'a e mahu'inga ke totongi 'e he ongo fa'ahi pea mo e 'aho ke totongi ai.
- (c) 'E hiki leva 'e he fakamaau 'i he faile 'a e fakamaau'anga 'a e 'aho ko ia kuo fai e felototi ke fakahoko ai 'a e fakalelei va pea tuku kehe ka 'i ai ha ngaahi makatu'unga makehe, 'e fakahoko ia 'i loto he 'aho 'e 30 na'e tuku atu ai 'a e hopo ki he fakalelei va pea hili ia 'e tuku atu leva 'a e faile hopo ki he tokotaha fokotu'utu'u fakalelei va.
- (d) 'E fakapapau'i atu leva 'e he tokotaha fokotu'utu'u fakalelei va 'i ha fanongonongo ki he ongo fa'ahi 'a e hingoa 'o tokotaha fakalelei va kuo fili ('e malava pe ko e tokotaha fakalelei va), feitu'u mo e 'aho mo e taimi 'o e fakalelei va pea 'e kau atu 'i he fanongonongo ha puipuitu'a nounou 'o e anga ko ia hono fakahoko 'o e fakalelei va.
- (e) Ko hono tufa ko ia 'o e fanongonongo ko ia pe ko ha to e tohi ngaue felave'i mo e fakalelei va ko ia 'e fakahoko ia ;o fakatatau ki he ngaahi tu'utu'uni ko ia 'i he Ngaahi Tu'utu'uni Fakamaau'anga Lahi 2007.

**TU'UTU'UNI 9. FAKAFOFONGA'I 'I HE FAKALELEI VA.**

- (a) Ka 'i ai leva ha fa'ahi ko e tokotaha

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fakafo'ituitui, kuo pau ke kau atu 'a e sino 'o e tokotaha ko ia ( tuku kehe 'o ka 'oku 'i ai ha 'uhinga lelei 'e 'ikai malava ai ke kau mai 'a e sino 'o e tokotaha ko ia pea kuo faka'ata ia 'e he fakamaau 'i he 'aho ko ia 'e tuku atu ai 'a e hopo ki he fakalelei va pe ko ha to e 'aho ki mui ange mei ai.)

- (b) 'E malava pe ke fakafofonga'i mai ha fa'ahi 'e ha loea mo e/pe ha tokoua kehe tenau fili mai.
- (c) Ka 'i ai leva ha fa'ahi ko ha kautaha, pe potungaue 'a e pule'anga, 'e malava pe ke kau atu 'a e fa'ahi 'i hano fakafofonga'i 'e ha tokotaha pe ni'ihiki kuo fakamafai'i ke ne lea 'o fakafofonga'i pea ka fiema'u ke tokoni'i 'e ha loea pe tokotaha pe ni'ihiki tenau fili.
- (d) Kimu'a ko ia pea fakahoko 'a e fakalelei va kuo pau ke fakahoko ki he tokotaha fakalelei va mo e ongo fa'ahi 'a e hingoa mo e fatongia 'o ha kau fakafofonga.
- (e) Ka 'i ai leva ha fakakikihi, 'e faitu'utu'uni 'a e tokotaha fakalelei va 'i he ngaahi me'a ko ia felave'i mo e fakafofonga'i 'o ha fa'ahi.

## **TU'UTU'UNI 10. KAU FAKATONULEA**

Ka fiema'u leva 'e ha fa'ahi ke 'i ai ha fakatonulea 'i he fakalelei va pea 'i ai ha 'uhinga lelei 'a e 'ikai ke malava ken au 'omai ha fakatonulea , kuo pau leva ke fakahoko 'e he fa'ahi ko ia ki he tokotaha fokotu'utu'u fakalelei va, 'i ha uike 'e taha kimu'a 'i he fakalelei va koe'uhi, 'o kapau te ne pehe 'oku fakapotopoto, 'e fokotu'utu'u leva ke 'i ai ha fakatonulea 'a e fakamaau'anga 'i he fakalelei va.

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**TU'UTU'UNI 11. 'IKAI KE HA 'I HE FAKALELEI VA.**

Kapau leva 'i he hili ko ia hano ma'u ha fanongonongo, kuo 'ikai ke ha ha fa'ahi ia 'i he fakalelei va, 'e fakahoko leva 'e tokotaha fakalelei va ki he fakamaau na'a ne tuku mai e hopo ki he fakalelei va, 'a e 'ikai ko ia ke ha ha fa'ahi 'i he fakalelei va, pea ka 'ikai ke 'i ai ha makatu'unga makehe, 'e foaki leva 'e he fakamaau ha totongi ma'ae fa'ahi ko ia na'e ha he fakalelei va.

**TU'UTU'UNI 12. FATONGIA 'O E TOKOTAHA FAKALELEI VA**

- (a) Ko e ngaahi tefito'i fatongia 'o e tokotaha fakalelei va 'oku ha ia 'i he Fekau 45 Tu'utu'uni 4 'o e Ngaahi Tu'utu'uni 'o e Fakamaau'anga Lahi 2007.
- (b) 'E tokoni 'a e tokotaha fakalelei va ki he ongo fa'ahi ke fakapapau'i 'a e ngaahi me'a 'oku hoko ai e fakakikihi 'a e ongo fa'ahi pea mo fekumi ki ha ngaahi founa pea feinga ke ma'u ha ngaahi founa 'e vave ai hono fakalelei'i 'o ha fakakikihi 'i ha felotoi 'a e ongo fa'ahi.
- (c) 'E fakahoko 'e he tokotaha fakalelei va 'a e fakalelei va 'i ha founa te ne pehe 'oku fakapotopoto hili hono fakakaukau'i 'a e ngaahi 'ataakai 'o e hopo, ko e ngaahi faka'amu 'a e ongo fa'ahi pea mo e taumu'a ke ma'u ha fakalelei ki he fakakikihi 'oku potupotu tatau, fe'unga pea vave.
- (d) 'Oku 'i he mafai pe ia 'o e tokotaha fakalelei va, ke ne fakahoko 'a e fakalelei va pe konga 'o ia,



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neongo pe 'oku 'i ai pe 'ikai 'a e fakafofonga 'o e ongo fa'ahi.

- (e) 'E malava ke fakahoko 'e he tokotaha fakalelei va ha ngaahi fakataha taautaha mo fakapulipuli mo e ongo fa'ahi takitaha 'i ha fa'ahinga taimi pe lolotonga e fakalelei va. Ko ha fa'ahinga me'a pe 'e fakahoko ki he tokotaha fakalelei lolotonga ha ngaahi fakataha pehe ni 'oku matui'aki fakapulipuli ia pea tukukehe 'i hano fakangofua 'e ha fa'ahi e tokotaha fakalelei va 'e toki lava ai ke fakahoko ki he fa'ahi 'e taha.
- (f) 'O kapau leva 'e a'u ki ha tu'unga 'e malava ke 'iai ha tatala'a 'i he tokotaha fakalelei va 'a 'e ne tau'ataina pe ta'efilifili manako, pe hoko ha filifili manako 'i he tokotaha fakalelei va, kuopau ke ne fakahoko leva ki he tokotaha fokotu'utu'u fakalelei va, 'a ia tukukehe ha to e felotoi kehe 'a e ongo fa'ahi, 'e 'oatu ha tokotaha fakalelei va kehe.
- (g) 'E malava ke toloi 'e he tokotaha fakalelei va ha fakalelei va 'o kapau 'e 'ikai to e lava ha me'a kehe.
- (h) He'ikai ke tauhi ha ngaahi lekooti kuo hiki 'o e ngaahi fakalelei va.

### **TU'UTU'UNI 13. FATONGIA 'O E ONGO FA'AHl**

- (a) Ko e ongo fa'ahi kuopau ke na kau atu ki he fakalelei va 'i he laumalie lelei 'i he feinga mo'oni ke fakalelei 'a e fakakikihi.
- (b) 'E malava ke kole ha fa'ahi 'i ha fa'ahinga taimi pe ke fakahoko ha fakataha fakataautaha mo fakapulipuli mo e tokotaha fakalelei va.

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- (c) Kuo pau ke 'oatu 'e he ongo fa'ahi 'a 'enau tokoni ke malava ai hano fakahoko mo faka'osi 'o e fakalelei va 'i ha taimi lelei.
- (d) Ko e ongo fa'ahi ko ia kuo kau atu ki ha fakalelei va 'oku 'iate kinautolu 'a e mafai kakato ke fakalelei 'a e fakakikihi pe 'e kau atu ha taha 'oku ne ma'u 'a e mafai ko ia pe ko ha taha 'i he lolotonga ko ia 'o e fakalelei va te ne lava ke ma'u 'a e mafai ke fakalelei'i 'a e fakakikihi.

#### **TU'UTU'UNI 14. FAKAHOKO 'O E FAKALELEI VA**

- (a) Ko e tu'utu'uni ko eni 'e fakahoko ia ki he fakalelei va kotoa pe 'e 'ikai lava ke fakalelei 'i ha felotoi.
- (b) Ko e ngaahi fakamatala fakapulipuli kotoa pe 'e fakahoko atu 'e ha fa'ahi pe ko kinautolu 'oku kau atu ki he fakalelei va ki he tokotaha fakalelei va lolotonga 'a e fakalelei va, 'e 'ikai ngofua ki he tokotaha fakalelei va ke ne fakamatala.
- (c) Ko e ngaahi tohi, lekooti, lipooti pe ngaahi tohi ngaue 'oku ma'u pe fa'u lolotonga 'a e fakalelei va 'e he tokotaha fakalelei va 'i hono lakanga ko ia, 'e fakapulipuli ia lolotonga 'o e fakalelei va pea 'e faka'auha ia 'e he tokotaha fakalelei va 'i he faka'osinga ko ia 'o e fakalelei va.
- (d) 'E 'ikai ke fakamatala pe fakamo'oni 'a e tokotaha fakalelei va felave'i mo e fakalelei va 'i ha fa'ahinga fakatonotonu pe fakataha fakafakamaau'anga tukukehe pe ka tu'utu'uni atu 'e ha fakamaau.

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- (e) Tukukehe pe ka toki fakangofua atu 'e he ongo fa'ahi, 'e 'ikai ke fakahoko atu 'e he tokotaha fakalelei va ha ngaahi fakamatala na'a ne ma'u 'i he fakalelei va ki he fakamaau'anga tukukehe pe 'a 'e ne lipooti 'oku tu'u ai "'ikai lava ke fakalelei"
- (f) 'E tauhi 'e he ongo fa'ahi 'a e fakapulipuli 'o e fakalelei va pea 'ikai ke fakafalala pe fakahoko atu 'i ha fakamatala fakamo'oni 'i ha fa'ahinga fakatonutonu 'i he fakamaau'anga ha ngaahi fakamatala pe fakakaukau pe fokotu'u na'e fakahoko atu 'i he lolotonga ko ia 'o e fakalelei va. Ko ha fa'ahinga fakamatala pehe ni 'e 'ikai lava ke fakahu atu ia ke kau 'i ha fa'ahinga fakatonutonu fakalao.
- (g) 'E 'ikai lava 'e ha fa'ahi 'o fakahu atu ke hoko ko ha fakamatala fakamo'oni ha ngaahi fokotu'u 'a e tokotaha fakalelei va pe ngaahi tohi ngaue pe fa'ahinga fakamatala pe na'e ma'u lolotonga 'a e fakalelei va.

## **TU'UTU'UNI 15. FAKANGATA 'O E FAKALELEI VA**

- (a) 'E fakangata 'a e fakalelei va kapau 'e:
  - (i) 'i ai ha felotoi fakatohi nima 'a e ongo fa'ahi;
  - (ii) 'i ha fakaha 'e he tokotaha fakalelei va 'e 'ikai to e 'aonga ha ngaahi feinga ke he
- (b) 'E fakahoko atu 'e he tokotaha fakalelei va 'a e ola 'o e fakalelei va ki he tokotaha fokotu'utu'u fakalelei va 'i ha tohi 'i loto ia he 'aho 'e tolu mei hono fakangata 'o e fakalelei va.

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- (c) 'E fakahoko atu 'e he tokotaha fokotu'utu'u fakalelei va ki he fakamaau na'a ne tuku mai 'a e hopo 'a e ola 'o e fakalelei va kotoa 'i loto ia he 'aho 'e tolu mei hono ma'u atu ko ia 'o e fanongonongo mei he tokotaha fakalelei va, 'o kapau leve ko e tokotaha fakalelei va ko e tokotaha fokotu'utu'u fakalelei va pe ia, mei he 'aho ko ia hono fakangata 'o e fakalelei va.

#### **TU'UTU'UNI 16. FELOTOI**

- (a) 'O kapau leva 'e ola lelei 'a e fakalelei va pea 'e ia ai ha fakalelei, 'e lekooti fakatohinima leva 'e he tokotaha fakalelei va 'a e fakalelei kuo felotoi ki ai, pea te ne faka'aho 'a e felotoi ko ia pea te ne fakamo'oni ki he ngaahi fakaamo'oni hingoa 'a e ongo fa'ahi.
- (b) 'E fakahoko atu leva 'e he tokotaha fakalelei va 'a e fakalelei felotoi ko eni pea mo e faile 'o e hopo ki he fakamaau na'a ne tukumai 'a e hopo pea ka mama'o ia ki he Tu'i Fakamaau Lahi pe Fakamaau Polisi Pule pea 'e fakapapau'i leva 'e he fakamaau ko ia 'a e felotoi ko eni 'i he founga 'o ha tu'utu'uni kuo fai ki ai ha felotoi 'a ia 'i he hili hono sila'i pea tuku atu mei he fakamaau'anga 'e ngaue'aki ia ko e tu'utu'uni kuo fai ki ai 'a e felotoi 'i he malumalu 'o e Ngaahi Tu'utu'uni Fakamaau'anga Lahi 2007.

#### **TU'UTU'UNI 17. TU'UTU'UNI KE FAKAPULIPULI**

- (a) 'O kapau leva 'e kole 'e he ongo fa'ahi, 'e malava pe ka fakahoko 'e he fakamaau ha

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tu'utu'uni ke fakapulipuli 'a e felotoi ko eni mei he fakalelei va pea ka hoko ia ko e tu'utu'uni fakafakamaau'anga ko ia 'oku lekooti ai 'a e felotoi 'e anga pehe ni ia:

[Fakaha 'a e taumu'a mo e lekooti hono tuku atu ko ia ki he fakalelei va]

'OKU TU'UTTU'UNI AI:

1. Ko e 'uhi kuo felotoi ki ai 'a e ongo fa'ahi, kuo tu'utu'uni ai heni 'o fakatatau ki he felotoi fakatohinima kuo fakahoko 'e he ongo fa'ahi 'i hono (*fakahu heni 'a e 'aho*)
  2. Ko e ngaahi me'a ko ia kuo fai ki ai 'a e felotoi 'e fakapulipuli pe ia tukukehe ka tu'utu'uni ha fakamaau ke tukuange atu felave'i ia mo ha fakatonutonu ke fakahoko.
- (b) 'I he taimi ko ia 'e fakahoko ai 'e ha fakamaau ha tu'utu'uni fakapulipuli 'i he malumalu 'o e tu'utu'uni ko eni pea 'oatu ai mo ha tu'utu'uni te ne pehe 'oku taau felave'i mo e tauhi 'o e ngaahi fakalelei kuo fai ki ai 'a e felotoi pea mo e ngaahi fakamatala ke fakahu ki he Tohi Lesisita 'oku tauhi 'e he Tokotaha Fokotu'utu'u Fakalelei Va.

## **TU'UTU'UNI 18. NGAHI ME'A 'OKU 'IKAI KAU.**

Ka hoko leva ha me'a 'oku 'ikai kau atu 'i he ngaahi tu'utu'uni ko eni pe ko e Tu'utu'uni 45 'o e Ngaahi Tu'utu'uni 'o e Fakamaau'anga Lahi 2007, 'i he hili ha talatalaifale 'a e tokotaha fokotu'utu'u fakalelei va pea moe fakamaau na'a ne tuku mai 'a e hopo ki he fakalelei va 'o kapau 'oku ne pehe 'oku taau, te ne

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fakapapau'i 'o hange ko ia 'e pehe 'e he tokotaha fokotu'utu'u fakalelei va 'oku fakapotopoto hili ia ha'ane fakakaukau ki he taumu'a 'o e ngaahi tu'utu'uni ni.

### **TU'UTU'UNI 19. 'IKAI MALAVA KE MO'UA**

Ko e tokotaha fokotu'utu'u fakalelei va pea mo ha to e tokotaha fakalelei va pe 'oku fakahoko ngaue 'o fakatatau ki he ngaahi tu'utu'uni ni, 'e 'ikai malava ke mo'ua sivile ia tuku kehe pe ka ko ha ola ia 'o ha'ane ngaue kaka pe 'ikai faitotonu.

### **TU'UTU'UNI 20. FAKA'UHINGA LEA**

Ka hoko leva ha faikehekehe 'i he lea fakaPilitania mo e lea faka-Tonga, 'e ngaue'aki leva 'a e 'uhinga'i lea faka-Pilitania.

Anthony D Ford  
Tu'i Fakamaau Lahi  
Sune 2009.

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## **NGAAHI TU'UTU'UNI 'O E FAKALELEI VA KIMU'A HA FAKATONUTONU**

**Tu'utu'uni 1. Ngaue'aki 'a e ngaahi tu'utu'uni**

**Tu'utu'uni 2. Taumu'a 'o e ngaahi tu'utu'uni**

**Tu'utu'uni 3. 'UHINGA'I LEA**

**Tu'utu'uni 4. Ui ki he fakalelei va**

**Tu'utu'uni 5. Fanongonongo 'o e fakataha kimu'a**

**Tu'utu'uni 6. Felotoi ke fakalelei va**

**Tu'utu'uni 7. Ngaahi totongi 'o e fakalelei va**

**Tu'utu'uni 8. Fakapapau'i 'o e fakalelei va**

**Tu'utu'uni 9. Fatongia 'o e ongo fa'ahi**

**Tu'utu'uni 10. Fakafofonga'i 'i he fakalelei va**

**Tu'utu'uni 11. Kau Fakatonulea**

**Tu'utu'uni 12. Fakahoko 'o e fakalelei va**

**Tu'utu'uni 13. Fakangata 'o e fakalelei va**

**Tu'utu'uni 14. Aleapeau felotoi**

**Tu'utu'uni 15. Fakahoko 'o e aleapau felotoi**

**Tu'utu'uni 16. 'Ikai lava ke felotoi**

**Tu'utu'uni 17. Ngaahi me'a 'oku 'ikai ha**

**Tu'utu'uni 18. 'Ikai lava ke mo'ua**

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**TEPILE 1. Aleapau Felotoi ke Fakalelei**

**TEPILE 2. Fokotu'u atu 'o e ngaahi totongi**

**TEPILE 3. Fakapapau'i 'o e fakalelei va**

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### **TU'UTU'UNI 1. NGAUE'AKI 'O E NGAAHI TU'UTU'UNI**

Ko e ngaahi tu'utu'uni 'e kamata ngaue'aki ia mei hono 1 'o e 'aho 'o Siulai 2009 pea 'e faka'aonga'I ia 'I he fakalelei va kimu'a pea toki fakahono ha fakatonutonu kuo 'osi fakamo'oni hingoa 'a e ongo fa'ahi ke na fakalelei pea kuo pau ke fakahoko ai 'a e ngaahi tu'utu'uni ni.

### **TU'UTU'UNI 2. TAUMU'A 'O E NGAAHI TU'UTU'UNI NI**

Ko e taumu'a 'o e ngaahi tu'utu'uni ni ke tuku atu 'a e ngaahi founa ngaue ki he fakalelei va 'i he Pule'anga 'o Tonga, makehe ia mei he fakalelei va kuo tuku mai mei he fakamaau'anga, 'o fakatatau ia mo e taumu'a ko ia ke fakahoko ha fakalelei 'i ha fakakikihi 'i ha founa 'oku vave pea potupotu tatau foki.

### **TU'UTU'UNI 3. 'UHINGA'I LEA**

"Tokotaha Fakalelei Va" 'oku 'uhinga ia ki he tokotaha fakalelei va 'I hono faka'uhinga 'i he ngaahi tefito'i tu'utu'uni.

"Tokotaha Fokotu'utu'u Fakalelei Va" 'oku 'uhinga ia ki he tokotaha kuo fakanofa ki ai 'o fakatatau ki he ngaahi tefito'i tu'utu'uni.

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“Fa’ahi” ‘oku kau ki ai ‘a e tokotaha taautaha, kautaha, potungaue ‘a e pule’anga.

“Ngaahi Tefito’i Tu’utu’uni” ‘oku ‘uhinga ia ki he ngaahi tu’utu’uni ‘o e ngaahi founa ngaue ‘a e ngaahi fakalelei va kuo tukumai mei he fakamaau’anga.

#### **TU’UTU’UNI 4. UI KI HE FAKALELEI VA**

- (a) Ka ‘i ai ha fa’ahi ‘oku faka’amu ke fakalelei ha fakakikihi ( ‘I he konga ko eni ‘o e ngaahi tu’utu’uni, ‘e ui pe ia ko e fa’ahi ‘uluaki)mo ha fa’ahi ‘e taha pe ngaahi fa’ahi ‘o ‘ikai fakahoko ha fakatonutonu ‘i ha fakamaau’anga, ‘e malava pe fakahoko ha kole ki he tokotaha fokotu’utu’u fakalelei va ke fakahoko pe feinga ke fakahoko ha fakalelei va.
- (b) Ko e kole ko ia ‘e fakahoko ki he tokotaha fokotuu’utu’u fakalelei va ‘e fakahoko fakatohinima ia. Kuo pau ke fakapapau’i ai ‘oku maheni ‘a e fa’ahi ‘uluaki mo e ngaahi tu’utu’uni ‘o e fakalelei va kimu’a ha fakatonutonu. Kuo pau foki ke fakaha mahino ai ‘a e hingoa/ngaahi hingoa pea mo e tu’asila ‘o e fa’ahi/ngaahi fa’ahi ‘e taha pea fakahoko kakato mai mo e fakaikiiki ‘o e natula ‘o e fakakikihi.
- (c) Ko e kole fakatohinima ko e ni kuo pau ke kau ‘omi fakataha ia mo ha tipositi \$50 (pe ko ha mahu’inga pe ‘e tu’utu’uni atu ‘e he Tu’i Fakamamaau Lahi ‘i ha ngaahi taimi)‘o totongi ia ki he Failesisita ‘o e Fakamaau’aanga Lahi.
- (d) ‘I hano ma’u ko ia ‘o ha kole fakatohinima, ‘e fakakaukau’i leva ‘e he tokotaha fokotu’utu’u

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fakalelei va 'a e natula 'o e fakakikihi pea sivilivivi'i pe 'oku fakapotopoto ke fakahoko ki he fakalelei va.

- (e) Pea kapau leva 'oku 'i he tokotaha fakalelei va 'a e fakakaukau ko ia 'oku 'ikai totonu ke fakahoko 'a e fakakikihi ni ia ki he fakalelei va 'i ha fa'ahinga 'uhinga pe, te ne fakahoko leva ia ki he fa'ahi 'uluaki pea fakafoki mo e pa'anga na'e tipositi.

## **TU'UTU'UNI 5. FANONGONONGO 'O E FAKATAHA KIMU'A**

- (a) Kapau leva 'oku 'i he tokotaha fokotu'utu'u fakalelei va 'a e fakakaukau 'oku fakapotopoto ke fakahoko 'a e fakakikihi ki he fakalelei va te ne 'oatu leva ki he fa'ahi/ngaahi fa'ahi 'e taha 'a ia kuo tu'u hono/honau hinga 'i he fanongonongo 'o e fakakikihi 'o fakaafe'i 'a e fa'ahi/ngaahi fa'ahi 'e taha ke kau mai ki he fakataha kimu'a 'i ha taimi mo ha 'aho kuo fokotu'u atu koe'uhi ke fakapapau'i pe 'oku tui tatau 'a e fa'ahi/ngaahi fa'ahi 'e taha ke fakahoko 'a e fakakikihi ki he fakalelei va 'o fakatatau ki he ngaahi tu'utu'uni ni. Pea 'o kapau 'e pehe 'e he tokotaha fokotu'utu'u fakalelei va 'oku fakapotopoto, 'e malava ke fakahoko 'a e fakataha kimu'a 'i he fakalelei va, 'i he telefoni pe ha fa'ahinga founa fakahoko fetu'utaki.
- (b) 'E malava pe ki he tokotaha fakalelei va, ke ne 'oatu ha fanongonongo, 'o ka ne pehe 'oku fakapotopoto, ki ha fa'ahi 'oku 'ikai ha 'i he fanongonongo 'a e 'uluaki fa'ahi.

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- (c) Tuku kehe pe ka 'ilo'i 'e he tokotaha fokotu'utu'u fakalelei va 'oku mahino pe 'a e lea faka-Pilitania ki he fa'ahi/ngaahi fa'ahi 'e taha, ko e fanongonongo ko ia 'o e fakakikihi 'i he malumalu 'o e tu'utu'uni ko eni 'e 'i he lea faka-Tonga ia.
- (d) 'E fokotu'utu'u 'e he tokotaha fokotu'utu'u fakalelei va ki he fa'ahi 'uluaki pea mo ha tokotaha fakalelei va 'e fili fakataau ki he tu'utu'uni 8 ke kau mai ki he fakataha kimu'a ko eni.
- (e) Kapau leva 'e 'ikai ha 'a e fa'ahi/ngaahi fa'ahi 'e taha 'i he fakataha kimu'a he fakalelei va pe 'ikai loto ia ke kau atu ki ha felotoi ke fakahoko ha fakalelei va, 'e to'o leva 'e he tokotaha fokotu'utu'u fakalelei va pea mei he pa'anga ko ia na'e tipositi ha mahu'inga 'oku fakapotopoto ke totongi'aki 'a e tokotaha 'oku ne pule'i 'a e fakalelei va pea mo e/pe tokotaha fakalelei (kapau ko e tokotaha ko ia 'oku 'ikai ngaue fakapule'anga) ko e 'uhi ko 'e ne ha he fakataha ni pea ko e toenga 'o e pa'anga 'e fakafoki ia ki he fa'ahi 'uluaki.

## **TU'UTU'UNI 6. FELOTOI KE FAKALELEI VA**

- (a) Ka felotoi leva 'a e ongo fa'ahi 'i he fakataha kimu'a he fakalelei va ke 'ave 'a e fakakikihi ko eni ki he fakalelei va pea 'e fokotu'utu'u leva'e he tokotaha fokotu'utu'u fakalelei va ha aleapau ke fakalelei va ke fakamo'oni hingoa ki ai 'a e ongo fa'ahi 'a ia 'e ha ia 'i he founga 'o e Tepile 1 'o e ngaahi tu'utu'uni ni.
- b) 'E fakakau tu foki 'e he tokotaha fokotu'utu'u fakalelei va 'l he aleapau ko eni ke fakalelei va

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ha fakamatala nounou 'o e natula 'o e fakakikihi.

**TU'UTU'UNI 7. NGAahi TOTONGI 'O E FAKALELEI VA**

- (a) 'I he fakataha ko ia kimu'a 'i he fakalelei va, 'e fakapapau'i atu ai 'e he tokotaha fokotu'utu'u fakalelei va 'a e mahu'inga ko ia 'e totongi mai ki he Failesisita 'o e Fakamaau'anga Lahi ( pe ko ha taha pe 'e fakangofua 'e he Tu'i Fakamaau Lahi) pea tukukehe pe ha ngaahi makatu'unga makehe, ko e totongi ko ia 'o e fakalelei va 'oku ha 'i he ngaahi tefito'i tu'utu'uni.
- (b) Kuo pau foki mke fakapapau'i ai 'e he tokotaha fokotu'utu'u fakalelei va 'a e lahi 'o e pa'anga 'e totongi 'e he fa'ahi takitaha pea fokotu'u mo e 'aho kuo pau ke totongi ai 'a e pa'anga ko eni.
- (c) Tukukehe pe ka 'i ai ha ngaahi makatu'unga makehe, ko e pa'anga ko ia 'e totongi 'e he fa'ahi takitaha, kuopau ke vahevahe tatau pe ia.
- (d) Ko e lahi ko ia 'o e Pa'anga ke totongi 'e he fa'ahi takitaha pea mo e 'aho kuo pau ke fakahoko ai 'a e totongi ko eni, kuo pau ke lekooti ia 'i he felotoi ko ia ke fakalelei va.
- (e) Ko e pa'anga ko ia 'e faikehekehe'aki 'i he pa'anga tipositi 'a e fa'ahi 'uluaki mo e pa'anga ko ia te ne totongi ko e totongi 'o e fakalelei va ('o kapau 'e 'i ai) 'e totongi fakafoki ia ki he fa'ahi 'uluaki.
- (f) Ka fakahoko leva 'a e fakalelei va 'e ha

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tokotaha fakalelei va 'oku 'ikai ngaue fakapule'anga, 'e totongi atu leva 'e he tokotaha fokotu'utu'u fakalelei va ki he tokotaha fakalelei va 'a e mahu'inga ko ia 'oku ha 'i he ngaahi tefito'i tu'utu'uni.

- (g) Ko e toenga ko ia 'o e pa'anga totongi 'o e fakalelei va ( hili ia hano to'o 'o e tukuhau ngaue'aki) 'e fakahu leva ia 'e he tokotaha fokotu'utu'u fakalelei va ki he 'akauni fakalelei va ke ngaue'aki ki he fakalakalaka 'a e fakalelei va 'i he Pule'anga 'i ha founga 'e fakangofua 'e he Tu'i Fakamaau Lahi 'i ha taimi hili ia ha talatalaifale mo e Fakamaau Polisi Pule.
- (h) Tukukehe pe 'a e totongi ko ia 'o e fakalelei va, 'e fua pe 'e he fa'ahi takitaha 'a 'e ne ngaahi fakamole felave'i mo e fakalelei va.

## **TU'UTU'UNI 8. FAKAPAPAU'I 'O E FAKALELEI VA**

- (a) Kimu'a pe 'i he fakataha kimu'a e fakalelei va, 'e tuku atu leva 'e he tokotaha fokotu'utu'u fakalelei va ha taha fakalelei va ('e malava pe ia ko e tokotaha fokotu'utu'u fakalelei va) pe 'e hoko kimu'a pe 'i he fakataha kimu'a e fakalelei va ke fokotu'u ai ha 'aho, taimi pea mo e feitu'u 'o e fakalelei va.
- (b) 'I hono tukuatu ko ia 'e he tokotaha fokotu'utu'u fakalelei va ha tokotaha fakalelei va, kuopau ke ne fakapapau'i 'oku 'ikai ha pikinga fakapa'anga pe fakataautaha 'a e tokotaha fakalelei va 'i he ola ko ia 'o e fakalelei va pe ko e anga ko ia hono fakahoko 'o e fakalelei va pea 'e 'ikai ha ngaahi 'ataakai te ne fokotu'u mai 'o pehe na'e 'i ai ha filifili manako.

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- (c) 'E malava pe ke fakahoko 'a e fakalelei va ia ('o kapau 'e felotoi ki ai 'a e ongo fa'ahi) 'i he hili pe ko ia 'o e fakataha kimu'a pea toki fakalelei va, pea ka hoko ia 'e 'oatu leva 'e he tokotaha fokotu'utu'u fakalelei va 'a e ngaahi tu'utu'uni ko ia 'oku ne pehe 'oku fakapotopoto ke fakafaingofua'aki 'a e fakahoko fakavavevave ko eni.

## **TU'UTU'UNI 9. FATONGIA 'O E ONGO FA'AHU**

- (a) Ko e ongo fa'ahi kuopau ke na kau atu ki he fakalelei va 'i he laumalie lelei 'i he feinga mo'oni ke fakalelei 'a e fakakikihi.
- (b) Ko e ongo fa'ahi kuo pau ke talangofua ki he ngaahi kole fakapotopoto ko ia 'a e tokotaha fakalelei va ke malava ke fakahoko ai 'i ha founa fe'unga mo vave ke fakalelei'aki 'a e fakakikihi.
- (c) 'E malava ke kole ha fa'ahi 'i ha fa'ahinga taimi pe ke fakahoko ha fakataha fakataautaha mo fakapulipuli mo e tokotaha fakalelei va.
- (d) Kuo pau ke 'oatu 'e he ongo fa'ahi 'a 'enau tokoni ke malava ai hano fakahoko mo faka'osi 'o e fakalelei va 'i ha taimi lelei.
- (e) Ko e fa'ahi takitaha 'oku kau atu ki he fakalelei va kuo pau ke ne ma'u 'a e mafai kakato pe mo ha taha 'oku 'i ai 'a e mafai ko ia pe 'e malava pe 'i he lolotonga 'o e fakalelei va ke ne ma'u 'a e mafai ke fakalelei 'a e fakakikihi ko ia.

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## **TU'UTU'UNI 10. FAKAFOFONGA'I 'I HE FAKALELEI VA**

- (a) Tuku kehe pe ka faka'ata 'e he tokotaha fokotu'utu'u fakalelei va ha fa'ahi koe'uhi ko ha ngaahi makatu'unga makehe kimu'a ia 'i he fakalelei va, kapau ko ha fa'ahi ko e tokotaha taautaha, ko e fa'ahi ko ia kuo pau ke kau atu ia ki he fakalelei va, pea 'e malava p eke fakafofonga'i pe tokoni'i 'e ha fakafofonga pea mo ha/ pe tokoua kehe.
- (b) Kapau leva ko e fa'ahi ia ko ha kautaha, potungaue fakapule'anga, 'e kau atu leva ia 'o fakafou 'i ha fakafofonga/kau fakafofonga pea tokoni ki ai mo ha loea pe koia pe 'e fili 'e he fa'ahi.
- (c) Ko e hingoa mo e fatongia 'o e kau fakafofonga ko ia ( ka malava) kuopau ke fakahoko ia ki he ngaahi fa'ahi kotoa pea ki he tokotaha fakalelei va kimu'a pea kamata 'a e fakalelei va.
- (d) Ka hoko leva ha fakakikihi, ko e tokotaha fakalelei va ia te ne faitu'utu'uni 'i he ngaahi me'a felave'i mo e fakafofonga'i.

## **TU'UTU'UNI 11. KAU FAKATONULEA**

- (a) 'E 'omi pe 'e ha fa'ahi ha'ane fakatonulea 'o kapau 'oku fiema'u
- (b) Ka a'u leva ki ha tu'unga kuo pehe 'e he tokotaha fokotu'utu'u fakalelei va pe tokotaha fakalelei va 'oku fiema'u ha fakatonulea, te ne fale'i leva 'a e ongo fa'ahi pea 'e malava p eke

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fiema'u 'a e ongo fa'ahi ke totongi ha pa'anga 'o vahevahe tatau ( tuku atu 'e he tokotaha fokotu'utu'u fakalelei v ape tokotaha fakalelei va) ke totongi'aki e fakatonulea.

## **TU'UTU'UNI 12. FAKAHOKO 'O E FAKALELEI VA**

Ko e fakalelei va 'e fakahoko ia 'i he founa 'e malava ke fakahoko ai 'o fakatatau ki he ngaahi tefito'i tu'utu'uni pea mo ha ngaahi liliu 'e fe'unga, ko e founa ngaue ko ia 'e fakakau atu ia ki he ngaahi tu'utu'uni ni.

## **TU'UTU'UNI 13. FAKANGATA 'O E FAKALELEI VA**

- (a) 'E malava pe ki ha fa'ahi kimu'a pe ko e lolotonga 'o e fakalelei va ke fakangata 'a e fakalelei va 'i hano 'oatu ha fakanongonongo fakatohinima ki he tokotaha fakalelei va ke fakangata'aki e fakalelei va.
- (b) Kapau leva 'e hoko 'a e fakangata ko ia, 'e fakahoko leva 'e he tokotaha fakalelei va ha tu'utu'uni 'a ia 'oku ne pehe 'oku fe'unga felave'i mo hono puke, tukuange pe fakafoki 'o e pa'anga kuo totngi atu ko e totongi fakalelei va
- (c) 'I he ngaahi hopo kehe 'e fakangata ha fakalelei va 'aki ha:
  - (i) aleapau felotoi fakatohinima 'a e ongo fa'ahi;
  - (ii) fakaha 'e he tokotaha fakalelei va ko

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hano to e hoko atu 'o e fakalelei va 'e  
'ikai 'i ai ha 'aonga.

- (d) 'E fakahoko 'e he tokotaha fakalelei va 'a e ola  
'o e fakalelei va ki he tokotaha fokotu'utu'u  
fakalelei va 'i ha tohi 'i loto ia 'i he 'aho 'e tolu  
mei he fakangata 'o e fakalelei va.

#### **TU'UTU'UNI 14. ALEAPAU FELOTOI**

- (a) Ka 'i ai leva ha aleapau felotoi ki ha fakakikihi'e  
tohi ia pea fakahoko ia 'e he ongo fa'ahi 'i he  
taimi vave 'e ala fakahoko ai hili 'a e felotoi ki ai.
- (b) Ko e aleapau felotoi 'e malava pe ke fa'u ia 'e  
he tokotaha fakalelei va pe ko e kau  
fakafongoa lao 'a e ongo fa'ahi.
- (c) 'E tufa atu 'a e tatau 'o e aleapau felotoi kuo  
fakahoko kuo fakamo'oni ki ai 'a e tokotaha  
fakalelei va, ki he fa'ahi takitaha pea mo e  
tokotaha fokotu'utu'u fakalelei va.

#### **TU'UTU'UNI 15. FAKAHOKO 'O E ALEAPAU FELOTOI**

- (a) 'Oku tau'ataina pe ha fa'ahi ki ha fa'ahinga  
founga 'e fakahoko'aki 'a e aleapau felotoi 'o  
fakafou ia he fakamaau'anga.
- (b) Ka 'ikai leva ha fakatonutonu ki hono fakahoko  
ha aleapau, 'e 'ata ki ha fa'ahi ke ui fakamo'oni  
ki he pea mo e kei laumalie ko ia 'a e aleapau  
felotoi (kau ai mo e fakamatala fakamo'oni mei

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he tokotaha fakalelei va) ka ko e ngaahi me'a kotoa ko ia na'e lea'aki 'i he malumalu ko ia 'o e fakapulipuli 'o e fakalelei va, 'e 'ikai ngofua ia ke fakahu ki he fakatonutonu, tuku kehe pe ka toe 'i ai ha tu'utu'uni 'a e fakamaau koe'uhi ko e ngaahi makatu'unga makehe 'o e hopo.

#### **TU'UTU'UNI 16. 'IKAI LAVA HA FELOTOI**

- (a) Ka 'ikai leva ke 'i ai ha aleapau felotoi, 'e kei hoko atu pe 'a e tauhi 'e he ongo fa'ahi 'a e fakapulipuli ko ia 'o e fakalelei va pea 'e 'ikai fakafalala ki ai pe ui ia ke hoko ko ha fakamatala fakamo'oni, pe fakakaukau na'e fakahoko pe fokotu'u lolotonga ko ia 'o e fakalelei va 'i ha fa'ahinga fakatonutonu 'i ha fakamaau'anga.
- (b) Ko ha fa'ahinga fakamatala fakamo'oni, fakakaukau pe fokotu'u pehe, 'e 'ikai ngofua ke ngaue'aki ia 'i he fa'ahinga fakatonutonu fakalao.

#### **TU'UTU'UNI 17. NGAahi ME'A 'OKU 'IKAI HA.**

Ka 'i ai leva ha ngaahi me'a 'e hoko 'a ia 'oku 'ikai ha atu 'i he ngaahi tu'utu'uni ni pe ko e ngaahi tefito'i tu'utu'uni pe ko e felotoi ko ia ke fakalelei va, ko e tokotaha fakalelei va 'i he hili ha'ane talatalaifale mo e tokotaha fokotu'utu'u fakalelei va, te ne fakapapau'i ia 'o fakatatau ki he ngaahi tu'utu'uni ni pea 'e ha'i ki ai 'a e ongo fa'ahi.

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**TU'UTU'UNI 18. 'IKAI LAVA KE MO'UA**

- (a) Ko e tokotaha fokotu'utu'u fakalelei va pea mo ha to e tokotaha fakalelei va pe 'oku fakahoko ngaue 'o fakatatau ki he ngaahi tu'utu'uni ni, 'e 'ikai malava ke mo'ua sivile ia tuku kehe pe ka ko ha ola ia 'o ha'ane ngaue kaka pe 'ikai faitotonu.
- (b) 'Oku hanga heni 'e he ongo fa'ahi 'o malu'i 'a e tokotaha fokotu'utu'u fakalelei va pe tokotaha fakalelei va mei hano 'eke'i kiate kinaua 'e ha fa'ahi pe ha taha pe'oku 'i he malumalu 'o e fa'ahi pe fakafou atu 'i ha fa'ahi, 'o felave'i ia pe 'l ai ha'ane lave ki he fa'ahinga ngaue pe me'a na'e 'ikai fakahoko 'e he tokotaha fokotu'utu'u fakalelei va pe tokotaha fakalelei va 'i ha fakahoko fatongia pe pehe ko e fakahoko fatongia 'i he malumalu 'o e ngaahi tu'utu'uni ko eni pe ko e felotoi ko ia ke fakalelei, tuku kehe pe ka ko e ngaue ko ia pe ko e ngaue na'e 'ikai fakahoko ko e kaka.



**TEPILE 1**

**Aleapau felotoi ke fakalelei kimu'a ha fakatonutonu.**

**Ongo fa'ahi:**

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**("ko e ongo fa'ahi")**

**Tokotaha fakalelei va:**

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**("ko e tokotaha fakalelei va")**

A. Kuo 'i ai ha fakakikihi, 'a ia 'oku ha 'i he Tepile 1 'o e aleapau ni, 'I he vaha'a 'o e ongo fa'ahi. (**ko e fakakikihi**)

B. Kuo felotoi ai 'a e ongo fa'ahi ke tuku atu 'a e fakakikihi ni ki he fakalelei va 'I he 'ao 'o e tokotaha fakalelei va.

C. Kuo fakapapau'i ai heni 'e he ongo fa'ahi ke fakahoko 'a e fakalelei va 'o fakatatau ki he ngaahi makatu'unga 'o e aleapau felotoi pea mo e ngaahi tu'utu'uni 'o e fakalelei va kimu'a ha fakatonutonu 'a ia 'oku fakatokanga'i heni 'e he ongo fa'ahi 'oku na maheni mo ia.

**Aleapau Felotoi**

1. 'Oku felotoi heni 'a e ongo fa'ahi ke tuku atu 'a e fakakikihi ni ki he fakalelei va 'o fakatatau ki ai 'oku ha 'i 'olunga.





2. Kuo fili ai 'e he ongo fa'ahi 'a e tokotaha fakalelei va ke fakahoko 'a e fakalelei va pea kuo tali 'e tokotaha fakalelei va hono fili ia ke ne fakalelei 'a e fakakikihi ko eni.

3. 'E tokoni ai 'a e tokotaha fakalelei va ke 'ilo'i 'a e ngaahi me'a 'i hona va pea ke fekumi ki ha ngaahi founga ki ha, pea kapau 'e lava, ha founga vave ke fakalelei'aki 'o e fakakikihi 'i ha'ana felotoi.

4. Kuo felotoi ai 'a e ongo fa'ahi ke totongi 'a e pa'anga takitaha 'a ia kuo tu'utu'uni 'e he tokotaha fokotu'utu'u fakalelei va pea fakapapau'i 'i he Tepile 2 ki he felotoi ko eni 'i he pe kimu'a e 'aho kuo tu'utu'uni ke totongi ai.

5. Kuo felotoi 'a e ongo fa'ahi ke na kau atu ki he fakalelei va 'i he feitu'u, taimi pea mo e 'aho ko ia 'oku ha 'i he Tepile 3 'o e aleapau ni.

6. Kuo fakapapau'i 'e he tokotaha fakalelei va 'oku te'eki ai ha'ane kaunga ki ha taha 'o e ngaahi fa'ahi pea 'ikai 'i ai ha'ane kaunga atu ki he fakakikihi.

7. Kuo felotoi 'a e ongo fa'ahi ke na faka'apa'apa'i 'a e fakapulipuli ko ia 'a e fakalelei va 'o fakatatau ki he ngaahi tu'utu'uni ni.

8. Kuo felotoi 'a e ongo fa'ahi ka 'i ai he me'a 'e hoko 'oku 'ikai kau 'i he aleapau pe ngaahi tu'utu'uni ni 'e fakapapau'i leva 'e he tokotaha fakalelei va 'a ia te ne pehe 'oku fakapotopoto pea hange ko ia kuo tuku atu 'e he ngaahi tu'utu'uni ni.

9. Kuo fakatokanga'i ai heni 'e he ongo fa'ahi 'e 'ikai kau 'a e tokotaha fokotu'utu'u fakalelei va pea mo e tokotaha fakalelei va mei ha faka'ilo sivile 'o felave'i mo e fakalelei va 'i he malumalu 'o e ngaahi tu'utu'uni ni tuku kehe pe ka ko ha kaka pe ngaue ta'efaitotonu.

10. Kuo tali ai eni 'e he ongo fa'ahi pea mo e tokotaha fakalelei va pea na tui tatau ai ke ha'iha'i kinautolu 'e he ngaahi tu'utu'uni ni.

**Fakamatala nounou 'o e fakakikihi 'I hono fakama'opo'opo 'e he tokotaha fokotu'utu'u fakalelei va:**

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**TEPILE 2 (Tu'utu'uni 7(d))**

**Kuo felotoi 'a e ngaahi fa'ahi ke totongi 'a hona 'inasi takitaha ki he totongi ko ia 'o e fakalelei va 'o fakatatau ki he ngaahi tu'utu'uni 'I he mahu'inga pea mo e 'aho 'oku ha atu 'I lalo:**

Fa'ahi 'uluaki (hingoa 'o e fa'ahi, mahu'inga mo e 'aho ke totongi ai):

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Fa'ahi ua (hingoa 'o e fa'ahi, mahu'inga mo e 'aho ke totongi ai):

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Fa'ahi tolu (hingoa 'o e fa'ahi, mahu'inga mo e 'aho ke totongi ai):

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**TEPILE 3**

**Fakapapau'i 'o e fakalelei va**

Ko e fakalelei va 'e fakahoko ia 'I he 'ao 'o e tokotaha fakalelei va (fakahu heni 'a e hingoa):

Ko e fakalelei va ko eni 'e fakahoko ia 'I hono ..... 'o e 'aho.....'o .....20.....'I he.....pongipongi/efiafi.

'AHO ko hono.....'o e 'aho 'o.....20.....

**Fakamo'oni Hingoa (hingoa 'o e tokotaha fakalelei va) .....**

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(Fakamo'oni hingoa mo e tu'asila 'o e tokotaha fokotu'utu'u fakalelei va)

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(Fakamo'oni hingoa 'a e tokotaha fakamo'oni)

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