

The Guardians of the Sea Charitable Trust

Nga Kaitiaki o Tangaroa

Trust Deed

**Kensington Swan
Solicitors
Auckland & Wellington**

Table of Contents

Parties.....	1
Background	1
Covenants.....	1
1 Interpretation	1
2 Establishment of Trust	3
3 Name of Trust.....	3
4 Objects.....	3
5 Raising of Funds.....	4
6 Board of Trustees	4
7 Term of Office, Appointment, Removal and Retirement of Trustees.....	4
8 Officers of the Board of Trustees.....	5
9 Duties of the Board of Trustees	6
10 Committees.....	6
11 Patrons.....	7
12 Powers of the Trustees	7
13 Endowment Funds and Other Funds for Specific Charitable Purposes	9
14 Administration of Endowment Funds	9
15 Investment	10
16 Interested Trustee	10
17 No Private Pecuniary Profit for any Individual, and Exceptions	10
18 Restrictions on Benefits to and Influence by Interested Persons	11
19 Responsibility of Trustees.....	11
20 Bank Account and Expenses	12
21 Revocation or Amendment.....	12
22 Winding Up	12
23 Incorporation	13
Schedule	14
Execution.....	16

The Guardians of the Sea Charitable Trust

Nga Kaitiaki o Tangaroa

Trust Deed

Deed dated *31st* day of August 2006

Parties

Raniera TeiTinga Tau, Business Consultant, of Kaikohe, **Scott William Grierson Macindoe**, Company Director, of Auckland, **Thomas Patrick Fox**, Company Director, of Auckland and **Martin Irvine**, Company Director, of Auckland ("**Trustees**")

Background

- A The Trustees wish to establish a trust for charitable purposes by creating the trusts provided for in this Deed.
- B The Trustees acknowledge receipt of the sum of \$10.00 to be held by them in their joint names together with any further sums or other assets acquired or vested in the Trustees upon the trusts and with and subject to the powers and discretions set out or implied in this Deed.

Covenants

1 Interpretation

- 1.1 **Definitions:** In this Deed, the following terms have the following meanings except to the extent that they may be inconsistent with the context:

"Annual Trustees' Meeting" means the annual meeting of the Board of Trustees.

"Auditor" means either a person who is a holder of a certificate of public practice as an auditor issued by the Institute of Chartered Accountants of New Zealand and who is a principal in a firm of chartered accountants in public practice or a firm of chartered accountants in public practice.

"Board of Trustees" means the Board of Trustees of the Trust constituted in accordance with this Deed.

"Chairperson" means the person appointed by the Board of Trustees as Chairperson pursuant to clause 8.1.a, or the person appointed to act as Chairperson at a meeting of the Board of Trustees, as the context requires.

"Charitable Purpose" means and includes that term as defined by the Charities Act 2005.

"Deed" means this deed of trust as amended from time to time in accordance with clause 21 or as amended in any other manner permitted by law.

"Deputy Chairperson" means the person appointed by the Board of Trustees as Deputy Chairperson pursuant to clause 8.1.b.

"Endowment Fund" means any part of the Trust Fund that the Board of Trustees determines pursuant to clause 13 to establish and administer as an endowment fund under this Deed.

"Financial Year" means the year ending on 31 December or any other date adopted by the Trustees as the date up to which accounts shall be made in each year for the Trust.

"Investment Manager" means a person whose profession or business is or includes investing money on behalf of others.

"Nomination" means a nomination of a person to be appointed to the office of Trustee or Patron (as the context requires) in each case in a form acceptable to the Board of Trustees.

"Patron" means any person who has accepted an invitation to be the patron or a vice-patron pursuant to clause 11.1 and who has not been removed as such.

"Secretary" means the person appointed by the Board of Trustees as Secretary pursuant to clause 8.1.c.

"Trust" means The Guardians of the Sea Charitable Trust as constituted by this Deed.

"Trustees" means the Trustees for the time being of the Trust whether initial, additional or substituted.

"Trust Fund" means:

- a. the initial sum of \$10.00 received from the initial Trustees and all other moneys, investments and property, both real and personal, which may be received and accepted by the Trustees as part of the Trust Fund; and
- b. the investments and properties from time to time representing the above and accretions to those investments and properties.

1.2 **General Construction:** In interpreting this Deed, the following rules must be applied unless the context otherwise requires:

- a. Headings to clauses are for reference only and are not an aid in interpretation.
- b. References to statutory provisions will be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time.
- c. References to clauses are to clauses of this Deed.
- d. Words importing the plural include the singular and vice versa and words importing one gender import all genders.

- e. Any reference to a "law" includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, statutes, treaty or other legislative measure, in each case of any relevant jurisdiction (and "lawful" and "unlawful" shall be construed accordingly).
- f. The words and expressions defined are indicated by capital letters for convenience. The absence of a capital letter shall not alone imply that the word or expression is used with a meaning different from that given by its definition.

2 Establishment of Trust

- 2.1 The Trustees acknowledge and declare that the Trustees shall stand possessed of the Trust Fund upon trust to apply the same for the objects and purposes set out in clause 4 and with the powers and discretions set out or implied in this Deed.

3 Name of Trust

- 3.1 The Trust established will be known and referred to as "The Guardians of the Sea Charitable Trust" or such other name as the Trustees determine from time to time, and that the Maori translation, presently Nga Kaitiaki o Tangaroa, may be used in conjunction with such name or other name determined.

4 Objects

- 4.1 **Objects:** The objects and purposes of the Trust to the extent that they are Charitable Purposes are as follows:
 - a. To promote, provide and ensure the sustainable use, accessibility and availability of Aotearoa/ New Zealand's fisheries and marine environment for the benefit of the public of New Zealand;
 - b. To protect, preserve, improve and enhance Aotearoa/New Zealand's fisheries and marine environment for the sustainable use by and for the benefit of the public of New Zealand;
 - c. To work for and make Aotearoa/New Zealand's fisheries and marine environment accessible and available to and for the sustainable use by and for the benefit of the public of New Zealand;
 - d. To promote, encourage and support the protection, preservation, improvement and enhancement of Aotearoa/New Zealand's fisheries and marine environment for the sustainable use by and for the benefit of the public of New Zealand;
 - e. To educate, and promote, encourage and support the education of the public of New Zealand about Aotearoa/New Zealand's fisheries and aquatic environment, and the use of sustainable fishing practices, including the practice of kaitiakitanga;
 - f. To carry out and commission the carrying out of research for any one or more of the above objects and purposes;

- g. To seek registration as a charitable entity under the Charities Act 2005 and to arrange with any government or other authority any matter which may seem conducive to any of the objects of the Trust;
- h. To do any other act or thing incidental or conducive to or reasonably necessary or desirable for the attainment of any of the above objects.

4.2 **Activities limited to Charitable Purposes:** Notwithstanding anything else to the contrary expressed in or implied by this Deed, the objects for which the Trust is established and the activities for which the Trust Fund may be applied are limited to Charitable Purposes within New Zealand.

5 **Raising of Funds**

5.1 The Trustees may raise money for the objects and purposes of the Trust by such lawful means as they deem reasonable and appropriate and may accept gifts or donations for such purposes from any person or persons and upon such conditions as they consider reasonable and appropriate, provided that no condition shall be at variance with the objects and purposes of the Trust.

6 **Board of Trustees**

6.1 **Administration by Board of Trustees:** The Trust shall be administered by a Board comprising the Trustees.

6.2 **Number:** The number of Trustees of the Trust will be no fewer than 4 nor more than 8. However, where a vacancy occurs, the remaining Trustees may act until a replacement is appointed.

6.3 **Eligibility:** The following persons may not hold office as a Trustee:

- a. 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;
- b. A person who has been convicted of any offence punishable by imprisonment for a term of not less than 2 years and has been sentenced to imprisonment for that offence;
- c. A person to whom an order made under section 383 of the Companies Act 1993 applies;
- d. A person who is mentally incapable in terms of the Protection of Personal and Property Rights Act 1988.

7 **Term of Office, Appointment, Removal and Retirement of Trustees**

7.1 **Term of office:** Every Trustee shall hold office for a term of 2 years from the date of the Trustee's appointment.

7.2 **Vacancy in office of Trustee:** The office of a Trustee will become vacant if he or she:

- a. Becomes a person to whom clause 6.3.b or c applies;
- b. Dies or becomes mentally incapable in terms of the Protection of Personal and Property Rights Act 1988;
- c. Resigns office as Trustee by giving 30 days' written notice in writing to the Trustees;
- d. Is removed from office by written resolution of all the other Trustees communicated to the Trustee by notice in writing;-
- e. Becomes bankrupt or makes an assignment to creditors; or
- f. Fails to attend 3 consecutive meetings of the Board of Trustees without the consent of the Board of Trustees.

7.3 Power of appointment of Trustees:

- a. Every vacancy occurring among the Trustees shall be filled as soon as is reasonably practicable by an appointment made by the remaining Trustees.
- b. In exercising the power of appointment of new Trustees, the person or persons in whom the power is vested pursuant to clause 7.3.a shall have regard to any Nomination but shall not be bound to appoint any person so nominated.

7.4 Eligibility for reappointment: Upon the expiry of their term of office, each Trustee, unless a person to whom any of the provisions of clause 7.2.b, d, e or f applies, shall be eligible for reappointment if that person is eligible to be a Trustee in terms of clause 6.3.

7.5 Proceedings of Board of Trustees: The proceedings of the Board of Trustees shall initially be regulated in accordance with the provisions contained in the Schedule. The Board of Trustees shall have the power to amend the provisions of the Schedule at any time and whether in whole or in part, subject to the provisions of clause 21.2.

8 Officers of the Board of Trustees

8.1 Officers: The officers of the Board of Trustees shall consist of the following:

- a. A Chairperson who shall be a Trustee and who shall be appointed by the Board of Trustees. The Chairperson will retire from that office at the conclusion of each Annual Trustees' Meeting and shall be eligible for reappointment by the Board of Trustees;
- b. A Deputy Chairperson who shall be a Trustee and who shall be appointed by the Board of Trustees. The Deputy Chairperson will retire from that office at the conclusion of each Annual Trustees' Meeting and shall be eligible for reappointment by the Board of Trustees;
- c. A Secretary, who shall be a Trustee and who shall be appointed by the Board of Trustees;
- d. Such other officers as may be determined by the Board of Trustees from time to time.

8.2 Role of Chairperson: The role and powers of the Chairperson of the Board of Trustees shall include:

- a. Chairing meetings of the Trustees;
- b. Casting a deciding vote in any matter on which the votes of the Trustees are deadlocked; and
- c. Such other functions as are allocated to the Chairperson in this Deed.

8.3 Duties of Secretary: The duties of the Secretary shall include:

- a. To give notices of all meetings of the Board of Trustees;
- b. To keep minutes and records of all such meetings; and
- c. To perform such other duties as the Board of Trustees may direct and as are normally incidental to the office of Secretary.

8.4 The Secretary shall attend all meetings of the Board of Trustees unless the Board of Trustees otherwise determines.

8.5 Unless a Trustee, the Secretary shall not be entitled to vote at meetings of the Board of Trustees.

9 Duties of the Board of Trustees

9.1 Duties: The Board of Trustees will be responsible for furthering the objects of the Trust in accordance with this Deed and for declaring general policy relating to the implementation of the objects of the Trust.

9.2 Financial Statements and Audit:

- a. The Board of Trustees shall cause proper books of account to be kept showing all assets and liabilities of the Trust Fund and all moneys received and disbursed. The Board of Trustees shall prepare annual financial statements, which financial statements shall be audited by an Auditor who shall from time to time be appointed by the Board of Trustees.
- b. The Board of Trustees shall ensure the Trust has an external audit and that the internal controls of all transactions are of a standard acceptable to the Auditor.

9.3 Annual Self-review: Prior to each Annual Trustees' Meeting the Board of Trustees shall conduct its own critical review of its activities and performance of its obligations pursuant to this Deed. The matters arising out of every such review will be recorded in writing for the purposes of reference and comparison in later reviews.

10 Committees

10.1 Power to convene committees: The Board of Trustees will have the power to appoint the convenor and members of such committees as each shall from time to time deem advisable and may delegate and assign to such committees such particular duties and responsibilities as the Board of Trustees shall think fit.

- 10.2 **Proceedings of Committees:** Committee members may meet together for the dispatch of business, adjourn or otherwise regulate their meetings as they think fit to carry out their functions.
- 10.3 **Budgets:** Committees will not expend any moneys or incur any liabilities in excess of any budget approved by the Board of Trustees without the prior approval of the Board of Trustees.
- 10.4 **Power of appointment of committee members:** The Board of Trustees will have the power to fill any casual vacancies on a committee or make any further appointments to a committee from time to time.
- 10.5 **Reporting:** Each committee will prepare and provide such reports to the Board of Trustees as directed by that Board.

11 **Patrons**

- 11.1 The Board of Trustees may from time to time invite any person or persons to be the patron or a vice-patron of the Trust, and remove the patron or any vice-patron.
- 11.2 In making any invitation pursuant to clause 11.1, the Board of Trustees shall have regard to any Nomination but shall not be bound to extend an invitation to any person so nominated.

12 **Powers of the Trustees**

- 12.1 In managing the Trust Fund the Board of Trustees shall have all the powers of absolute owners of the Trust Fund to do all lawful things not inconsistent with the Charitable Purposes of the Trust that are incidental to or conducive to the attainment of the objects set out in clause 4. The specific powers set out in the following paragraphs of this clause 12.1 are by way of example only and are not intended to limit or fetter the Trustees' powers as set out in this clause.
- a. **General:** The Board of Trustees may in its absolute discretion enter into any contracts, deeds and documents and do all acts, matters and things that the Board of Trustees may deem expedient for the purposes of attaining the objects set out in clause 4 or otherwise carrying out the trusts, authorities, powers and discretions conferred on the Board of Trustees by this Deed.
- b. **Determinations:**
- i. Except to the extent provided at law, a decision made by the Board of Trustees on any question as to the construction, meaning or interpretation of this Deed or the investment of the whole or any part of the assets of the Trust Fund will be final and binding on everyone.
- ii. Whenever it is necessary for the Board of Trustees to decide questions of fact, the Board of Trustees may act upon such proofs or presumptions as the Board of Trustees deems satisfactory whether or not the same are strictly legal proofs or legal presumptions or otherwise.

- c. **Professional Advice:** The Board of Trustees may appoint and obtain the advice of any Auditor, solicitor or other professional adviser on such terms as may be agreed by the Board of Trustees.
- d. **Power to Borrow:** The Board of Trustees may borrow or raise money for the purposes of the Trust upon the terms and conditions as may be agreed by the Board of Trustees and may also charge all or any part of the assets of the Trust Fund with repayment and payment of interest on any moneys so borrowed.
- e. **Acquisitions etc:** The Board of Trustees may purchase, take on lease, take in exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Board of Trustees may think necessary or convenient for the purposes of the Trust and in particular any land, buildings, easements, rights of way, restrictive covenants, licences, rights, machinery, plant and stock in trade.
- f. **Dispositions etc:** The Board of Trustees may sell, exchange, bail, grant licences in respect of, or otherwise deal with or dispose of the Trust's undertaking or any part of the Trust's undertaking, the Trust Fund or any property or interest in any property rights concessions or privileges belonging to the Trust or over which the Trust shall have any right or power of disposal either together or in portions to any firm, persons, trust, company or corporation for such consideration or premium as the Trustees may think fit.
- g. **Power to Insure:** The Board of Trustees may insure any risk or contingency of the Trust, including any risk or contingency of any Trustees in the due execution by that Trustee of the trusts contained in this Deed.
- h. **Power to Accept Gifts:** The Board of Trustees may accept as part of the Trust Fund any gifts, donations, bequests, devises, settlements or other dispositions in money or monies worth to or in favour of the Trust Fund and retain them in their original form without selling or converting the same into money and hold the same upon trust for the general purposes of this Deed.
- i. **Power to Make Grants:** The Board of Trustees may from time to time at the discretion of the Trustees make grants from the Trust Fund to such persons, and bodies of persons whether incorporated or unincorporated whose objects and purposes are not inconsistent with the objects and purposes of the Trust and that are incidental to or conducive to the attainment of the objects and purposes of the Trust as set out in clause 4, and who first demonstrate to the reasonable satisfaction of the Board of Trustees that the grant applied for will be paid and applied accordingly.
- j. **Endowment and other Specific Funds:** The Board of Trustees may establish Endowment Funds or other funds for specific Charitable Purposes, as provided in clause 13.

12.2 Delegation of Powers

- a. The Board of Trustees may delegate any or all of the powers, authorities and discretions exercisable by the Board of Trustees under this Deed to any attorney, agent or person as the Board of Trustees directs. The Board of Trustees may in delegating any of its powers, authorities and discretions delegate on such terms and conditions as are prescribed by the Board of Trustees and may include a power of sub-delegation.

- b. Without prejudice to the powers conferred upon the Board of Trustees by law or by clause 12.2.a, the Board of Trustees may:
- i. **Investment Manager:** Appoint or remove one or more Investment Managers on terms to be agreed between the Board of Trustees and the Investment Manager. The Investment Manager may be given such powers and duties in relation to the investment of the whole or any part of the assets of the Trust including the power to determine and to make particular investments in accordance with the provisions of clause 15 as decided by the Board of Trustees. The Investment Manager may be authorised by the Board of Trustees to hold any investment in the Investment Manager's own name and/or in the name of its nominees in trust for the Trust;
 - ii. **Custodian Trustee:** Appoint and remove from office a custodian trustee in respect of the whole or any part of the assets of the Trust on such terms and with such duties, powers and discretions as may be agreed between the Board of Trustees and the custodian trustee.

13 **Endowment Funds and Other Funds for Specific Charitable Purposes**

- 13.1 The Board of Trustees may at any time it deems appropriate to do so (including if the Board of Trustees determines that a particular settlement is to be held on trust for a specific Charitable Purpose nominated by the donor, testator or benefactor of that settlement) determine that the whole or any part of the Trust Fund be held as an Endowment Fund or other fund for a specific object or purpose as set out in clause 4 and in so doing define what the specified and particular purpose shall be and, subject to the provisions of this Deed, any other terms or conditions relating to such fund or Endowment Fund.
- 13.2 Where the continuation of any such fund or Endowment Fund appears no longer justified and the Board of Trustees determines that such fund or Endowment Fund can conveniently be wound up by vesting the capital held on behalf of such fund or Endowment Fund in another fund or Endowment Fund with similar objects or generally on the trusts of this Deed, the Trustees may so allocate the capital of the fund or Endowment Fund to be wound up and the amounts so allocated shall vest from the date or dates of payment or transfer.
- 13.3 The capital of any such fund or Endowment Fund may be increased at any time by benefactions by will or from any person and may be credited by the Board of Trustees as the benefactor may nominate.
- 13.4 Distributions and allocations of capital under the provisions of this clause may be in such form as the Board of Trustees determines whether in cash or by transfer in specie.

14 **Administration of Endowment Funds**

14.1 **Income**

- a. In each year in relation to any Endowment Fund, the Board of Trustees shall hold the Net Income of the Endowment Fund to determine what part or parts or whether the whole of the Net Income of the Endowment Fund should be capitalised and applied as an accretion to the capital of the Endowment Fund and to pay and apply the amount so determined accordingly. For the purposes of this clause "distributable

income" shall mean the balance of the Net Income of the Endowment Fund after the determination and allocation referred to above.

- b. The residue of the distributable income shall be paid or applied in accordance with the remaining provisions of this clause 14.1. For the purposes of this clause "residue of the distributable income" shall mean such part of the distributable income as shall not have been paid or applied pursuant to clause 14.1a.
- c. As soon as practicable after the balance date in each Financial Year and upon such other occasions as the Board of Trustees shall determine, the Board of Trustees shall determine the amount of the residue of the distributable income standing to the credit of the Endowment Fund.
- d. The Board of Trustees may from time to time in its discretion solicit applications by advertisement or by any other means as it may determine to receive from the Endowment Fund a distribution from the residue of the distributable income, whether by way of scholarship or otherwise. Any application shall be addressed to the Trustees and shall be in writing in a form approved by the Trustees.
- e. Notwithstanding the above provisions, nothing shall require or compel the Board of Trustees to make any payment, allocation or distribution of the whole or any part of the Net Income of the Endowment Fund at any particular time during the Financial Year.

- 14.2 Distributions and allocations of income under the provisions of this clause may be in such form as the Board of Trustees determines whether in cash or by transfer in specie.

15 Investment

- 15.1 **Investment powers:** All property forming part of the Trust Fund and available for investment shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of Trust Funds.
- 15.2 **Standard of Care:** Notwithstanding the foregoing and anything to the contrary in Section 13D(1) of the Trustee Act 1956, the Trustees shall in exercising the powers of investment, exercise the care, diligence and skill required by Section 13B or Section 13C of the Trustee Act 1956 as is applicable.

16 Interested Trustee

- 16.1 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 any part whatever in any deliberations of the Trustees concerning any matter in which that Trustee is or may be interested other than as a Trustee of the Trust.

17 No Private Pecuniary Profit for any Individual, and Exceptions

- 17.1 **No private pecuniary profit:** 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;
- b. The Trust may pay reasonable remuneration to any officer or servant of the Trust (whether a Trustee or not) in return for services actually rendered to the Trust;
- c. 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 firm or entity of which that Trustee is a member, employee or associate in connection with the affairs of the Trust;
- d. Any Trustee may retain any remuneration properly payable to that Trustee by any company or undertaking with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatever, notwithstanding that the Trustee's connection with that company or undertaking is in any way attributable to that Trustee's connection with the Trust.

17.2 **Trustees to comply with restrictions:** The Trustees, in determining all reimbursements, remuneration and charges payable in the terms of this clause 17, shall ensure that the restrictions imposed by clause 16 are strictly observed.

18 **Restrictions on Benefits to and Influence by Interested Persons**

18.1 **Recipient not to influence benefits:** Notwithstanding anything contained or implied in this Deed, any person who is:

- a. A Trustee of the Trust; or
- b. A shareholder or director of any company carrying on any business of the Trust; or
- c. A settlor or trustee of any trust which is a shareholder of any company carrying on any business of the Trust; or
- d. An associated person (as defined by the Income Tax Act 2004) of any such settlor, trustee, shareholder or director;

shall not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence in any way 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.

18.2 **Professional account and influence:** A person who in the course of and as part of the carrying on of his or her business of a professional public practice shall not, by reason only of his or her rendering professional services to the Trust or to any company by which any business of the Trust is carried on, be in breach of the terms of this clause 18.

19 **Responsibility of Trustees**

19.1 **Limitation of Liability:** No Trustee shall be liable for any loss other than loss attributable to that Trustee's own dishonesty or to the wilful commission by the Trustee of any act known by that Trustee to be a breach of trust.

- 19.2 **Indemnity:** Each of the Trustees and every person acting on behalf of the Trustees shall be indemnified out of the Trust Fund for any personal liability incurred in respect of the exercise or attempted exercise of the trusts, powers and discretions vested in the Trustees pursuant to this Deed and in respect of any matter or thing done or omitted to be done in any way relating to the Trust (provided such liability is not attributable to his or her own dishonesty or to the wilful commission or omission by him or her of an act known by him or her to be a breach of trust), and shall have a lien on and may use any moneys for the time being in the hands or coming into the hands of the Trustees for the above indemnity and also for the payment of all proper legal and other costs, taxes, charges, and expenses of administering or winding up the Trust which may be permitted from time to time in terms of this Deed.

20 **Bank Account and Expenses**

- 20.1 The Board of Trustees shall open and operate an account or accounts at such bank or banks as they shall from time to time determine. Such account or accounts may be operated by such person or persons as the Board of Trustees shall from time to time direct.

21 **Revocation or Amendment**

- 21.1 **Alteration of Deed:** Subject to clause 21.2, the terms of this Deed may be altered, added to, rescinded, or otherwise amended at any time by a resolution of the Board of Trustees passed with a majority of at least 75% of the Trustees then in office.
- 21.2 **Alteration of the Schedule:** Subject to clause 21.3, the provisions of the Schedule may be amended at any time in accordance with the provisions of clause 7.5.
- 21.3 **Restriction on Alterations:**
- a. No alteration, addition, rescission or other amendment shall be made which shall permit the Trust Fund to be applied for any purpose that is not a Charitable Purpose.
 - b. No alteration, addition, revision or other amendment made to clauses 4.1, 4.2, 16, 17, 18 or 22 shall be effective until approved by the Inland Revenue Department.
 - c. No alteration to this clause 21.3 shall be permitted.

22 **Winding Up**

- 22.1 **Voluntary winding up:** The Trust may be wound up at any time on the passing of a resolution to wind it up carried by a majority of the Trustees.
- 22.2 **Winding Up on failure of objects:** If at any time the objects of the Trust shall fail or if for any other reason the purposes of the Trust shall become wholly frustrated and incapable of being carried out then and in such case the Trustees shall proceed to wind up the Trust, notwithstanding clause 22.1.
- 22.3 **Distribution of assets on winding up:** Upon a winding up for any reason, the surplus assets and funds of the Trust after payment of all liabilities shall be paid, applied, transferred or appropriated towards the Charitable Purposes of the Trust or such other Charitable Purposes in New Zealand consistent with the purposes of the Trust as may be determined by the

Trustees or in default of such determination as may be directed by the High Court of New Zealand.

23 **Incorporation**

23.1 **Application for incorporation:** Immediately following the execution of this Deed, the Trustees shall proceed to incorporate the Trust as a Board under the provisions of Part II of the Charitable Trusts Act 1957.

23.2 **Common Seal:** On the Trustees becoming incorporated as a Board, the Trustees shall provide a common seal for the Trust which shall be kept by the Chairperson of the Board of Trustees or the Chairperson's nominee for the time being, and which shall be affixed by the authority of the Trustees to any document requiring execution by the Trustees. Every such affixing shall be performed in the presence of and accompanied by the signatures of two Trustees, which signatures shall be sufficient evidence of the authority to affix such seal and no person dealing with the Trustees shall be bound or concerned to see or enquire as to the authority under which any document is sealed and in whose presence.

Schedule

Procedural Rules of the Board of Trustees

- 1 The Trustees shall meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. However, subject to a waiver of this requirement by all of the Trustees in office for the time being, no meeting of Trustees shall be held unless all Trustees in New Zealand have been given two weeks notice of the proposed meeting (which notice may be issued by or on behalf of any one or more of the Trustees).
- 2 Unless otherwise provided in the Deed, questions arising at any meeting shall be decided by a majority of votes. In the case of equality of votes the Chairperson shall have a second or casting vote.
- 3 The quorum for meetings of the Trustees shall be a majority of the Trustees in office at the relevant time. However, if the Chairperson is not present at a meeting of the Trustees for any reason, the Deputy Chairperson if present shall preside as Chairperson. Otherwise, the Trustees present shall elect one of their number to act as Chairperson at the meeting.
- 4 The Trustees shall cause to be kept minutes of all meetings and any minute or extract from any minute purporting to be signed by the Chairperson shall be sufficient evidence without further proof of the matters referred to in that minute.
- 5 A resolution in writing signed by all the Trustees or all of those permitted to vote on the particular question the subject of the resolution shall be as valid and effectual as if it had been passed at a duly convened meeting of the Trustees.
- 6 Notwithstanding any other provision in this Deed, the contemporaneous linking together by telephone of a number of the Trustees ("the participants") being not less than the quorum, shall be deemed to constitute a meeting and all the provisions in this Schedule as to meetings shall apply to such meetings by telephone so long as the following conditions are met:
 - a. All the participants for the time being entitled to receive notice of a meeting shall be entitled to notice of a meeting by telephone and to be linked by telephone for the purposes of such meeting. Notice of such meeting may be given by telephone;
 - b. Each of the participants taking part in the meeting by telephone must be able to hear each of the others taking part at the commencement of the meeting;
 - c. At the commencement of the meeting each participants must acknowledge his or her presence for the purpose of such meeting to all the others taking part;
 - d. A participant may not leave the meeting by disconnecting his or her telephone without having previously obtained the express consent of the Chairperson and shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone unless having obtained the express consent of the Chairperson to leave the meeting.
- 7 For the purposes of clause 6 of this Schedule, "telephone" shall include television or any other audio and visual device which permits instantaneous communication.

- 8 Minutes of the proceedings at a meeting held by contemporaneous linking together by telephone shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by or on behalf of the Chairperson.

Execution

Signed by
Raniera TeiTinga
Tau, as trustee
in the presence of:

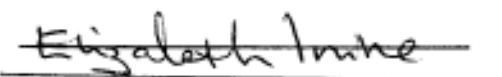

Witness Signature

IRISH REA
Name

CONSULTANT
Occupation

AUCKLAND
City of Residence

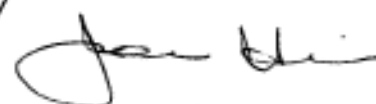
Signed by
Scott William Grierson
Macindoe, as trustee
in the presence of:


Witness Signature

ELIZABETH IRVINE
Name

DIRECTOR
Occupation

AUCKLAND
City of Residence



JOANNE HARRIS

PA

AUCKLAND

Signed by
Thomas Patrick Fox, as trustee
in the presence of:



Witness Signature

JANE SLOAN

Name

PA

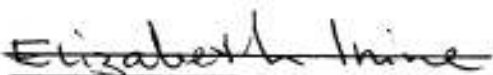
Occupation

AUCKLAND

City of Residence



Signed by
Martin Irvine,
as trustee
in the presence of:



Witness Signature

ELIZABETH IRVINE

Name


DIRECTOR

Occupation

AUCKLAND

City of Residence





JOANNE HARRIS
PA
AUCKLAND