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**DEED CREATING TAIRAWHITI COMPUTER HUBS TRUST**

DATED

*17 May*

2012

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BY

**LESLIE MAURICE ALFORD,  
MANU STUART CADDIE,  
MATTHEW MATUAKORE CLARK,  
RUSSELL MANCKLIN HOLLAND and  
DARYL MERVYN KEAST**

*The Trustees*



**NOLANS  
SOLICITORS  
GISBORNE  
(BJH/40057/1)  
s-3896(jmc)**

# DEED CREATING TAIRAWHITI COMPUTER HUBS TRUST

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# DEED CREATING TAIRAWHITI COMPUTER HUBS TRUST

DATED

2012

BY **LESLIE MAURICE ALFORD**, Teacher, **MANU STUART CADDIE**, Advisor, **MATTHEW MATUAKORE CLARK**, Educator, **RUSSELL MANCKLIN HOLLAND**, Company Director, and **DARYL MERVYN KEAST**, Chartered Accountant, all of Gisborne ("*the Trustees*")

## BACKGROUND

- A** *The Trustees* with a general charitable purpose, wish to declare a charitable trust to give effect to the purposes referred to in this deed for the benefit of the people of the *Tairawhiti Region*.
- B** *The Trustees* have agreed to hold the sum of \$10.00 and any further property and assets transferred to them for the purposes and upon the trusts set out in this deed.
- C** *The Trustees* consider it expedient that a board of trustees should be established under the name of Tairawhiti Computer Hubs Trust for the establishment, conduct and advancement of the objects set out in this deed.
- D** *The Trustees* desire to receive and acquire further funds and property as an accretion to the *Trust Fund* for the purposes set out in this deed and consider it expedient to declare the trusts upon which those funds and property will be held.
- E** It is contemplated that the trust established by this deed will be a continuing trust and will extend to all property acquired by the Tairawhiti Computer Hubs Trust upon trust with and subject to the powers, authorities and discretions set out in this deed.

## OPERATIVE PART

### 1 NAME OF TRUST

- 1.1 For convenience and ease of reference, the *Trust* is called **THE TAIRAWHITI COMPUTER HUBS TRUST**.

### 2 DECLARATION OF TRUSTS

- 2.1 *The Trustees* declare that they hold the *Trust Fund* upon the trusts and with the powers and authorities and discretions set out in this deed.

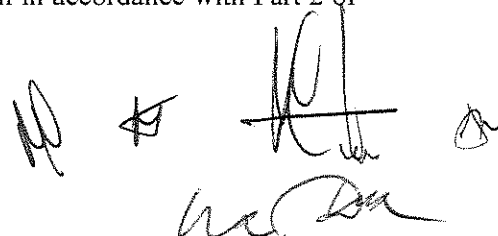
### 3 REGISTRATION

#### 3.1 Incorporation under the Charitable Trusts Act 1957

*The Trustees* shall apply to the Registrar of Charitable Trusts for incorporation as a Board under Part 2 of the Charitable Trusts Act 1957.

#### 3.2 Registration under the Charities Act 2005

*The Trustees* shall register *the Trust* with the Charities Commission in accordance with Part 2 of the Charities Act 2005.

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#### 4 PURPOSE OF TRUST

- 4.1 The purpose for which this *Trust* has been established is to carry out charitable purposes in the *Tairawhiti Region* as follows:
- 4.1.1 To educate and empower people in the *Tairawhiti Region* to become capable, creative and confident life-long learners, creators and innovators;
  - 4.1.2 To operate technology-based learning facilities in the *Tairawhiti Region*;
  - 4.1.3 To foster the growth of learning communities, especially amongst sectors of the people of the *Tairawhiti Region* with limited access to new and emerging technology;
  - 4.1.4 To encourage the residents of the *Tairawhiti Region* to link cultural knowledge and values with technology;
  - 4.1.5 To foster entrepreneurship and employment opportunities through technology;
  - 4.1.6 To engage in any other educational activity or educational purpose that in the sole, absolute and unfettered discretion of *the Trustees* is likely to directly or indirectly relate to, or advance, or benefit the people of the *Tairawhiti Region*.

#### 5 NUMBER OF TRUSTEES

- 5.1 The number of *the Trustees* shall be fixed by *the Trustees* from time to time but must be no fewer than 4 and no greater than 8.
- 5.2 Until the number of Trustees is fixed under sub-clause 1 of this clause the number of Trustees is 4.

#### 6 APPOINTMENT AND REMOVAL OF TRUSTEES

- 6.1 The power of appointment and removal of Trustees is vested in *the Trustees*, unless *the Trustees* from time to time as *the Trustees* in their absolute discretion think fit by unanimous resolution vest those powers in an *Appointor* for a specified period. Every appointment and every removal by *the Trustees* shall be made by resolution of *the Trustees* and evidenced in writing by *the Trustees*. Every appointment and every removal by an *Appointor* shall be evidenced in writing by the *Appointor* making the appointment or removal.
- 6.2 For the guidance of *the Trustees* and any *Appointor*, when appointing a *Trustee* they are to consider, where practicable, the diverse and wide-ranging nature of persons with the *Tairawhiti Region* and endeavour to reflect that variety in the make-up of the Trustees. Where practicable, it is desirable that *the Trustees* have varying backgrounds in expertise, education or employment, be of different age groups and may be of any gender.
- 6.3 When appointed by *the Trustees*, Trustees shall be appointed at annual general meetings or as required by clause 8. Any Trustee appointed by the *Trustees* at an annual general meeting shall take office at the close of that meeting and shall, subject to clauses 6.3, 9 and 10, continue to hold office until the close of the second annual general meeting following that *Trustee's* appointment. Any trustee appointed by an *Appointor* shall take office at the close of the Annual General Meeting held immediately following appointment and shall, subject to clauses 6.3, 9 and 10, continue to hold office until the close of the second Annual General Meeting following that *Trustee's* appointment.
- 6.4 Except during any period when an *Appointor* is in office, a trustee may be removed from office by unanimous resolution of the remainder of *the Trustees* at any time the remaining trustees in their absolute discretion think fit and those remaining *Trustees* are not required to give reasons

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for their decision. An *Appointor* may at any time, as the *Appointor*, in the *Appointor's* absolute and unfettered discretion thinks fit, remove a trustee from office and shall not be required to give reasons for the decision.

- 6.5 If at any time any *Appointor* in whom the powers of appointment or the powers of removal or both powers are vested is adjudicated bankrupt, the powers will not pass to the Official Assignee in Bankruptcy. If any legislation or regulation effecting insolvency has that effect, then the powers of appointment and powers of removal held by the person adjudicated bankrupt will terminate immediately and revert to *the Trustees*.
- 6.6 If at any time any *Appointor* in whom the powers of appointment or the powers of removal or both powers are vested dies or ceases to have full legal capacity then those powers shall immediately revert to *the Trustees*.
- 6.7 Appointment as an *Appointor* is not of a fiduciary nature and any action or decision taken by any person as an *Appointor* is not subject to any fiduciary duty.

## 7 ROTATION OF TRUSTEES

- 7.1 Subject to clause 7.3, on each *Trustee Appointment Day*, one half of *the Trustees* for the time being or, if their number is not two or a multiple of two, then the number nearest one half must retire from office.
- 7.2 *The Trustees* to retire in each year shall be those who have been longest in office since their last appointment, but as between persons who became Trustees on the same day those to retire (unless they otherwise agree among themselves) shall be determined by lot.
- 7.3 Every trustee who is a signatory to this deed shall subject to clauses 6.3, 9 and 10 continue in office until the close of the Trust's second Annual General Meeting, whereupon one half of those *Trustees* shall retire. *The Trustees* to retire shall be determined by agreement among *the Trustees* and if they are unable to agree one month before the second Annual General Meeting then *the Trustees* to retire shall be determined by lot.
- 7.4 A retiring *Trustee* shall be eligible for reappointment.

## 8 CASUAL VACANCIES

- 8.1 Except during any period when an *Appointor* is in office, *the Trustees* shall have power at any time to appoint any person or persons eligible to be a Trustee to fill any casual vacancy. An *Appointor* shall have the power at any time to appoint any person or persons eligible to be a trustee to fill any casual vacancy. Any Trustee so appointed, whether by *the Trustees* or by an *Appointor*, shall hold office only until the next *Trustee Appointment Day*, and shall then be eligible for re-appointment but shall not be taken into account in determining *the Trustees* who are to retire by rotation on that *Trustee Appointment Day*.
- 8.2 The powers of *the Trustees* shall not be affected by any casual vacancy except where the number of Trustees falls below 4 thereby rendering the remaining Trustees incapable of forming a quorum, in which event the remaining Trustees or the *Appointor*, as the circumstances require, shall be empowered to fill the casual vacancy or vacancies necessary to bring the number of Trustees up to the minimum number of 4.

## 9 RETIREMENT OF TRUSTEES

- 9.1 A *Trustee* may retire upon giving written notice of the intention to retire to the remaining *Trustees* and to the *Appointor* (if any) or, if there is no person, other than *the Trustees* who has the power to appoint new *Trustees* then to the other *Trustees* only.

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9.1.1 A retiring *Trustee* shall be indemnified by the *Trust Fund* for any loss or liability which the *Trustee* may sustain in acting as *Trustee* under this deed whether before or after the retiring *Trustee's* retirement. The retiring *Trustee* is not indemnified for any loss resulting from the *Trustee's* dishonesty or wilful breach of trust.

9.1.2 The retiring *Trustee* must do all things necessary to vest the *Trust Fund* in the *Trustees*.

9.2 Everyone who at any time is a *Trustee* of the trusts of this deed irrevocably appoints every other *Trustee* who is a co-*Trustee* with the *Trustee* making the appointment, jointly and severally as attorney for the purpose of getting trust assets into the names of the *Trustees* from time to time.

9.3 A *Trustee* retiring from office at an annual general meeting shall remain a trustee with the powers, discretions and authorities as set out in this Deed until the close of that meeting.

## 10 VACATION OF OFFICE OF TRUSTEE

10.1 The office of a trustee:

10.1.1 shall immediately be determined and vacated if the trustee is:

- (a) a person who is under 20 years of age;
- (b) a person who is an undischarged bankrupt;
- (c) a person who remains out of New Zealand for more than four consecutive months without leave of absence;
- (d) a person who is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under the Companies Act 1993 or any Act in substitution of the Companies Act 1993;
- (e) a person who does not have full legal capacity;
- (f) a person who fails to attend three consecutive meetings of the *Trustees* without obtaining leave of absence;

10.1.2 may be determined by decision of a majority of the remaining trustees if the trustee:

- (a) has a material interest (as defined in clause 18) in a transaction with the *Trust* and failed to disclose that interest to the *Trust* before the *Trust* entered into that transaction;
- (b) is convicted of a criminal offence, or found liable in civil proceedings, of dishonesty against any person or body;
- (c) is convicted of a criminal offence punishable by a term of imprisonment.

## 11 PRESUMPTION OF VALIDITY OF ACTS OF TRUSTEES

11.1 All acts or deeds done or made by any person acting in good faith as one of the *Trustees* shall be valid notwithstanding any defect that may afterwards be found in his or her appointment and the signature of any person purporting to act as one of the *Trustees* shall, in the absence of proof to the contrary, be sufficient evidence of his or her being one of the *Trustees*.

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## 12 PROCEEDINGS OF TRUSTEES

### 12.1 Chairperson

12.1.1 *The Trustees* from time to time shall appoint one of their number as chairperson and may remove any chairperson from that office. *The Trustees* shall determine the period for which any chairperson is to hold office, if not earlier removed.

### 12.2 General Meetings

12.2.1 The annual general meeting shall be held no later than 31 August in each year at a time and place fixed by *the Trustees*.

12.2.2 Special general meetings may be called on the production of suitable grounds by *the Trustees* or by written requisition by a majority of *the Trustees*.

12.2.3 At least 7 clear days before any general meeting, *the Trustees* shall give all *Trustees* and any other such persons as they in their absolute discretion think fit written notice of the business to be conducted at the general meeting (including in the case of annual general meetings copies of the annual report, statement of accounts and notices of motions). Failure for any reason of any *Trustee* or other person to receive notice of a meeting shall not invalidate that meeting or its proceedings.

12.2.4 General meetings may be attended by all *Trustees* and any other persons that the chairperson of the meeting permits to attend, or that *the Trustees* in their absolute discretion direct the chairperson to permit to attend.

12.2.5 The quorum for general meetings is 4 *Trustees*.

12.2.6 All general meetings shall be chaired by the chairperson, or if a chairperson has not been elected or at any meeting the chairperson is not present within five minutes of the time appointed for the meeting, *the Trustees* present may choose another *Trustee* to be chairperson for the meeting. The chairperson shall have a deliberative but not a casting vote.

12.2.7 Votes shall be exercised as follows:

(a) At general meetings, voting shall be by voices, by show of hands or, on demand of the chairperson or any member present, by secret ballot and on any secret ballot each *Trustee* shall be entitled to one vote;

(b) Unless otherwise required by this deed, all questions shall be determined by a simple majority of those present and voting;

12.2.8 A resolution passed by the required majority at any general meeting binds all *Trustees* irrespective of whether they were present at the general meeting where the resolution was adopted or whether they voted, provided that any *Trustee* may require *the Trustees* to record their disagreement in the minutes.

12.2.9 The business of the annual general meeting shall be:

(a) Minutes of the previous general meeting;

(b) Annual report of *the Trustees*;

(c) Statement of accounts;

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- (d) Motions of which notice has been given;
- (e) Appointment of Trustees;
- (f) Approval of budget for the next financial year; and
- (g) General business.

12.2.10 Any *Trustee* wishing to give notice of any motion for consideration at the annual general meeting shall forward written notice of the motion to *the Trustees* not less than 14 clear days before the date of the meeting.

### 12.3 Meetings and Voting

A meeting of *the Trustees* may be held either:

- (a) by a number of the members who constitute a quorum being assembled together at the place, date and time appointed for the meeting; or
- (b) by means of audio or audio and visual communication, or any other form of electronic communication by which all Trustees participating and constituting a quorum for the meeting can simultaneously hear each other throughout the meeting.

### 12.4 Notice

12.4.1 Any notice required to be given to a *Trustee* may be given to that *Trustee* by post, facsimile, electronic mail or by handing it to the *Trustee*.

12.4.2 Where any notice is given by post, service of the notice shall be effected by properly addressing, prepaying and posting a letter containing the notice. The notice shall be deemed to have been served on the day two days after the date it was posted.

12.4.3 Where any notice is given by facsimile, service of the notice shall be effected by its proper transmission to a facsimile number used by *the Trustee*. The notice shall be deemed to have been served on the day after the date of its transmission.

12.4.4 Where any notice is given by electronic mail, service of the notice shall be effected by its proper transmission to an electronic mail address used by *the Trustee*. The notice shall be deemed to have been served on the day after the date of its transmission.

12.4.5 Where notice is given by personal delivery to *the Trustee*, service shall be effected by handing it to the member. The notice shall be deemed to have been served immediately upon its receipt by a *Trustee*.

12.4.6 An irregularity in the notice of a meeting is waived if all *the Trustees* entitled to receive notice of the meeting, attend the meeting without protest as to the irregularity or if all *the Trustees* entitled receive notice of the meeting agree to the waiver.

### Minutes

12.5 *The Trustees* shall cause minutes to be kept at their meetings. A copy of the minutes of each meeting shall be issued to all *Trustees* within 21 days of that meeting.

12.6 Any Committee appointed by *the Trustees* shall keep its own minute book in a like manner.

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### 13 ANNUAL REPORTING

- 13.1 After the end of each financial year, and at the annual general meeting *the Trustees* shall present a report dealing with the affairs of the *Trust* supported by a statement of the *Trust's* income and expenditure during the previous financial year and a statement of the *Trust's* assets and liabilities at the end of that financial year. *The Trustees* may cause the financial statements of the *Trust* to be prepared by either a chartered accountant in public practice or any other suitably qualified persons as they think fit.
- 13.2 Each of *the Trustees* is entitled to a copy of the annual reports, and *the Trustees* in their absolute discretion may distribute the annual report to any other person with an interest in the *Trust*.
- 13.3 Financial records of the income and expenditure during each year shall be kept at the office of *the Trust* or such other place or places as *the Trustees* decide and shall always be open to the inspection of any *Trustee*.
- 13.4 *The Trustees* may from time to time require the *Trust's* accounts to be audited. Such a decision shall be made only in regard to future annual accounts and shall not apply to any annual accounts for any financial year which has ended prior to a decision being made to appoint an auditor.

### 14 DELEGATION TO COMMITTEES

- 14.1 *The Trustees* from time to time may appoint committees and may delegate in writing any of their powers to any committee. Any committee shall in exercise of the powers delegated to the committee conform to any regulations that may be imposed on that committee by *the Trustees*.
- 14.2 *The Trustees* shall determine the quorum and regulate and control all procedures of any committee, including prescribing procedural rules for each committee.
- 14.3 *The Trustees* may appoint one of their own to be a member of any committee but any committee appointed under clause 14.1 need not have a *Trustee* as one of its members.

### 15 TRUSTEES MAY ACT NOTWITHSTANDING CERTAIN CONFLICTS OF INTEREST

- 15.1 Subject to clause 18.0, every trustee is entitled to act under this deed and join in exercising any right power authority or discretion conferred on *the Trustees* by this deed even though that trustee:-
- 15.1.1 is a trustee of another trust which *the Trustees* propose to deal with in any way in respect of or affecting the *Trust Fund*; or
- 15.1.2 is or may be or become associated as a director or otherwise, in that trustee's personal capacity or as a trustee of another trust, with any company which *the Trustees* propose to deal with in any way in respect of or affecting the *Trust Fund* or of which they propose to acquire shares or other securities; or
- 15.1.3 may occasionally have an interest or duty in a matter which conflicts with that trustee's duty; or
- 15.1.4 is or may be purchasing property or services from or selling property or services to the *Trust* or otherwise is dealing as a trustee of this deed with himself in a personal capacity; or
- 15.1.5 is exercising the power in the trustee's own favour.

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16 **TRUSTEES MAY BE EMPLOYED IN TRUST BUSINESS AND BE PAID**

- 16.1 Subject to clause 18.0, any trustee may act as manager or supervisor of or be employed in any business or undertaking in which the *Trust Fund* or any part is employed or *the Trustees* are engaged and shall be entitled to charge and be paid reasonable remuneration or out of pocket expenses or both for the management supervision or employment or for any other service performed for the *Trust* in the same way and to the same extent as if the *Trustee* were not a *Trustee* but had been so employed by *the Trustees*.

17 **TRUSTEES MAY TAKE PROFIT FROM OFFICE OR EMPLOYMENT IN OR DEALINGS WITH A COMPANY IN WHICH INVOLVED AS A TRUSTEE**

- 17.1 Any trustee even though that *Trustee* is a shareholder in any company merely by virtue of the trusts created by this deed may, subject to clause 18.0, still accept any office in that company and may be employed by it and may have dealings with the company to *the Trustee's* profit and at remuneration in all respects as if not a trustee of the *Trust* and *the Trustee* shall not be answerable to the *Trust* for the profits accruing to *the Trustee* from that company by virtue of the employment or dealings.

18 **DISCLOSURE OF MATERIAL INTEREST**

- 18.1 Any *Trustee* who has a material interest in a transaction or proposed transaction with the *Trust* must, immediately after becoming aware of that fact, disclose to the *Trustees* the nature and monetary value of that interest or, where the monetary value of the interest cannot be quantified, the nature and extent of that interest and cause that interest to be entered into the Trustees' Interests Register.
- 18.2 A Trustee required to disclose an interest by clause 18.1 may be counted in the quorum present at the meeting but shall not vote in respect of the matter in which that Trustee is interested and if the Trustee does so, the vote shall not be counted.
- 18.3 A failure by a *Trustee* to comply with sub-clause 2 of this clause does not affect the validity of a transaction entered into by the *Trust* but the *Trustee* who failed to disclose the material interest shall account to the *Trust* for all financial benefit received from the transaction.
- 18.4 A *Trustee* has a material interest in a transaction with the *Trust* when the *Trustee* is:
- 18.4.1 A party to or will or may derive a material financial benefit from the transaction;
- 18.4.2 Has a financial interest in another party to the transaction;
- 18.4.3 Is a director, officer or trustee of another party to or person who will or may derive a material financial benefit from the transaction;
- 18.4.4 Is the parent, child, spouse or partner of another party or person who will or may derive a material financial benefit from the transaction; and
- 18.4.5 Is otherwise directly or indirectly materially interested in the transaction.

19 **TRUSTEES' LIABILITY**

- 19.1 Any trustee acting or purporting to act in the execution of the trusts of this deed shall not be liable for any loss not attributed to his or her own dishonesty or to the wilful commission or omission by that *Trustee* of an act where such commission or omission is known by that *Trustee* to be a breach of trust and in particular no Trustee shall be bound to take or be liable for failure to take any proceedings against a co-Trustee for any breach or alleged breach of trust committed by such co-Trustee.

19.2 Notwithstanding anything in this deed no Trustees shall be liable for any breach of trust in respect of any duty to exercise care, diligence and skill that a prudent person of business would exercise in managing the affairs of others merely because the investments of the *Trust Fund* are not diversified.

19.3 Notwithstanding the provisions of Section 13C of the Trustee Act and the likelihood that *the*  
~~Trustee will form a view on the basis of the information available to it at the time of the decision~~

23.2.1 may be exercised in relation not only to capital but also to *income* including accumulated and reserved *income* and all real and personal property at any time in the hands, possession or control of *the Trustees*.

23.2.2 is in addition to and expands any power conferred on *the Trustees* by the Trustee Act 1956 and by the general law and not except where expressly so provided in substitution for such power or limitation of it.

23.2.3 may be exercised by *the Trustees* if, whenever and as often as *the Trustees* in their absolute discretion consider it wise or expedient or necessary or convenient to do so in the administration of the trusts of this deed.

23.3 Is recurrent and may be exercised as often as occasion arises and must not be deemed or considered in any way restricted by the nature of the trusts declared in this deed.

## 24 POWERS OF TRUSTEES

24.1 *The Trustees* have full power to deal with the *Trust Fund* in any way, as if *the Trustees* were the absolute owners of the *Trust Fund*. Any powers given to *the Trustees* in this deed are in aid of this general power. Without limiting the generality of this clause and merely by way of illustration *the Trustees'* powers include all of the following:

### To Accept Gift Additions to the Trust

24.2 To accept and receive from any person any property of any kind whatsoever which the donor desires to give to *the Trustees* as an accretion to the *Trust Fund* to be held administered and distributed as if the same had originally been included by *the Trustees* in the *Trust Fund* but only on the terms that all property so given and received forthwith becomes subject to the same trusts and with and subject to the same rights powers authorities discretions indemnities and duties as the property then subject to the provisions of this deed is subject.

### To Postpone

24.3 To postpone the sale, calling in and conversion of any property comprising any part of the *Trust Fund* notwithstanding it may be of a wasting or speculative nature. Pending the sale, calling in and conversion and subject to the powers, authorities and discretions conferred upon *the Trustees*, the whole of the net *income* (as determined in each year) produced by the *Trust Fund* must be applied as *income*. However, on the sale, calling in or conversion of any reversionary property no part of the proceeds of such sale, calling in or conversion shall be applied as past *income*.

### To Disclaim Onerous Property

24.4 To not deal with any property which *the Trustees* consider is not for the benefit of the *Trust Fund* and is not in accordance with the charitable purposes of the *Trust*. To decline to deal with any property that is subject to any liabilities and in general to disclaim onerous property.

### To Effect Insurance

24.5 To insure the life of any person or in respect of sickness, disability or accident to any person, or any potential liability of any person and to pay premiums from capital or *income*, to change, discontinue or substitute such insurance.

### To Invest

24.6 To invest the whole or any part of funds which are part of the *Trust Fund* in any property (which word has the meaning assigned to it in the Trustee Act 1956) upon the security or in the manner

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*the Trustees* decide and notwithstanding that the *Trust Fund* may be subject to a liability and from time to time to vary it without being liable for any loss which may arise from any investment or variation of it.

### **To Pay Gift and Other Duties**

- 24.7 To apply any part of the *Trust Fund* in or towards the payment of gift duty on gifts to the *Trust Fund* or in the payment of any other tax or duty properly charged against the *Trust Fund* or in the payment of gift duty or any other tax or duty payable in respect of any other gift or by any other estate or other *Trust Fund*.

### **To Sell Lease etc. and Grant Options**

- 24.8 To sell all or any part of the *Trust Fund* (either for cash or on terms), subdivide, exchange, hire, let or sublet or lease on any other form of tenancy or grant licences for the period and at the rental and generally on the terms and conditions *the Trustees* decide, and to grant options to buy, exchange, hire, let, sub-let, lease or licence any such property on the terms *the Trustees* decide.

### **To Purchase and Take Options**

- 24.9 To acquire by purchase, exchange or otherwise and take options to so acquire for cash or on any terms any freehold lands or any other estate or interest in land whether solely or in common in equal or unequal shares and any and every kind of personal property whether solely or in common in equal or unequal shares generally on the terms and conditions *the Trustees* decide, but if from any trustee or any subsequent donor then at a price or other consideration which does not exceed the price or other consideration which is equal to or computed upon the valuation placed on it by any competent independent valuer and accepted by the Commissioner of Inland Revenue as fully adequate consideration under the Estate and Gift Duties Act 1968.

### **To Develop Land and Erect Buildings**

- 24.10 To erect buildings on any part of the *Trust Fund* or in which *the Trustees* have any estate or interest or right of occupation or use, and to demolish re-erect repair reinstate alter remodel and improve any buildings on that land and to develop that land and to expend money for those purposes.

### **To Vary, Rescind and Enforce Contracts**

- 24.11 To vary any contract (whether of sale or purchase or of lease tenancy or licence or guarantee or otherwise howsoever) and to rescind or take proceedings to enforce any contract to which *the Trustees* are parties.

### **To Borrow Money and Give Security**

- 24.12 To borrow money either alone or with others, either without security or on the security of the *Trust Fund* or any part of it from any person including from any trustee for any purpose connected with the Trust the management control extension improvement or development of the *Trust Fund* or the payment of liabilities of the *Trust* and on the terms and conditions and for the period and at the rate of interest *the Trustees* decide and to give the securities the lender may require.

### **To Deal with Trustees**

- 24.13 To do all things *the Trustees* decide to be in the interest of the charitable purposes under this *Trust* or any one or more of them including by way of illustration and not of limitation:

24.13.1 to sell to any trustee any real or personal property forming part of the *Trust Fund*;

Handwritten signatures and initials, including a large signature that appears to be 'Dunk' and other initials like 'ha' and 'br'.

24.13.2 to grant to any trustee any favourable terms of purchase including the power to allow money to remain owing to *the Trustees* unsecured or secured by mortgage whether first or subsequent; and

24.13.3 to allow any trustee to use the *Trust Fund* in whatever form that may then be including residential or commercial property or real estate.

### **To Deal with Companies and take Securities in and from them**

24.14 To assign transfer or dispose of any property either for cash or on terms to any trustee for any intended or existing limited liability company and to subscribe to the capital of or any increase in the capital of or to make advances to any company and to accept in lieu of cash an allotment of shares whether fully paid up or not in the capital of the company or any debenture or debenture stock or bond or covenant or note secured or unsecured convertible or inconvertible or other charge or security from the company or any related company over the whole or any portion of its assets or undertaking to secure the repayment of any purchase money or advance and to buy and sell shares in and all other types of security of any company.

### **To Promote Companies**

24.15 To promote and join with others in promoting any company and in cases where *the Trustees* are shareholders or financially interested in the company or any other company to consent to join in and assist in any scheme for the enlargement amalgamation reconstruction or liquidation of or any other dealings with the constitution and capital of any company or its assets affairs and business concerns generally.

### **To Enter Into Trade Arrangements**

24.16 To enter into any trade arrangements and agreements generally which may in *the Trustees'* opinion be beneficial or convenient to the *Trust* or the administration of it or to any business in which the Trust may be concerned and whether by way of restraint limitation of competition commission sharing of rights or otherwise.

### **To Delegate**

24.17 To delegate by deed any of *the Trustees'* functions to any person or company anywhere in the world.

24.17.1 If a company, to exercise or concur in exercising any discretion or power conferred on *the Trustees* by a resolution of its board of directors or governing body or to delegate the right and power to exercise or concur in exercising such discretion or power to one or more members of its board of directors or governing body or any one or more of its officers and agents appointed from time to time by such board of directors or governing body for that purpose.

### **To Carry on Businesses, Alone, in Partnership or in Joint Venture**

24.18 To engage in or to carry on either alone or in partnership or in joint venture or in any other business structure with any other person including any trustee and any subsequent donor any business whether commercial or manufacturing or processing or any other business and whether at wholesale or retail and any business ancillary to it or any other class of business and to do all acts deeds matters and things in relation to the conduct of every business which may in *the Trustees'* opinion be requisite necessary advisable or desirable in relation to it or in the interests of the *Trust Fund* and to employ all or any part of the *Trust Fund* in it as or for the provision of vehicles equipment furniture fittings fixtures tools or whatever the operation of the business may in *the Trustees'* opinion require.

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### To Indemnify and Obtain Insurance for Trustees and Employees

24.19 To indemnify every employee of the *Trust* in respect of:

- (a) liability, not being criminal liability nor in respect of a breach of fiduciary duty owed to the *Trust*, for any act or omission in that person's capacity as an employee, and
- (b) costs incurred by that employee in:
  - i defending or settling any claim or proceeding relating to any such liability; or
  - ii defending any criminal proceeding in which the employee is acquitted.

24.19.2 To effect insurance for all trustees and employees in respect of the liabilities and costs referred to in the preceding sub clause and for all trustees in respect of all liabilities and costs referred to in sub-clause 6.23 of this sub-clause.

24.19.3 In this clause "trustee" includes former trustee, "employee" includes former employee, and "effect insurance" and "indemnify" have the meanings assigned to them in Section 162(9) of the Companies Act 1993.

### To Settle Accounts

24.20 To settle accounts with all persons who are liable to account to *the Trustees* and to compromise all questions relating to the *Trust Fund* and to give effective receipts and discharges.

### To Waive Income and Debts

24.21 To waive the payment of *income* before it becomes due and to waive any debts due to the *Trust* either partially or in full.

### To Employ Others

24.22 To employ and pay out of the *Trust Fund* clerks servants officers and all such other persons to do any act in relation to the *Trust Fund* and the administration of the *Trust* and of the trusts of this deed whether or not *the Trustees* or any one or more of them personally could do or have done that act.

### To Conduct Bank Accounts

24.23 To open and operate on any banking account or other account with any Bank or other person and to delegate authority to operate on every such account.

### To Partition and Appropriate

24.24 To partition and appropriate any real or personal or any real and any personal property forming part of the *Trust Fund* to or towards the share of any person under the trusts of this deed and whether that share is vested or not and to charge any share with payment of any sum by way of equality of partition and for that purpose to fix the value of any real or personal property so appropriated or partitioned and every valuation appropriation or partition shall be final and binding on all persons beneficially interested under the trusts of this deed, and it shall be lawful for *the Trustees* to partition the *Trust Fund* among the parties entitled to it either on the date fixed for distribution of the *Trust Fund* or at any earlier or later time, and also on any partial distribution of the *Trust Fund*.

The bottom right corner of the page contains several handwritten signatures and initials. There are three distinct signatures: one that appears to be 'H', another that looks like 'A', and a larger, more cursive signature that could be 'D. A.'. There are also some smaller initials or marks scattered around these signatures.



### To Surrender Powers, Authorities or Discretions

- 24.25 To completely or conditionally surrender by deed any power, authority or discretion given to *the Trustees*.

### To Determine Equities and Apportion Blended Funds

- 24.26 To decide and determine conclusively all rights and equities with regard to capital and *income* and with regard to the proceeds from terminable or extraordinary investments and with regard to unproductive investments and with regard to any expenditure or loss whether it should be credited or charged in whole or in part to or against *income* or capital or any reserve fund and the apportionment of blended funds.

### To Take Barrister's or Solicitor's Opinion

- 24.27 To take and act on the opinion of any barrister or solicitor of at least seven years standing qualified in the law of the jurisdiction which for the time being is the proper law of this deed whether in relation to the interpretation of this deed or of any other document or statute or as to the administration of the trusts created by the deed, and so that they shall not be liable in respect of any act done by them in accordance with the opinion; but nothing in this sub-clause shall prevent *the Trustees* from applying to the Court.

### To Accept Receipts for Charitable Distributions

- 24.28 To accept the receipt in respect of any sum payable to any charitable trust purpose or institution or to any organisation of the person appearing to *the Trustees* to be the secretary or treasurer or both or an officer for the time being of the trust purpose institution or organisation as a full discharge to them for it, and so that having obtained the receipt they shall not be bound afterwards to see to its application.

### To Pay Costs of Establishment

- 24.29 To pay and discharge all the costs and expenses of and incidental to the preparation and completion of this deed and the establishment of the trust created by it.

### To Do all Acts and Things

- 24.30 Generally to do all acts deeds matters and things and to enter into and make all such agreements and arrangements and to make all such rules and regulations as are incidental or conducive to the attainment of the objectives of the *Trust*.

## 25 INDEMNITY

- 25.1 Every *Trustee*, every member of a committee appointed under clause 14.0, every officer or employee of the Trust shall be indemnified out of the assets of the Trust against any liability incurred by him or her in defending any proceedings whether civil or criminal taken against him or her by reason of his or her actions in relation to or connection with the Trust in which judgment is given in his or her favour or in which he or she is acquitted by the Court in respect of any negligence, default, breach of duty or breach of trust.

## 26 INSURANCE OF TRUST PROPERTY

- 26.1 Although *The Trustees* are empowered by clause 24.0 to insure property in the *Trust Fund*, *the Trustees* where they consider it unwise, inexpedient or impractical to do so need not insure all the property in the *Trust Fund* as *the Trustees* in their absolute discretion think fit. Without in any way imposing any limitation on *the Trustees'* discretion, an item of property in the *Trust Fund* need not be insured because of its age or value, or usefulness to *the Trust*.



26.2 Wherever practicable and expedient, *the Trustees* shall insure Trust property against fire, theft and other natural disasters.

## 27 REGISTERED OFFICE

27.1 The registered office of the Board shall be at such a place as the Board may determine from time to time.

## 28 AMENDMENT OF DEED

28.1 Subject to sub-clause 4 of this clause, this deed may be amended or replaced by resolution of any general meeting passed by a two thirds' majority of those *Trustees* present and voting, but only if the objects of *the Trust* continue to remain charitable according to the laws of New Zealand.

28.2 Any proposed motion to amend or replace this deed shall be signed by at least two *Trustees* and given in writing to the other *Trustees* at least 30 clear days before the general meeting at which the motion is to be considered and accompanied by a written explanation of the reason for the proposal.

28.3 At least 7 clear days before the general meeting at which such proposal is to be considered, *the Trustees* shall give written notice to all other interested persons as *the Trustees* in their absolute discretion decide of the proposed motion, of the reasons for the proposal and of any recommendations from *the Trustees* in respect of the proposed motion.

28.4 The definition of the *Tairāwhiti Region* may be amended by unanimous resolution from time to time as *the Trustees* in their absolute discretion think fit. The provisions of sub-clauses 2 and 3 do not apply to any amendment under this sub-clause but the provisions of clauses 12.2 to 12.4 (both inclusive) do apply. Any amendment to the definition of the *Tairāwhiti Region* shall be recorded by deed signed by *the Trustees*.

## 29 WINDING UP

29.1 *The Trustees* may by special resolution wind up the *Trust* if in their opinion it becomes impossible, impracticable or inexpedient to carry out the charitable purposes in clause 4.

29.2 On the winding up or dissolution of the *Trust*, *the Trustees* must determine by special resolution whether to give or transfer all surplus assets after the payment of costs debts and liabilities:

29.2.1 to some other charitable organisation or body within New Zealand having similar objects to the *Trust*; or

29.2.2 for some other charitable purpose or purposes within New Zealand.

29.3 If *the Trustees* cannot determine how to dispose of any surplus assets after the payment of all costs debts and liabilities then the assets shall be disposed of as the Court directs pursuant to section 27 of the Charitable Trusts Act 1957.

## 30 GOVERNING LAW

30.1 The law applicable to this deed and the trust it creates is the law of New Zealand. *The Trustees* shall have power to change the applicable law by written resolution.

## 31 DEFINITIONS AND INTERPRETATION

### 31.1 Definitions

In this deed:

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“*Appointor*” means any person appointed as *Appointor* under clause 6.1;

“*income*” means the net income arising from the *Trust Fund* for each financial year or period ending on 31 March or any other day as is from time to time fixed by *the Trustees*;

“*Tairāwhiti Region*” means the area defined as the territory of the Gisborne District Council on the East Coast of New Zealand;

“*Trust*” means the trusts created by this deed;

“*the Trustees*” include *the Trustees*, any *Trustee* for the time being of the trusts of this deed whether original, additional or substituted and includes *the Trustees* incorporated as a Board under the Charitable Trusts Act 1957;

“*Trustee Appointment Day*” means the day of each Annual General Meeting of the Trust;

“*Trust Fund*” means the sum of \$10.00 accepted by *the Trustees*, together with all property which in the future may be acquired or received by *the Trustees* from any source for the purposes of the *Trust* and the money and investments from time to time representing that property and the *income* from that property.

### 31.2 Interpretation

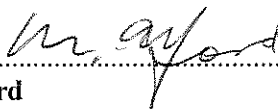
In this deed:

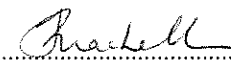
- (a) except as otherwise expressly provided by this deed, all powers or discretions vested in *the Trustees* by any clause shall not in any way be limited or restricted by the interpretation of any other clause;
- (b) except as otherwise expressly provided by this deed, every power and every discretion and every authority conferred on *the Trustees* by this deed when exercised is exercised solely by *the Trustees* in their absolute and unfettered discretion as *the Trustees* think fit.
- (c) the interpretation of this deed in cases of doubt is to favour the broadening of the powers and the restricting of the liability of *the Trustees*;
- (d) for the purposes of this deed, a person is deemed no longer to have full legal capacity if:
  - i an order has been made under the Protection of Personal and Property Rights Act 1988 protecting the property or personal care and welfare of that person; or
  - ii that person is mentally incapable in terms of Section 94(2) of the Protection of Personal and Property Rights Act 1988; or
  - iii that person is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992 and is subject to an order made under that Act; or
  - iv any *Trustee* has received a written certificate from a medical practitioner (lawfully entitled to practice at that time) stating that in the practitioner’s opinion the person lacks the mental or intellectual capacity to carry out the duties and powers given to that person by this deed.
- (e) unless the context otherwise requires:
  - i words importing the singular number include the plural and vice versa;

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- ii words importing one gender include the other genders;
- iii reference to a clause or sub-clause unless otherwise qualified is a reference to a clause or sub-clause in this deed;
- iv a "person" includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state or agency of state, government department or territorial authority in each case whether or not having separate legal personality;
- v references to any statute refer also to any regulation, by-law, order and notice made under or pursuant to the statute;
- vi references to statutes and regulations refer also to statutes and regulations amending, consolidating, re-enacting or in substitution for those referred to;
- vii expressions defined or explained in any statute shall bear those meanings in this deed;
- viii clause headings are inserted for reference only and do not affect the interpretation of this deed.
- ix a word or words printed in italics indicates that the word or words have a defined meaning in this deed and the use of italics does not otherwise affect the interpretation of this deed.


**TRUSTEE**

  
 .....  
**L M Alford**

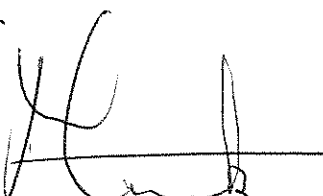
Witness Signature   
 Witness Name Jessica Mary MacKell  
 Witness Occupation Solicitor  
 Witness Address GISBORNE

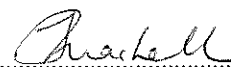
**TRUSTEE**

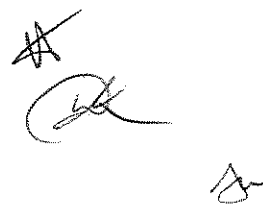
  
 .....  
**M S Caddie**

Witness Signature   
 Witness Name Jessica Mary MacKell  
 Witness Occupation Solicitor  
 Witness Address GISBORNE

**TRUSTEE**

  
 .....  
**M M Clark**

Witness Signature   
 Witness Name Jessica Mary MacKell  
 Witness Occupation Solicitor  
 Witness Address GISBORNE



*Russell Holland*

**TRUSTEE**

.....  
**R M Holland**

Witness Signature *Chackell*  
Witness Name *Jessica Mary Maclell*  
Witness Occupation *Solicitor*  
Witness Address *GISBORNE*

*D M Keast*

**TRUSTEE**

.....  
**D M Keast**

Witness Signature *Chackell*  
Witness Name *Jessica Mary Maclell*  
Witness Occupation *Solicitor*  
Witness Address *GISBORNE*