

THE NZAC TŪPIKI TRUST
DEED OF CHARITABLE TRUST

TABLE OF CONTENTS

| | |
|---|----|
| 1 DEFINITIONS AND CONSTRUCTION | 5 |
| 1.1 Defined terms | 5 |
| 1.2 Construction | 8 |
| 2 CREATION OF THE TRUST | 9 |
| 2.1 Settlement..... | 9 |
| 2.2 Declaration of trust | 9 |
| 2.3 Name of trust | 10 |
| 2.4 Registered office | 10 |
| 3 REGISTRATION..... | 10 |
| 3.1 Incorporation under the Charitable Trusts Act | 10 |
| 3.2 Registration under the Charities Act..... | 10 |
| 4 PURPOSES | 10 |
| 4.1 Charitable purposes | 10 |
| 4.2 Means of achieving purposes | 11 |
| 4.3 Charitable requirement | 11 |
| 4.4 Impartiality | 11 |
| 4.5 Limitation to New Zealand..... | 12 |
| 4.6 Political restriction..... | 12 |
| 5 DUTIES OF THE TRUSTEES | 12 |
| 6 POWERS AND DISCRETIONS OF THE TRUSTEES | 13 |
| 7 INVESTMENT..... | 13 |
| 8 RECEIPT OF GIFTS..... | 14 |
| 8.1 Receipt of gifts | 14 |
| 8.2 Separate specific trusts..... | 14 |
| 9 APPLICATION OF TRUST FUNDS..... | 15 |
| 9.1 Charitable purpose | 15 |
| 9.2 Application or accumulation..... | 15 |
| 9.3 No private pecuniary profit..... | 15 |
| 9.4 Income, benefit or advantage | 16 |
| 9.5 Restrictions imposed on payments..... | 16 |
| 9.6 Receipts for payments made..... | 16 |
| 10 POWER TO DELEGATE..... | 16 |
| 10.1 Power to delegate | 16 |
| 10.2 Delegate bound | 17 |

| | |
|--|----|
| 10.3 Delegation revocable | 17 |
| 10.4 Delegate need not be a Trustee | 17 |
| 11 RIGHT TO INFORMATION | 17 |
| 12 PATRON | 17 |
| 13 DISPUTE RESOLUTION | 18 |
| 14 ADVICE OF COUNSEL | 18 |
| 15 APPOINTMENT, REMOVAL, AND RETIREMENT OF TRUSTEES | 18 |
| 16 MEETINGS OF TRUSTEES | 18 |
| 17 FINANCIAL ARRANGEMENTS | 18 |
| 18 SEAL AND EXECUTION OF DOCUMENTS | 19 |
| 18.1 Custody and use of common seal | 19 |
| 18.2 Deeds | 19 |
| 18.3 Contracts | 19 |
| 19 LIMITATION OF LIABILITY AND INDEMNITY | 19 |
| Liability | 19 |
| Indemnity | 20 |
| 20 AMENDMENT OF THE TRUST DEED | 20 |
| 21 RESETTLEMENT | 20 |
| 22 TERMINATION | 21 |
| 23 GOVERNING LAW | 21 |
| SCHEDULE 1: POWERS | 26 |
| 1 Trustees’ specific powers | 26 |
| 2 Restriction | 28 |
| SCHEDULE 2: APPOINTMENT, REMOVAL, AND RETIREMENT OF TRUSTEES | 29 |
| 1 Membership of the Board | 29 |
| 2 Appointment of new Trustees | 29 |
| 3 Eligibility | 29 |
| 4 Term of office | 29 |
| 5 Cessation | 29 |
| 6 Exercise of powers | 30 |
| SCHEDULE 3: MEETINGS OF TRUSTEES | 31 |
| 1 Meetings | 31 |
| 2 Notice of meetings | 31 |
| 3 Quorum | 31 |
| 4 Adjournment | 31 |

| | |
|--|----|
| 5 Chairperson | 32 |
| 6 Appointment of officers | 32 |
| 7 Methods of holding meetings..... | 32 |
| 8 Conflicts of Interest | 32 |
| 9 Decisions..... | 33 |
| 10 Minutes | 34 |
| 11 Validity of proceedings..... | 34 |
| 12 Trustees’ spokesperson..... | 34 |
| 13 Trustees may regulate other proceedings | 34 |

THE NZAC TŪPIKI TRUST – DEED OF CHARITABLE TRUST

Date: 2021

PARTIES:

JOHN MARSDEN NANKERVIS of Wellington, lawyer, **DAVID ALEX CAMPBELL BAMFORD** of Lower Hutt, Advisor on Tourism, Recreation and Protected Area Management, **GEOFFREY VERNON GABITES** of Christchurch, Director, and **ROSS CULLEN** of Richmond, Emeritus Professor (“**the Settlers**”); and

LINDSAY SMITH of Dunedin, manager, **JOHN MARSDEN NANKERVIS** of Wellington, lawyer, **DAVID ALEX CAMPBELL BAMFORD** of Lower Hutt, Advisor on Tourism, Recreation and Protected Area Management, **GEOFFREY VERNON GABITES** of Christchurch, Director, and **ROSS CULLEN** of Richmond, Emeritus Professor (“**the Original Trustees**”)

BACKGROUND

- A The New Zealand Alpine Club Incorporated was established in 1891 and exists to promote health, the protection of the environment, the advancement of education and other purposes beneficial to the community by encouraging mountaineering, rock climbing and allied activities, the enjoyment and conservation of mountain regions, and to bring together those interested in climbing. As of 2021, the Club has over 4400 members and supporters. The Settlers wish to support the Club by establishing a trust to receive and act as kaitiaki for bequests and donations, and to make grants primarily to the Club for Club projects and programmes applied for by it. Applications for other climbing-related projects will also be eligible.
- B To the above ends, the Settlers wish to establish a charitable trust, to be known as The NZAC Tūpiki Trust, to give effect to the charitable purposes set out in this deed.
- C The Original Trustees have consented to become the trustees of the trust, with and subject to the powers and discretions set out in this deed.
- D On signing this deed, the Settlers have paid \$10 to the Original Trustees to be held by them as trustees, upon the trusts and with the powers set out in this deed.
- E It is anticipated that further property may be received or acquired by the Trustees from time to time for the charitable purposes of the Trust.

NOW THIS DEED RECORDS:

1 DEFINITIONS AND CONSTRUCTION

1.1 Defined terms

In this deed, unless the context requires otherwise:

Administration Manager means the person or company (if any) to whom the Trustees have contracted some or all of the administration of the Trust Fund;

Annual Meeting means an annual meeting of the Trust, which must be held each year no later than 6 months after Balance Date, and no later than 15 months after the previous Annual Meeting. The business of the Annual Meeting shall include:

- (a) receiving the minutes of the previous Annual Meeting;
- (b) the presentation of:

- (i) the Annual Report;
 - (ii) the signed financial statements of the Trust for the most recently-completed Financial Year, together with the report of any Qualified Auditor appointed under clause 17.2 (*Audit*); and
 - (iii) a summary of any disclosures or the types of disclosures made by Trustees under rule 8 of schedule 3 (*Conflicts of interest*), recorded since the previous Annual Meeting;
- (c) consideration of the annual budget and business plan;
 - (d) whether a Qualified Auditor is to be appointed under clause 17.2 (*Audit*) and, if so, the appointment of a Qualified Auditor;
 - (e) if the term of office of the chairperson is expiring, election of a new chairperson;
 - (f) election of any other office holders;
 - (g) motions to be considered; and
 - (h) any general business;

Annual Report means a report on the affairs of the Trust during the most recently-completed Financial Year, and on any other matters reasonably requested by the Club;

Associated, and other expressions indicating the association of persons with each other, have the meanings given by section YA 1 of the Tax Act;

Balance Date means 30 June, or any other date adopted by the Trustees by resolution as the date to which accounts are to be made in each year;

Board means the board of Trustees incorporated under the Charitable Trusts Act in accordance with clause 3.1 (*Incorporation under the Charitable Trusts Act*), and comprises the persons who are for the time being the Trustees of the Trust;

Chairperson means the Trustee holding office for the time being as chairperson of the Trust in accordance with rule 5 of schedule 3 (*Chairperson*);

Charitable Trusts Act means the Charitable Trusts Act 1957;

Charities Act means the Charities Act 2005;

Club means The New Zealand Alpine Club Incorporated, a society duly incorporated under the Incorporated Societies Act 1908 and having society number 226789;

Core Documents means, in relation to a Trustee, the following documents relating to the Trust:

- (a) the Trust Deed and any other document that contains terms of the Trust;
- (b) any variations made to the Trust Deed or Trust;
- (c) records of the Trust Fund that identify the assets, liabilities, income, and expenses of the Trust and that are appropriate to the value and complexity of the Trust Fund;
- (d) any records of Trustee decisions made during the Trustee's Trusteeship;
- (e) any written contracts entered into during the Trustee's Trusteeship;

- (f) any accounting records and financial statements prepared during the Trustee's Trusteeship;
- (g) documents of appointment, removal, and discharge of Trustees (including any court orders appointing or removing Trustees);
- (h) any letter or memorandum of wishes from the Settlers;
- (i) any other documents necessary for the administration of the Trust;
- (j) any documents referred to in paragraphs (a) to (i) that were kept by a former Trustee during that person's Trusteeship and passed on to the current Trustee; and
- (k) any other documents required by law;

Designated Gift means a gift which is given to be held on trust for a specific purpose that comes within the charitable purposes of the Trust Fund and, unless the context otherwise requires, includes any income derived from it;

Financial Year means any year or other accounting period ending on a Balance Date;

A Trustee will be *Interested* in a Matter if the Trustee:

- (a) is a party to, or may derive a financial benefit from, the Matter;
- (b) is the parent, child, or spouse of a person who is a party to, or may derive a financial benefit from, the Matter; or
- (c) may have a financial interest in a person to whom the Matter relates;
- (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the Matter relates, not being a person that is wholly-owned by the Trust; or
- (e) is otherwise directly or indirectly interested in the Matter in a manner which may be seen as a possible influence on their deliberations and voting as Trustee, including, without limitation, but subject to rule 8.2 of schedule 3 (*Conflicts of Interest*), being employed by any organisation offering or purchasing services to or from the Trust,

and *Interest* has a corresponding meaning;

Interests Register means the register of Trustees' Interests maintained under rule 8.3 of schedule 3 (*Conflicts of Interest*);

Investment Manager means a person or company (if any) to whom the Trustees have contracted the investment of some or all of the money of the Trust Fund;

Matter means an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by the Board, or the exercise of powers or the carrying out of activities under this deed;

Patron means a person appointed as a patron for the time being of the Trust under clause 12 (*Patron*);

Purposes means the charitable purposes of the Trust as set out in clause 4 (*Purposes*);

Qualified Auditor has the meaning given to that term by section 42D of the Charities Act;

Registrar has the meaning given to that term by section 6 of the Charitable Trusts Act;

Related Person for the purposes of clause 9.4 (*Income, benefit or advantage*), and in relation to any business to which section CW 42 of the Tax Act applies, means a person specified in paragraphs (i) to (iv) of subsection 5(b) of that section, the persons currently specified being a:

- (a) settlor or trustee of the trust by which the business is carried on; or
- (b) shareholder or director of the company by which the business is carried on; or
- (c) settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or
- (d) person Associated with a settlor, trustee, shareholder or director already mentioned in this definition; and

for the avoidance of doubt, includes any other person with some control over the business that is able to direct or divert, to their own benefit or advantage, an amount derived from the business;

Special Resolution means a resolution passed by at least 75% of the Trustees present and voting at a duly-convened meeting of Trustees;

Special Trust Adviser means any person appointed by the Board from time to time in accordance with sections 74-76 of the Trusts Act, to provide non-binding advice to the Trustees on any matter relating to the Trust, for such remuneration as may be fixed by the Board;

Tax Act means the Income Tax Act 2007;

Teleconference Meeting means a meeting whereby the participants are contemporaneously linked by telephone, video link, or other means of instant audio, audio and visual, or other form of digital or electronic communication and whereby all participants can simultaneously hear each other throughout the meeting;

Trust means the charitable trust established by this deed;

Trust Deed means this deed;

Trust Fund means:

- (a) the sum of \$10 referred to in Background D of this deed; and
- (b) any money, investments, or other property which may be paid or given to, or acquired or agreed to be acquired by, the Trustees from any source whatever after this deed has been signed with the intention that it be held by the Trustees subject to the trusts and other provisions set out in this deed; and
- (c) unless inconsistent with the context, includes the income received from such money, investments or other property;

Trustees means the trustees for the time being of the Trust Fund, whether appointed or elected, and whether Original, additional, or substituted; and

Trusts Act means the Trusts Act 2019.

1.2 Construction

- (a) In the construction of this deed, unless the context otherwise requires:

- (i) *charitable purpose* has the meaning given to that term in the Charities Act;
 - (ii) *clauses and schedules*: a reference to a clause or a schedule is to a clause or schedule of this deed, unless otherwise stated. The schedules to this deed form part of this deed;
 - (iii) *contents page and headings*: the contents page and the headings appear as a matter of convenience only and do not affect the construction or interpretation of this deed;
 - (iv) *defined terms*: words or phrases appearing in this deed with capitalised initial letters are defined terms and have the meanings given to them by this deed. If a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
 - (v) *documents*: a reference to any document, including this deed, includes a reference to that document as amended or replaced from time to time;
 - (vi) *examples*: words such as *including* and *for example* are used to assist understanding and are not, and should not be interpreted to be, words of limitation, unless otherwise explicitly stated;
 - (vii) *person*: references to *persons* include natural persons, firms, corporations sole, bodies corporate, corporations, unincorporated associations, and authorities, and *firm* includes partnership. A reference to any *person* includes the legal personal representatives, successors and permitted assigns of that person;
 - (viii) *property*: means any real or personal property of any kind or nature and includes any right or interest therein;
 - (ix) *rules*: in the interpretation of each schedule, a reference to a rule is to a rule of that schedule;
 - (x) *singular, plural and gender*: the singular includes the plural and *vice versa*, and words denoting any gender include all genders;
 - (xi) *spouses*: a reference to a *spouse* includes a civil union partner or a de facto partner; and
 - (xii) *statutes and regulations*: a reference to any statutory provision includes any statutory provision which amends or replaces it, and any subordinate legislation made under it.
- (b) If there is a conflict between the rules contained in the schedules and the other provisions of this deed, the other provisions of this deed shall prevail.

2 CREATION OF THE TRUST

2.1 Settlement

The Settlor settles the sum of \$10 on the Original Trustees as an initial settlement on the Trust.

2.2 Declaration of trust

The Trustees acknowledge and declare that they hold the Trust Fund upon the trusts, for the charitable purposes, and otherwise in accordance with and subject to the powers, discretions and duties, contained or implied in this deed.

2.3 Name of trust

The trusts created by this deed shall be known as *The NZAC Tūpiki Trust*, or by such other name as the Trustees may determine by resolution from time to time.

2.4 Registered office

The registered office of the Trust shall be at Unit 6, 6 Raycroft Street, Waltham, Christchurch 8011, New Zealand, or such other place as the Trustees may determine by resolution from time to time.

3 REGISTRATION

3.1 Incorporation under the Charitable Trusts Act

The Trustees shall apply for incorporation as a board under the Charitable Trusts Act, under the name *The NZAC Tūpiki Trust*, or such other name as approved by the Registrar of Incorporated Societies.

3.2 Registration under the Charities Act

If they consider it appropriate, the Trustees or the Board (as the case may be) may apply for registration as a charitable entity under the Charities Act. If and while so registered the Trustees will comply with the requirements of the Charities Act, including the requirements to notify changes, and to file annual returns accompanied by financial statements prepared in accordance with applicable financial reporting standards.

4 PURPOSES

4.1 Charitable purposes

The activities of the Trust are to be carried out, and the Trust Fund is to be applied, for exclusively charitable purposes, whether relating to the advancement of education, the promotion of health, the protection of the environment, or any other matter beneficial to the community, including, without limitation, to:

- (a) foster and encourage climbing in New Zealand, including mountaineering and rock-climbing and allied activities;
- (b) promote climbing as a healthy activity providing physical and mental health benefits, and promote public participation in climbing;
- (c) develop and encourage volunteer capacity and expertise in climbing-related matters;
- (d) promote instruction of climbing, including through educational programmes, learn-to-climb programmes, instructor development, climbing programmes for Māori, youth climbing programmes, mature mountaineer programmes, and programmes and activities designed to protect and promote the health and safety of climbers;
- (e) promote research relating to New Zealand climbing and its environments, and encourage publication of mountaineering books, including guide books, magazines, and journals;
- (f) promote public access to New Zealand climbing areas, and provide and maintain public amenities, including huts, lodges and toilets, in climbing regions that are available for the public to use;

- (g) promote conservation of climbing spaces, and the maintenance and improvement of the ecological status of climbing spaces, including through weed and pest control and other conservation projects, and by providing a forum for discussing sustainability of climbing activities;
- (h) advocate for the interests of climbing and climbing area conservation;
- (i) further such other related purposes, which are charitable according to the law of New Zealand, as the Trustees in their discretion think fit; and
- (j) support the charitable purposes of the Club to the extent that they are consistent with the above charitable purposes.

4.2 Means of achieving purposes

The Board may, in order to achieve or advance the charitable purposes of the Trust, but without limiting any of their powers under this deed or generally:

- (a) raise funds and seek volunteer support as needed to advance the Trust's charitable purposes;
- (b) consult with the Club as to how best to further shared charitable purposes;
- (c) provide grants in furtherance of the Trust's charitable purposes;
- (d) support the Club by providing grants in furtherance of the Trust's and the Club's shared charitable purposes, and establish criteria against which applications for grants may be assessed;
- (e) provide community events, such as forums, conferences, lecture tours, workshops, and the like;
- (f) produce, publish and distribute any communications, newsletters, magazines, periodicals, books, leaflets, or electronic communications and promote radio, television, film and internet programmes and documentaries;
- (g) collaborate with other like-minded organisations;
- (h) invest Trust funds; and
- (i) undertake such other activities as the Trustees determine from time to time will achieve or advance the charitable purposes of the Trust.

4.3 Charitable requirement

All purposes must be charitable within the meaning of the law of New Zealand from time to time, and any purposes which do not qualify as charitable are secondary and may only be undertaken to pursue those purposes that are charitable. The Board shall not do anything that prejudices in any way the charitable nature of the Purposes.

4.4 Impartiality

Despite section 35 of the Trusts Act, the Trustees shall be vested with an absolute discretion as to the apportionment from time to time of the Trust Fund amongst or for the benefit of the Trust's Purposes, and may from time to time set apart the whole or any part for the benefit of any specified Purpose or Purposes to the exclusion of the others if the Trustees so desire.

4.5 Limitation to New Zealand

The Board shall ensure that the Trust Fund is applied wholly or mainly to charitable purposes within New Zealand.

4.6 Political restriction

The Board may not engage in partisan political activity or partisan political campaigning.

5 DUTIES OF THE TRUSTEES

5.1 For the avoidance of doubt, each Trustee is subject to all the duties imposed on trustees by law, including, without limitation:

- (a) a duty to know and act in accordance with the terms of the Trust Deed;
- (b) a duty to act to further the charitable purposes of the Trust, as set out in clause 4.1 (*Charitable purposes*), in accordance with the terms of the Trust Deed;
- (c) a duty to act honestly and in good faith;
- (d) a duty to exercise powers for a proper purpose;
- (e) a duty, when administering the Trust (other than when exercising a discretion to distribute Trust property), to exercise reasonable care and skill, having regard, in particular:
 - (i) to any special knowledge or experience that the Trustee has or holds themselves out as having; and
 - (ii) if the person acts as a trustee in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession;
- (f) a duty to disclose conflicts of interest in accordance with rule 8 of schedule 3 (*Conflicts of Interest*);
- (g) subject to rule 8.2 of schedule 3 (*Conflicts of Interest*), a duty not to exercise a power of the Trustee directly or indirectly for the Trustee's own benefit;
- (h) a duty to consider actively and regularly whether the Trustee should be exercising 1 or more of the Trustee's powers;
- (i) a duty to keep Core Documents to the extent required by sections 45 to 48 of the Trusts Act; and
- (j) subject to clause 13(b) (*Dispute resolution*), a duty not to bind or commit Trustees to a future exercise or non-exercise of a discretion, provided that:
 - (i) subject to clause 8.2 (*Separate specific trusts*), within one month of the beginning of each financial year, the Trustees shall, in consultation with the Club, prepare a prioritised list of areas for which grants may be sought; and
 - (ii) the Trustees may from time to time agree on a set of guidelines and protocols for the making and consideration of applications for grants; and
- (k) such other duties as may be set out in policies approved by Special Resolution from time to time.

- 5.2 In performing their duties, a Trustee must have regard to the context and objectives of the Trust.
- 5.3 **Investment duty:** despite section 30 of the Trusts Act, when exercising any power of investment in relation to the Trust Fund, a Trustee must comply with clause 7 (*Investment*).
- 5.4 In addition to meeting the duties of Trustees set out in this clause 5, Trustees are expected to:
- (a) devote sufficient time, attention and resources to carrying out their obligations to ensure that the Trust achieves its Purposes;
 - (b) attend all Trustee meetings prepared to fully participate in the business of the Board. If unable to attend, a Trustee shall notify the Chairperson as soon as possible; and
 - (c) demonstrate high ethical standards and integrity in their personal and professional dealings, and be willing to act on, and remain collectively accountable for, all Board decisions.

6 POWERS AND DISCRETIONS OF THE TRUSTEES

- 6.1 In addition to all the powers and discretions vested in the Trustees by law, but subject always to this deed and in particular clause 4 (*Purposes*):
- (a) the Trustees may always exercise the fullest possible powers and discretions in relation to the Trust Fund as if the Trustees were the absolute owners of the Trust Fund; and
 - (b) all the powers and discretions of the Trustees may always be exercised by the Trustees in their absolute discretion, at such time and on such terms as the Trustees think fit.
- 6.2 Exercise by the Trustees of their powers and authorities is subject to any restriction, obligation or trust applying to all or any part of the Trust Fund, including, without limitation, those set out in clauses 8.2 (*Separate specific trusts*) and 9 (*Application of Trust Funds*).
- 6.3 For the avoidance of doubt, in addition to the general powers set out in this clause 6, and to the powers set out in clauses 7 (*Investment*) and 10 (*Power to delegate*), the Trustees have the specific powers set out in schedule 1 (*Powers*).

7 INVESTMENT

- (a) **Power to invest:** subject to this clause 7 and to clause 5.3 (*Investment duty*), the Board may from time to time invest all or any part of the Trust Fund in investments that are permitted by the law of New Zealand for the investment of trust funds, upon such terms as the Board thinks fit.
- (b) **Investment policy:** subject to this clause 7, the Board shall, at the beginning of each financial year or otherwise as necessary, review and decide by resolution the policy concerning the investment of money by the Trust, including what type of investment(s) will be permitted. In reviewing and deciding the policy, the Board shall have regard to professional advice, and to the factors set out in section 59 of the Trusts Act, so far as they are appropriate to the circumstances of the Trust and not inconsistent with the terms of this deed, provided that it shall not be essential for Trust Funds to be diversified.

- (c) When exercising any power of investment in relation to the Trust Fund, the Board shall invest in accordance with the policy adopted by the Board under clause 7(b), provided that all investment decisions must be made in the best interests of the charitable purposes of the Trust.
- (d) **Investment advisers:** the Board may engage the services of accredited professional investment advisers, as required, to assist with the investment of money of the Trust in accordance with any policy adopted by the Board in accordance with clause 7(b), and with the development of the policy.
- (e) **Investment Managers:** the Board may appoint one or more Investment Managers and may delegate to any such Investment Manager the investment of all or any portion of the Trust Fund. The Board may also appoint an eligible person to hold or deal with all or part of the Trust Fund as nominee or custodian on behalf of the Trust.

8 RECEIPT OF GIFTS

8.1 Receipt of gifts

The Board may receive solicited or unsolicited gifts of any real or personal property for the charitable purposes set out in clause 4 (*Purposes*), or for any specific purpose that comes within those charitable purposes, as an addition to the Trust Fund, provided that the Board is not obliged to accept any asset which is subject to a liability or may give rise to subsequent liability, or any gift for a purpose which is not possible or ill-advised.

8.2 Separate specific trusts

- (a) If the Board accepts a Designated Gift, the Board must keep that Designated Gift, and any income derived from it, separate from the general assets of the Trust Fund, and administer it as a separate specific trust under the terms of the trust under which it was given. Investments of funds forming all or part of the Trust Fund may be pooled to achieve economies of scale, provided that Designated Gifts must be separately accounted for.
- (b) The Board shall not use the assets of any separate specific trust to make good any deficit, loss, damage or breach of trust relating to any other separate specific trust. Similarly, the Board shall not use the general assets of the Trust Fund for such purposes.
- (c) Each separate specific trust shall bear its own administration expenses plus a fair proportion (determined by the Board) of the administration expenses applicable to the general purposes of the Trust.
- (d) If the Board can no longer comply with the terms under which a Designated Gift was given (the "**Specific Terms**"), the Board will use reasonable efforts to contact the person who gave the Designated Gift (the "**Donor**"). If the Donor is still living and able to give approval, the Board must seek approval from the Donor to amend the Specific Terms. If the Board is unable to contact the Donor, the Board may amend the specific terms in accordance with clauses 8.2(e) and 20 (*Amendment of the Trust Deed*).
- (e) When considering a necessary amendment to the Specific Terms, the Board shall as far as practicable preserve the integrity of the original purpose and intent of the Donor by departing from those Specific Terms only to the extent considered

necessary or desirable given the changed circumstances, in order to fulfil objectives as nearly and closely aligned as possible with the original purpose and intent of the Donor, subject always to clause 4 (*Purposes*).

9 APPLICATION OF TRUST FUNDS

9.1 Charitable purpose

The Trustees must hold or deal with the Trust Fund solely to further the charitable purposes of the Trust, in accordance with the terms of this deed.

9.2 Application or accumulation

(a) Subject to this deed, the Board may, in any Financial Year:

- (i) use or apply, or decide not to use or apply, all or any of the income of the Trust Fund;
- (ii) subject to clause 9.2(b), use or apply any capital of the Trust Fund, without first using or applying the whole or any portion of the income of the Trust Fund for that year; and
- (iii) set aside reserves or accumulations for future use or application,

and shall do so in such proportions as the Board thinks fit, provided that all such decisions shall be made towards the fulfilment of the charitable purposes of the Trust, and in particular having regard to the capacity of the Trust to make grants to support Club projects and programmes both in the current Financial Year and into the future.

(b) Income arising in any Financial Year that is not expended in either that Financial Year or the following Financial Year shall be added to capital. Capital may only be used or applied in the provision of a grant:

- (i) if the amount of any such capital grant would not, in aggregate with all other capital grants made in a rolling period of the immediately prior 60 months, cause more than 50% of the total capital balance of the Trust to have been expended in that period; and
- (ii) with specific approval by Special Resolution, which resolution must be approved in writing by the Club in order to have effect.

9.3 No private pecuniary profit

(a) Subject to clause 9.3(b), no private pecuniary profit may be made by any person from the Trust, and no portion of the Trust Fund shall be paid or transferred directly or indirectly to any Trustee, or to any person Associated with a Trustee, except that:

- (i) any Trustee or other officer of the Trust may receive full reimbursement for all reasonable expenses properly incurred by the Trustee or officer in connection with the affairs of the Trust.
- (ii) despite sections 36 and 37 of the Trusts Act:
 - (A) the Board may pay reasonable remuneration to any individual (whether a Trustee or other officer of the Trust or not) in return for services actually rendered to the Trust; and

- (B) any Trustee or other officer of the Trust may be paid reasonable professional, business or trade charges for services rendered, time expended and all acts done by that person (or by any firm or entity of which that person is a member, employee or Associated) in connection with the affairs of the Trust.
- (b) For the avoidance of doubt, a Trustee does not derive a private pecuniary profit, or an amount, benefit or advantage, merely because the Club receives a grant from the Trust in support of a Club project or programme in furtherance of the Club's and the Trust's shared charitable purposes, and the Trustee is a member of the Club.

9.4 Income, benefit or advantage

In the carrying on of any business under this deed, no Related Person shall derive any amount, benefit or advantage from the Trust where they are, in any way, whether directly or indirectly, able to determine, or materially influence the determination of, the nature or extent of that amount, benefit or advantage, or the circumstances in which that amount, benefit, or advantage is, or is to be, given or received, except where:

- (a) that amount, benefit or advantage is derived from professional services to the Trust, rendered in the course of business charged at no greater than current market rates; or
- (b) otherwise permitted by section CW 42 of the Income Tax Act.

9.5 Restrictions imposed on payments

In determining all reimbursements, remuneration and charges payable in terms of this deed, the restrictions imposed by this clause 9 must be strictly observed. In particular, any payments made must be for goods or services that advance the charitable purposes of the Trust and must be reasonable and commensurate with payments that would be made between unrelated parties.

9.6 Receipts for payments made

The receipt of the secretary, treasurer, or other person appearing to the Board to be authorised to give receipts on behalf of the recipient of any payment made under the terms of this deed, shall be a complete discharge to the Board for that payment.

10 POWER TO DELEGATE

10.1 Power to delegate

- (a) In addition to the power to delegate to an Investment Manager under clause 7 (*Investment*), the Board may, from time to time, by resolution appoint subcommittees for particular purposes, consisting of such persons as the Board determines, and may delegate in writing any of the powers or functions of the Trustees to any such subcommittee, or to any person, including to an Administration Manager, in the Board's absolute discretion. This clause 10 is subject to section 67 of the Trusts Act, which provides that certain powers or functions may not be delegated.
- (b) No such delegation shall prevent the exercise of any power, function, or the performance of any duty, by the Board.

10.2 Delegate bound

- (a) The Board may, in delegating powers or functions of the Trustees, provide restrictions or rules by or within which such delegated powers or functions are to be exercised, which restrictions or rules may, for the avoidance of doubt, be contained within policies, guidelines or protocols.
- (b) Any subcommittee or person to whom the Board has delegated powers or functions shall be bound by the terms of this deed, including in particular the charitable purposes of the Trust, and by any terms or conditions of the delegation set by the Board.
- (c) Subject to this clause 10, any person or subcommittee to whom or which any powers or functions of the Trustees have been delegated may conduct that person's or that subcommittee's affairs as that person or that subcommittee may decide.
- (d) Any person or subcommittee acting under delegated power under this clause 10 shall be presumed to be acting within the terms of the delegation, in the absence of proof to the contrary.
- (e) All subcommittee decisions shall be approved by the Board before they become effective or are implemented, unless the Board otherwise directs.

10.3 Delegation revocable

- (a) Each Trustee has a general duty of care in relation to appointments and must keep under review the arrangements under which the appointee acts and how those arrangements are being put into effect. If the circumstances make it appropriate to do so, the Board must consider whether to exercise any power to intervene under clause 10.3(b).
- (b) The Board may give directions to an appointee and may amend, revoke (wholly or partly), or replace any delegation of the powers or functions of the Trustees at any time.
- (c) Until such delegation is revoked or amended, it shall continue in force according to its tenor, even if there is a change in the composition of the Board or of any subcommittee.

10.4 Delegate need not be a Trustee

It shall not be necessary for any person who is appointed to be a member of any such subcommittee, or to whom any such delegation is made, to be a Trustee. However, the chairperson of any such subcommittee must be a Trustee, unless the Board decides otherwise in any particular case.

11 RIGHT TO INFORMATION

Subject to any regulatory requirements for the disclosure of information, including those set out in the Charities Act, no person receiving any benefit from this Trust shall be entitled, by virtue of receipt of that benefit, to any information in respect of the Trust.

12 PATRON

The Board may invite one or more persons of distinction to be a Patron of the Trust. Such invitation, if accepted, shall be for such term as the Board may decide. The role of the Patron is as determined in a Board policy. A Patron may not be a Trustee.

13 DISPUTE RESOLUTION

- (a) Where any dispute arises in relation to the interpretation or operation of any power or discretion contained in this deed or in relation to the exercise of any power or discretion conferred on any party under this deed, the Trustees will first attempt to resolve the matter by good faith negotiation. In the event resolution is not reached by negotiation, the Trustees are empowered to refer the matter to an alternative dispute resolution process, in the most cost-effective manner available.
- (b) Notwithstanding clause 5.1(j), the Trustees may, for the purposes of an alternative dispute resolution settlement or arbitration agreement and any arbitral award under that agreement, give binding undertakings in relation to the Trustees' future actions as Trustees.

14 ADVICE OF COUNSEL

If the Trustees are in doubt over any matter relating to the administration of the Trust Fund, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a barrister of the High Court of New Zealand of at least 7 years' standing. The Trustees may act upon the barrister's opinion without being liable to any person who may claim to be beneficially interested in respect of anything done in accordance with that opinion. This right to obtain and act upon a barrister's opinion, however, will not restrict the Trustees' right to apply to the High Court of New Zealand for directions.

15 APPOINTMENT, REMOVAL, AND RETIREMENT OF TRUSTEES

Provisions dealing with the appointment, removal, and retirement of Trustees are set out in schedule 2 (*Appointment, removal, and retirement of Trustees*).

16 MEETINGS OF TRUSTEES

Provisions dealing with meetings of Trustees are set out in schedule 3 (*Meetings of Trustees*).

17 FINANCIAL ARRANGEMENTS

17.1 The Trustees shall ensure that:

- (a) proper books of account are kept in respect of the Trust Fund, and all other matters necessary or appropriate to show the true state of the financial affairs of the Trust, and are made available to any Trustee on request;
- (b) the requirements of the Charities Act, including the requirements to notify changes and to prepare annual financial statements in accordance with generally accepted accounting practice, are complied with;
- (c) all monies received by or on behalf of the Trust are paid promptly to the credit of the Trust in an account with a bank selected from time to time by the Board;
- (d) all payments are signed or otherwise approved by 2 Trustees, or by 1 Trustee and one other officer of the Trust appointed by the Board for that purpose, or otherwise in such manner as the Board decides from time to time; and
- (e) all payments are properly authorised before payment, promptly paid once authorised, and generally the funds of the Trust are properly accounted for.

17.2 **Audit:** if the Trustees are required, or at any time resolve, to appoint an auditor or a reviewer, then the Trustees shall, as soon as reasonably practicable after the end of the applicable Financial Year of the Trust, cause the accounts of the Trust to be audited or reviewed, as appropriate, by a Qualified Auditor appointed by the Board for that purpose.

17.3 The Trustees will ensure that the Qualified Auditor so appointed has access to the documentation of the Trust, and to such information and explanations as the Qualified Auditor thinks fit for the proper performance of their duties.

18 SEAL AND EXECUTION OF DOCUMENTS

18.1 Custody and use of common seal

If, and while, required by the Charitable Trusts Act, the Trust shall have a common seal, which shall be kept in the custody and control of the Board, and shall be used only as directed by the Board. The common seal must not be affixed to any document unless the Board has already authorised its use on that document by resolution. When a document is to be sealed on the prior authority of the Board, the seal must be affixed to the document in the presence of 2 Trustees who must then sign the document.

18.2 Deeds

To execute a deed, it will be sufficient for the deed:

- (a) to be executed under the common seal of the Board attested by at least 2 of the Trustees if a common seal is required by the Charitable Trusts Act; or
- (b) if paragraph (a) does not apply, to be signed by at least 2 Trustees, whose signatures must be witnessed.

18.3 Contracts

Subject to clause 18.1, contracts in relation to the Trust may be made as follows:

- (a) an obligation that, if entered into by a natural person is, by law, required to be in writing may be entered into on behalf of the Board in writing signed by a person acting under the express or implied authority of the Board;
- (b) an obligation that, if entered into by a natural person is not, by law, required to be in writing may be entered into on behalf of the Board in writing or orally by a person acting under the express or implied authority of the Board,

provided that no such contract shall be entered into by any person in relation to the Trust except with the authority of a resolution passed by the Board at a properly-constituted meeting.

19 LIMITATION OF LIABILITY AND INDEMNITY

Liability

19.1 No Trustee is personally liable to the Trust for:

- (a) the consequence of any act or omission, or for any loss; or
- (b) any loss or cost caused by an attorney, adviser, delegate, manager, agent or employee engaged by the Trustees, despite any rule of law or equity to the contrary.

19.2 The exclusion from liability set out in clause 19.1 does not apply where the consequence or loss is attributable to:

- (a) the Trustee's dishonesty;
- (b) the wilful commission by the Trustee of any act known by the Trustee to be a breach of trust;
- (c) the wilful omission by the Trustee of any act when the omission is known by the Trustee to be a breach of trust; or
- (d) the Trustee's gross negligence.

19.3 No Trustee is bound to take any proceedings against a co-Trustee for any alleged breach of trust by the co-Trustee.

Indemnity

19.4 Each Trustee is fully indemnified by and out of the Trust Fund for any personal liability or loss incurred by that Trustee arising from or in connection with that Trustee acting or purporting to act as a Trustee of the Trust. The indemnity includes in particular any liability to satisfy costs and expenses arising out of the conduct of the activities of the Trust. Every Trustee has a lien on and may use monies forming part of the Trust Fund for this indemnity.

19.5 The indemnity conferred by clause 19.4 may extend to any loss or liability only crystallising after a person has ceased to be a Trustee.

19.6 The indemnity conferred by clause 19.4 does not extend to a loss or liability that is attributable to:

- (a) the Trustee's dishonesty;
- (b) the wilful commission by the Trustee of any act known by the Trustee to be a breach of trust;
- (c) the wilful omission by the Trustee of any act when the omission is known by the Trustee to be a breach of trust; or
- (d) the Trustee's gross negligence.

20 AMENDMENT OF THE TRUST DEED

20.1 Subject to this clause 20, the Trustees may, by unanimous resolution, amend, revoke or add to any of the provisions of this deed, provided that any such resolution must also be approved in writing by the Club in order to have effect.

20.2 The power of amendment conferred by clause 20.1 may not be exercised to make an amendment:

- (a) inconsistent with the charitable purposes of the Trust; or
- (b) that would prejudice the charitable nature of the Trust.

20.3 Any amendment to the Trust Deed must be recorded in writing in a supplemental deed signed by the Trustees and notified as required by the Charitable Trusts Act and the Charities Act.

21 RESETTLEMENT

The Trustees may at any time by unanimous resolution resettle any or all of the income or capital of the Trust Fund on other objects that are charitable purposes

according to the law of New Zealand, provided that any such resolution must also be approved in writing by the Club in order to have effect.

22 TERMINATION

22.1 The Trust may be terminated at any time by unanimous resolution, provided that such decision must be made in the best interests of the charitable purposes of the Trust, and provided also that any such resolution must be approved in writing by the Club in order to have effect.

22.2 On the termination of the Trust, the Trustees shall pay or apply such of the capital and income of the Trust as then remains, after satisfaction of all costs, debts and liabilities of the Trust:

- (a) if the Club is then in existence, to the Club, to be used strictly for the shared charitable purposes of the Club and the Trust; or
- (b) if the Club is no longer in existence at that time, for such charitable purposes within New Zealand that are similar to and consistent with the purposes outlined in clause 4.1 (*Charitable purposes*) as the Board shall by resolution determine.

22.3 In the absence of a decision by the Board in accordance with clause 22.2, the surplus assets of the Trust Fund shall be applied to such charitable purposes in New Zealand as a Judge of the High Court of New Zealand directs.

23 GOVERNING LAW

This deed shall be governed by New Zealand law.

EXECUTED AND DELIVERED AS A DEED:

Signed by **JOHN MARSDEN NANKERVIS**
as Settlor:

In the presence of:

Name:

Occupation:

Address:

Signed by **DAVID ALEX CAMPBELL**
BAMFORD as Settlor

In the presence of:

Name:

Occupation:

Address:

Signed by **GEOFFREY VERNON GABITES**
as Settlor

In the presence of:

Name:

Occupation:

Address:

Signed by **ROSS CULLEN** as Settlor

In the presence of:

Name:

Occupation:

Address:

Signed by **LINDSAY SMITH** as Trustee

In the presence of:

Name:

Occupation:

Address:

Signed by **JOHN MARSDEN NANKERVIS**
as Trustee

In the presence of:

Name:

Occupation:

Address:

Signed by **DAVID ALEX CAMPBELL
BAMFORD** as Trustee

In the presence of:

Name:

Occupation:

Address:

Signed by **GEOFFREY VERNON GABITES**
as Trustee

In the presence of:

Name:

Occupation:

Address:

Signed by **ROSS CULLEN** as Trustee

In the presence of:

Name:

Occupation:

Address:

SCHEDULE 1: POWERS

1 Trustees' specific powers

Subject to this deed, and without limiting the generality of the powers conferred on the Trustees by law, the Trustees have the power to undertake any of the following specific powers, on such terms as the Trustees think fit, in furtherance of the charitable purposes of the Trust:

- (a) maintain a bank account, and agree on signatories to the account, and on who shall have access to the account;
- (b) seek, raise, accept and receive any donation, subsidy, grant, endowment, legacy, conveyance, transfer, gift, devise, or bequest, either in money or in kind, or partly in money and partly in kind, for all or any of the charitable purposes of the Trust;
- (c) undertake fundraising activities to help finance promotion of the charitable purposes of the Trust;
- (d) pay all costs and expenses incurred in the course of the Trustees carrying out or exercising any of the Trustees' powers and discretions;
- (e) create a provision for possible expenditures or liabilities;
- (f) set aside or invest reserves or accumulations for future use or application;
- (g) engage any person, including volunteers, as:
 - (i) an expert to assist the Trustees;
 - (ii) an attorney or delegate for the Trustees;
 - (iii) an advisory trustee or a Special Trust Adviser;
 - (iv) a nominee or custodian to hold or deal with all or any part of the Trust Fund;
 - (v) a manager or agent for the Trustees;
 - (vi) a secretary of the Trustees;
 - (vii) a treasurer for the Trustees; and/or
 - (viii) an employee of the Trustees in any matter relating to the Trust, according to principles of good employment and the Employment Relations Act 2000;
- (h) subject to clause 9.3 (*No private pecuniary profit*), to pay reasonable and proper remuneration to any officer, agent, contractor, adviser, or employee of the Trust in return for services actually rendered to the Trust;
- (i) insure personnel, including the Trustees, who undertake the Trust's activities;
- (j) acquire any real or personal property, or interest in such property, whether by purchase, lease, hire, exchange or otherwise and on such terms and conditions as the Trustees think fit;
- (k) sell or otherwise dispose of any part of the Trust Fund;
- (l) for any part of the Trust Fund:

- (i) apply it to make an investment in a debt security, an equity security or property;
- (ii) retain it even if it is of a wasting, speculative or reversionary nature, may not produce income, or might be decreasing or not increasing in value;
- (iii) pay all insurance premiums, rates, taxes, rents, repairs and other outgoings;
- (iv) improve, develop or subdivide it;
- (v) do anything that may increase value including, for example, adding to any buildings or structures and entering into leases, tenancy agreements, party wall agreements, easements or *profits à prendre*;
- (vi) grant a lease, licence or bailment;
- (vii) waive breaches, accept surrenders and terminate tenancies, licences and bailments;
- (viii) convert it into money;
- (ix) grant security over it;
- (x) deal generally with and manage the Trust Fund as if the Trustees were beneficially entitled to it;
- (m) carry on any business or venture and establish or acquire any company, partnership or joint venture to conduct the same;
- (n) enter into any swap, hedging or other financial transaction;
- (o) enter into and perform a contract of indemnity and act as surety with any guarantee and security in support;
- (p) in relation to any company or other body:
 - (i) exercise any voting or decision-making rights or other powers;
 - (ii) appoint directors, officers or employees or trustees of it; and
 - (iii) provide further share or loan capital;
- (q) amalgamate or merge the Trust with any other exclusively charitable trust or organisation and to transfer all or part of the Trust Fund to such amalgamated or merged trust;
- (r) raise finance, such as by borrowing money or issuing a discounted security, for the furtherance of the charitable purposes of the Trust, in such manner and on such terms as the Trustees think fit;
- (s) act upon any expert or professional opinion or advice;
- (t) set apart any part of the Trust Fund under a distinguishing name:
 - (i) as a sub-trust;
 - (ii) as a special endowment; or
 - (iii) for a special purpose;
- (u) appoint patron(s) to assist with promotion of the charitable purposes of the Trust;

- (v) decide all questions arising in the course of the management, administration, investment, realisation, distribution, liquidation, partition, resettlement or winding up of the Trust; and
- (w) generally do all such other lawful acts and things as may from time to time be necessary or desirable for furthering the charitable purposes of the Trust.

2 Restriction

Any investment of the Trust Fund is subject to the requirements of clause 7 (*Investment*).

SCHEDULE 2: APPOINTMENT, REMOVAL, AND RETIREMENT OF TRUSTEES

1 Membership of the Board

- 1.1 The Original Trustees shall be the initial members of the Board.
- 1.2 Subject to this deed, and in particular rules 1.1 and 3 (*Eligibility*), the Board of Trustees shall consist of at least 3 and no more than 7 persons and shall be comprised as follows:
 - (a) the president for the time being of the Club, or their nominee; and
 - (b) up to six persons appointed by the governing body of the Club, all of whom must be members of the Club and at least one of whom must be a member of the governing body of the Club.

2 Appointment of new Trustees

- 2.1 The appointment of a new Trustee must be in writing and signed by all the Trustees, including the appointee. The appointment does not take effect until the appointee expressly accepts the appointment in writing. Details of new and ceasing Trustees must also be recorded in the minutes of the Trust, and notified as required by the Charities Act and any other applicable legislation.
- 2.2 If there is no Trustee, the Trusts Act shall govern the appointment of a new Trustee.

3 Eligibility

The following persons are not eligible to be a Trustee:

- (a) a person disqualified by the Charities Act from being an officer of a charitable entity;
- (b) a person disqualified by section 96 of the Trusts Act from being appointed as a trustee of a trust;
- (c) a person who is not a member of the Club.

4 Term of office

- 4.1 Trustees appointed in accordance with rule 1.2(b) shall hold office for a term of up to 4 years from the date of appointment.
- 4.2 The Original Trustees shall be deemed to be first appointed on the date of this deed. The Original Trustees shall determine a schedule of rotation with the intention that 2 of the Original Trustees shall retire after 2 years to enable staged refreshing and opportunities to retire. Failing agreement, the schedule of rotation shall be determined by lot.
- 4.3 Retiring Trustees shall be eligible for reappointment provided that, subject to rule 1.2(a), no Trustee may serve for more than 8 consecutive years.
- 4.4 Notwithstanding rule 4.3, the Board may, by unanimous resolution of all of the Trustees excluding the particular Trustee concerned, extend a particular Trustee's term beyond the 8-year maximum in any particular case where not having the particular Trustee's presence on the Board would have a detrimental impact on the Trust's objectives.

5 Cessation

- 5.1 A person shall cease to be a Trustee if:

- (a) the Trustee resigns by notice in writing to the other Trustees, which resignation shall take effect from the date on which the Trustee is discharged in writing by the Board or otherwise as provided by the Trusts Act;
 - (b) the Trustee completes their term of office and does not seek reappointment or is not reappointed;
 - (c) in respect of a person holding office as Trustee under rule 1.2(a), the relevant person ceases to hold office as president of the Club;
 - (d) in respect of a person holding office as Trustee under rule 1.2(b), the person ceases to be a member of the Club;
 - (e) the Club gives written notice to the person and the Board that the person's appointment as a Trustee ceases with effect from a given date;
 - (f) the Trustee becomes a person whom rule 3 (*Eligibility*) does not permit to be a Trustee;
 - (g) the Trustee dies, is found to be a mentally disordered person within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or becomes a person in respect of whose affairs an order is made under the Protection of Personal and Property Rights Act 1988;
 - (h) the Trustee is absent without leave from 3 consecutive Trustee meetings; or
 - (i) in the opinion of the other Trustees, expressed in a resolution passed by a 2/3 majority of votes, the Trustee is for any other reason unfit or unable to carry out the duties of a Trustee. The Trustee concerned must be given 14 working days' written notice of the proposed removal, the reason for the proposed removal, and an opportunity to reply at the meeting considering their removal, before any decision on their proposed removal is made.
- 5.2 Upon ceasing to be a Trustee, the person must promptly return all Trust documents and property.

6 Exercise of powers

The power to appoint, and the power to remove, Trustees must be exercised honestly, in good faith, and for a proper purpose.

SCHEDULE 3: MEETINGS OF TRUSTEES

1 Meetings

- 1.1 The Trustees shall meet as often as they consider desirable for the efficient and proper conduct of the affairs of the Trust, but in any event shall meet at least 2 times in each Financial Year, one of which must be the Annual Meeting. Meetings of Trustees shall be conducted in accordance with rule 7 (*Methods of holding meetings*).
- 1.2 Every Trustee present at a meeting of Trustees shall be entitled to one vote.
- 1.3 The general manager of the Club and all Members of the governing body of the Club, whether or not Trustees, are entitled to receive notice of, attend and speak at the Annual Meeting, but are not entitled to vote in that capacity.
- 1.4 The Trustees may invite to their meetings such other persons as the Trustees may decide will assist with their deliberations.
- 1.5 A meeting may be called at any time by the Chairperson. A meeting shall be called if a majority of Trustees request it.

2 Notice of meetings

- 2.1 At least seven days' written notice of any meeting of Trustees shall be communicated by the Chairperson to each of the other Trustees (and in the case of the Annual Meeting shall also be communicated to the general manager of the Club and all members of the governing body of the Club).
- 2.2 The notice shall state the date, time and place of the meeting, sufficient details of the nature of the business to be transacted and, in the case of a Teleconference Meeting, instructions for how to connect to the meeting. In the case of the Annual Meeting, the notice shall also include a copy of the Annual Report, and the financial statements for the most recently-completed Financial Year, together with the report of any Qualified Auditor appointed in accordance with clause 17.2 (*Audit*).
- 2.3 No notice is required for the resumption of an adjourned meeting, provided that notice is given to those Trustees who were not present when the meeting was adjourned.

3 Quorum

- 3.1 Subject to rule 3.2, a quorum for meetings of Trustees shall be at least half of the Trustees in office at the time of any meeting.
- 3.2 A Trustee who is diagnosed by a registered medical practitioner as having any physical or mental incapacity that means the person is temporarily unable to fulfil the duties and responsibilities of a trustee, shall not be treated as a Trustee for the purposes of rule 3.1.
- 3.3 At any meeting of Trustees, no business shall be transacted unless a quorum is present.

4 Adjournment

- 4.1 If a quorum is not present within 30 minutes after the time appointed for a meeting, the meeting will stand adjourned to an alternative date mutually agreed among the Trustees. In the absence of agreement, the meeting will stand adjourned to the same day in the next week at the same time and place. If at the

adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting will be dissolved.

- 4.2 The chairperson of a meeting may adjourn any meeting on the adoption of a resolution for its adjournment.

5 Chairperson

- 5.1 The Trustees shall elect a Chairperson from amongst their number. Subject to rule 5 (*Cessation*) of schedule 2, the Chairperson so elected shall hold office for a term of 1 year from the date of appointment. A retiring Chairperson shall be eligible for re-election as Chairperson.
- 5.2 The Chairperson shall preside at all meetings of the Trustees. The Chairperson shall have a deliberative vote but shall not have a casting vote.
- 5.3 If the office of Chairperson is vacant, or if, at a meeting of the Trustees, the Chairperson is not present within 10 minutes after the time appointed for the meeting, the Trustees present may elect one of their number to chair the meeting.
- 5.4 The Chairperson may be removed from that position by a majority resolution passed by the other Trustees. The Trustees shall then elect a new Chairperson from amongst their number.

6 Appointment of officers

The Trustees may appoint, whether from among themselves or not, such other officers, such as a secretary and/or a treasurer, that the affairs of the Trust may require, on such terms and conditions as they think fit. The Trustees may also remove and replace any persons so appointed.

7 Methods of holding meetings

- 7.1 A meeting of Trustees may be held either:
- (a) by a number of Trustees who constitute a quorum being assembled together at the place, date and time appointed for the meeting; or
 - (b) by a Teleconference Meeting at which a quorum of Trustees participating can simultaneously hear each other throughout the meeting, provided that all Trustees received notice of the meeting and the requirements of rule 7.2 are met; or
 - (c) by a combination of the methods in paragraphs (a) and (b).
- 7.2 In the case of a Teleconference Meeting:
- (a) at the start of the meeting, each participant must acknowledge their presence to all the others taking part; and
 - (b) a Trustee must not disconnect their means of communication without the prior consent of the chairperson of the meeting.
- 7.3 A Trustee is conclusively presumed to have been present and to have formed part of the quorum at all times during a meeting unless they have previously obtained the express consent of the chairperson to leave the meeting.

8 Conflicts of Interest

- 8.1 **Disclosure:** as soon as a Trustee becomes aware of the fact that they are, or may be, in any capacity whatsoever, Interested in a Matter, they must disclose to their

co-Trustees at a meeting of the Trustees all relevant details of the Interest, including:

- (a) the nature and monetary value of that Interest (if the monetary value of the Trustee's Interest is able to be quantified); or
- (b) if the monetary value of the Trustee's Interest cannot be quantified, the nature and extent of that Interest.

8.2 After considering the views of the other Trustees, the chairperson of the meeting may rule that the affected Trustee is not Interested in relation to a disclosure, where no conflict in fact exists. For the avoidance of doubt, a Trustee is not Interested in respect of grants proposed to be made to the Club in support of a Club project or programme, in furtherance of the Club's and the Trust's shared charitable purposes, merely because the Trustee is a member of the Club or a member of the Club's governing body.

8.3 A disclosure by a Trustee, and the chairperson's ruling in respect of that disclosure, must be recorded in the minutes of the Trust.

8.4 **Consequences of being Interested:** an Interested Trustee may not vote in, or take part in any deliberations concerning, any Matter in which they are Interested.

8.5 **Interests Register:** the Board shall maintain an Interests Register, being a register of disclosures made by Trustees under this rule 8. If a Trustee is determined to be Interested in a Matter, all relevant details of the nature and extent of the Interest (including any monetary value of the Interest if that can be quantified) must be recorded in the Interests Register.

9 Decisions

9.1 All questions before the Trustees shall, if possible, be decided by consensus. All decisions of the Trustees shall be recorded in a resolution.

9.2 In the event that a consensus cannot be reached, the question shall be put as a motion to be decided and, except where this deed expressly provides otherwise, a resolution on that motion will be validly made if it is passed by a simple majority of votes of those present and entitled to vote at a duly-convened and conducted meeting of the Trustees. Subject to this schedule, the method of voting shall be decided by the chairperson of the meeting. Different methods may be adopted for different motions. If the voting is tied the motion shall be lost.

9.3 A Trustee present at a meeting of the Trustees is presumed to have agreed to, and to have voted in favour of, a resolution of the Trustees unless they expressly dissent from or vote against the resolution at the meeting.

9.4 A written resolution that has been circulated to all Trustees then entitled to receive notice of a meeting of the Trustees and that has been signed or assented to in writing by all the Trustees is as valid and effective as if it had been passed at a meeting of the Trustees duly convened and held. Such a resolution may consist of several like documents, each signed or assented to in writing by one or more of the Trustees. Such a document may be sent by electronic transmission provided the resolution, and the Trustee's specific position on the resolution, is recorded in the transmission. Such resolution takes effect on the date on which the last Trustee constituting the requisite majority signs one of the documents.

9.5 A resolution of the Trustees may be rescinded or varied by the Trustees in the same manner as it was passed.

10 Minutes

10.1 The Board shall ensure that minutes are taken of every meeting and all decisions of Trustees. The minutes will be available to any Trustee on request. The minutes shall record, for each and every meeting of the Trustees:

- (a) the names of those present;
- (b) all decisions taken; and
- (c) any other matters of importance discussed at the meeting.

10.2 The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the chairperson of the meeting at which the proceedings took place, or by the chairperson of the next succeeding meeting. A minute of a Trustee meeting purporting to be signed by the chairperson of that meeting, or by the chairperson of the next succeeding meeting, shall be *prima facie* evidence of the first-mentioned meeting having been properly convened and its proceedings properly conducted, and the matters referred to in the minute having been approved by the Trustees, unless the contrary is proved.

10.3 Decisions recorded in the minutes shall be read in conjunction with this deed and are binding on all persons interested in the Trust.

11 Validity of proceedings

11.1 Where, for any reason, a Trustee is not properly appointed, reappointed, or is disqualified from holding office, anything done by that Trustee (or by a meeting at which that Trustee was present as a Trustee or subcommittee member), before discovery of the irregularity shall be as valid as if that Trustee had been duly appointed, reappointed or had not been disqualified (as the case may be).

11.2 The Trustees may continue to act notwithstanding any vacancy in their number, but if the number of Trustees is reduced below the minimum number as stated in this deed, the continuing Trustee(s) may act for the purpose of increasing the number of Trustees to that minimum but for no other purpose.

12 Trustees' spokesperson

No Trustee is authorised to speak on behalf of the Trust unless the Board has given a Trustee specific authority to do so.

13 Trustees may regulate other proceedings

13.1 Except as otherwise set out in this deed, the Board will establish its own rules of operation, and may regulate its own procedures in such manner as it thinks fit.

13.2 For the purposes of rule 13.1, the Board may by resolution make rules not inconsistent with this deed for the purpose of regulating the proceedings of the board, and of any subcommittee of the Board, the conduct of meetings of the Board or any such subcommittee, procedures for considering applications for grants, and for such other matters as may be deemed necessary or expedient for duly carrying out the work of the Board.

13.3 Notwithstanding rule 2 (*Notice of meetings*), notice of every resolution proposed to be submitted to any meeting for the making, amendment or revocation of any such

rules shall be given to every member of the Board not less than 7 clear days before the day fixed for the meeting.