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**CANTERBURY BUSINESS  
RECOVERY  
TRUST DEED**

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ALEXANDER + PAULL  
SOLICITORS + SOLUTIONS

## CANTERBURY BUSINESS RECOVERY TRUST DEED

This Deed is made the *16<sup>th</sup>* day of *March* . 2011.

### PARTIES

1. **CANTERBURY BUSINESS RECOVERY GROUP LIMITED** at Christchurch ("the Settlor");
2. **BRUCE ROBERTSON IRVINE** of Christchurch, Company Director ("the Trustee").

### BACKGROUND

- A. The Settlor proposes to establish a charitable trust for the charitable objects set out in this deed.
- B. The Settlor has agreed that the Employers' Chamber of Commerce (Incorporated) will nominate the initial Trustee to establish the Trust.
- C. The Employers' Chamber of Commerce (Incorporated) has nominated the Trustee to act as the initial Trustee of the Trust.
- D. The Settlor has deposited \$10 with the Trustee to be held by the Trustee upon trust. It is contemplated that further property may from time to time be acquired by the Trustees for the charitable objects set out in this deed.
- E. The Trustee has agreed to become the initial trustee of the Trust subject to the terms set out in this deed.

### TERMS OF DEED:

#### Interpretation

1. In this deed, unless the context requires otherwise:
  - (a) A reference to an enactment (or to a section or part of an enactment) is a reference to that enactment as amended, including any regulation made under that enactment, or to any enactment that has been substituted for that enactment;
  - (b) The word "person" and words inferring a person include a company, firm, organisation, trust, or group of persons, whether incorporated or not;
  - (c) Words importing the singular include the plural and vice versa;
  - (d) Words importing the masculine, feminine or neuter gender include all genders, as the context may require;

- (e) Headings appear as a matter of convenience and shall not affect the construction of this deed; and
- (f) The Background and the Schedules form part of this deed.

## Definitions

2. In this deed, unless the context otherwise requires:
- (a) **“Act”** means the Charitable Trusts Act 1957;
  - (b) **“Board”** means the Trustees for the time being of the Trust, whether incorporated as a board under the Act or not;
  - (c) **“Charitable Objects”** means all or any of the charitable objects set out in Clause 7 of this deed;
  - (d) **“Settlor”** means any person who is named as the first party to this deed;
  - (e) **“Canterbury Business”** means a business that is based in Canterbury ;
  - (f) **“Canterbury Earthquake”** means the earthquakes and aftershocks that have occurred (or may occur) in Canterbury from and after 4 September 2010, including (without limitation) the magnitude 6.3 earthquake that occurred in Canterbury on 22 February 2011;
  - (g) **“Canterbury”** and **“Canterbury Region”** means the area within the geographical boundaries of the Canterbury Regional Council;
  - (h) **“Related Person”** means for the purposes of clause 15 and in relation to any business to which section CW42(5) of the Income Tax Act 2007 applies, means a person specified in paragraphs (i) to (iv) of subsection (5)(b) of that section, the persons currently specified being:
    - i. a Settlor or trustee of the trust by which the business is carried on; or
    - ii. a shareholder or director of the company by which the business is carried on; or
    - iii. a Settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or
    - iv. a person associated with a Settlor, trustee, shareholder or director already mentioned in this definition;
  - (i) **“Special Resolution”** means a resolution approved by at least 75% of the Trustees entitled to vote and voting on that resolution.
  - (j) **“Trust”** means the trust created by this deed;
  - (k) **“Trust Fund”** means the sum of \$10 referred to in the background to this deed and includes any assets paid or given to or acquired or agreed to be acquired by the Trustees after this deed has been executed with the intention that it be held by the Trustees subject to the trusts and other provisions set out in this deed;

- (l) **“Trustees”** means the Trustee who is named as a second party to this deed and any person appointed as a trustee pursuant to this deed.

### **Declaration of Trust**

3. The Trustees acknowledge that they hold the Trust Fund upon the trusts and with the powers set out in this deed.

### **Name of Trust**

4. The name of the Trust shall be the **CANTERBURY BUSINESS RECOVERY TRUST** or any other name that the Trustees may adopt by resolution from time to time.

### **Registration under Charitable Trusts Act 1957 and Charities Act 2005**

5. The Trustees may make application under the provisions of the Act for incorporation as an incorporated trust board with the name of the **CANTERBURY BUSINESS RECOVERY TRUST** or any other name that the Trustees may adopt by resolution.
6. The Trustees may make application under the provisions of the Charities Act 2005 for registration as a registered charity with the name of the **CANTERBURY BUSINESS RECOVERY TRUST** or any other name that the Trustees may adopt by resolution.

### **Charitable Objects**

7. The Trust is established as a charitable trust. The primary object and purpose for which the Trust is established is to benefit the Canterbury community and provide relief from poverty in the Canterbury region by providing grants, distributions and financial assistance to Canterbury Businesses to:
- (a) Provide relief from damage and loss suffered by them as a consequence of the Canterbury Earthquake; and
  - (b) Assist them to restore their business operations and prepare them for future growth to overcome damage or loss suffered by them as a consequence of the Canterbury Earthquake,

PROVIDED that any private benefit to any person (other than a charity) is incidental to these primary objects and purposes.

### **Income**

8. The Trustees may in their absolute discretion, by written resolution, pay or apply the whole or any part of the income arising from the Trust Fund to any of the Charitable Objects.

**Anticipated Income**

9. The Trustees may in their absolute discretion, by written resolution, appropriate income to any one or more of the Charitable Objects even though at the time of appropriation the Trustees have not received the income being appropriated. If the Trustees appropriate any income to a Charitable Object, that Charitable Object shall take an absolute and indefeasible interest in that income from the date on which it is appropriated.

**Accumulation of Income**

10. Any income not paid, applied or appropriated during or within six months from the end of the income year in which that income was derived shall be accumulated and any income so accumulated shall be added to and form part of the capital of the Trust Fund.

**Capital**

11. The Trustees may in their absolute discretion, pay, apply or transfer the whole or any part of the capital of the Trust Fund to any of the Charitable Objects.

**Capital and Income**

12. The Trustees may (subject to the jurisdiction of the Court) determine whether any amount forming part of the Trust Fund is capital or income, and whether any expenditure should be paid out of capital or income. The Trustees shall not be liable for any such determination or apportionment, even though it is subsequently held to have been incorrect.

**No Private Pecuniary Profit**

13. No private pecuniary profit shall be made by any person involved in the Trust, except that:
  - (a) Any Trustee or committee or advisory board member appointed by the Board shall be entitled to be reimbursed out of the assets of the Trust for all expenses which he or she properly incurs in connection with the affairs of the Trust;
  - (b) The Trust may pay reasonable and proper remuneration to any officer or servant of the Trust (including a Trustee) in return for services actually rendered to the Trust;
  - (c) Any Trustee is to be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Trustee or by any firm or entity of which that Trustee is a member, employee or associate in connection with the affairs of the Trust;
  - (d) In each income year, each Trustee will be entitled to such remuneration for his or her services actually rendered to the Trust as a Trustee as may be fair and reasonable having regard to his or her duties and responsibilities, but not exceeding the amount authorised by a Special Resolution of the Trustees;

- (e) Any Trustee may retain any remuneration properly payable to that Trustee by any company or undertaking with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatever, notwithstanding that that Trustee's connection with that company or undertaking is in any way attributable to that Trustee's connection with the Trust.
14. The Trustees, in determining all reimbursements, remuneration and charges payable in terms of clause 13, shall ensure that the restrictions imposed by clauses 15 and 23 of this deed are strictly observed.
  15. In the carrying on of any business under this deed no benefit, advantage or income shall be afforded to, or received, gained, achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able in any way (whether directly or indirectly) to determine, or to materially influence the determination of:
    - (a) The nature or amount of that benefit, advantage or income; or
    - (b) The circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.
  16. A person who is in the course of, and as part of the carrying on of his or her business of a professional public practice, shall not, by reason only of him or her rendering professional services to the Trust or to any company by which any business of the Trust is carried on, be in breach of the terms of clauses 13 to 15.
  17. The Trustees must apply any income, benefit, or advantage to advance the Charitable Objects.
  18. No Trustee, or anyone associated with a Trustee, is allowed to take part in, or influence any decision made by the Trustees in respect of payments of income to, or on behalf of, the Trustee or associated person of any income, benefit or advantage.
  19. Any payments of income made to a Trustee, or person associated with a Trustee, must be for goods or services that advance the Charitable Objects and must be reasonable and relative to payments that would be made between unrelated parties.

### **Receipt of Payments**

20. The Trustees shall not be required to verify the application of any payment made to any Charitable Object where that payment is made to the treasurer, secretary or any other person authorised to receive payment.

### **Rules**

21. The rules set out in Schedule Two of this deed, together with any amendments to those rules made in accordance with this deed, shall govern the way in which the Trustees administer the Trust.

### **Dealing by Interested Trustees**

22. A Trustee will be interested in a transaction to which the Trust is a party if the Trustee:

- (a) Is a party to, or will derive a material financial benefit from that transaction;
  - (b) Has a material financial interest in another party to the transaction;
  - (c) Is a director, officer or trustee of another party to, or person who will or may derive a material financial benefit from the transaction, not being a party that is wholly owned by the Trust;
  - (d) Is the parent, child or spouse of another party to, or person who will or may derive a material financial benefit from the transaction; or
  - (e) Is otherwise directly or indirectly interested in the transaction.
23. As soon as a Trustee becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust, he or she must disclose to his or her co-trustees at a meeting of the Trustees:
- (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.
24. A disclosure of interest by a Trustee must be recorded in the minute book of the Trust.
25. Provided clause 23 of this deed and clause 7 of Part III of Schedule 2 are complied with, no Trustee shall be disqualified from acting as a Trustee by reason of:
- (a) An association that the Trustee has with any company or entity that deals with the Trust;
  - (b) An association that the Trustee has with any trust that deals with the Trust;
  - (c) Any conflict of duty owed by the Trustee to the Trust;
  - (d) Any purchase or sale of property by the Trustee to the Trust.

### **Delivery of Charitable Objects**

26. Canterbury Business Recovery Group Limited will be appointed and authorised by the Trust to assist in the delivery and facilitation of the Charitable Objects. Canterbury Business Recovery Group Limited will be appointed on such terms and conditions as the Trustees consider appropriate, but subject always to the requirement that the Trust Fund must be applied to advance the Charitable Objects and to clauses 13, 15 and 23 of this deed.

### **Trustees' Liability and Indemnity of Trustees**

27. No Trustee, and if a Trustee of the Trust is a duly incorporated company, any director of that company, shall be liable for any loss or liability except for any loss or liability attributable to the Trustee's dishonesty or any act or omission known to the Trustee to be a breach of trust.

28. Each Trustee shall be indemnified out of the Trust Fund in respect of any loss or liability that the Trustee, and if a Trustee of the Trust is a duly incorporated company, the directors of that company, may incur for doing anything in connection with the Trust, except for any loss or liability attributable to the Trustee's dishonesty or any act or omission known to the Trustee to be a breach of trust.
29. A retiring Trustee, and if a Trustee of the Trust is a duly incorporated company, any director of that company, shall be indemnified by the Trust Fund for any loss or liability which the Trustee or the director may sustain, in acting as Trustee or as a director of a Trustee under this deed, whether before or after the Trustee's retirement. The retiring Trustee shall not be indemnified for any loss resulting from the Trustee's dishonesty or any act or omission known to the Trustee to be a breach of trust.
30. Every Trustee, and if a Trustee of the Trust is a duly incorporated company any director of that company, officer or employee of the Trust shall be entitled to an indemnity out of the Trust Fund against any costs incurred in defending any civil or criminal proceeding taken against that person in connection with the Trust where judgment is given in that person's favour or that person is acquitted of any offence.
31. No Trustee shall be bound to take any proceedings against any other Trustee or former Trustee for any actual or alleged breach of trust.

#### **Alterations to Trust Deed**

32. This deed may be altered only by a deed of amendment approved by a Special Resolution of the Trustees present and voting at a duly convened and conducted meeting of the Trustees.
33. Each Trustee shall be given written notice of any proposed resolution for the alteration of this deed at least 14 days before the date of the meeting at which it is to be considered.
34. Before resolving to make any alteration to this deed, the Trustees must be satisfied that the proposed alteration does not prejudice the charitable nature of the Trust, and in particular does not result in the loss of any exemption available to charities under the New Zealand revenue laws.

#### **Trustees' General Unrestricted Power**

35. In giving effect to the Charitable Objects, the Trustees shall have full power to deal with the Trust Fund in any way that they think fit, as if the Trustees were the absolute owners of the Trust Fund. Any powers given to the Trustees in this deed shall be in support of this general power. Without limiting the generality of this clause, and merely by way of illustration, the Trustees' powers shall include all or any of the powers set out in Schedule One of this deed.

#### **Winding Up**

36. The Trustees may, by Special Resolution, resolve to wind up the Trust.
37. The Trustees shall wind up the Trust if at any time the Charitable Objects fail or if for any other reason the Charitable Objects become wholly frustrated and incapable of being carried out.

38. If the Trust is wound up for any reason, the surplus assets of the Trust after payment of all costs, debts and liabilities shall not be paid or distributed to the Trustees but shall be applied towards the Charitable Objects. If the Charitable Objects have been fulfilled or are incapable of being carried out, the surplus assets shall be applied towards any other charitable objects consistent with the Charitable Objects and if no such other consistent charitable objects are able to be identified by the Trustees, then the surplus assets shall be applied towards any other charitable objects that the Trustees consider appropriate. If the Trustees fail to agree how the surplus assets should be applied, then any Trustee may apply to the High Court of New Zealand for a determination as to how the surplus assets should be applied in accordance with the requirements of this clause.

**Governing Law of the Trust**

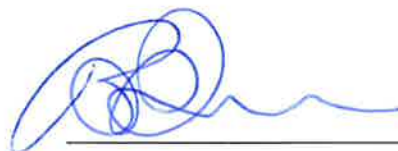
39. The law applicable to this deed and the Trust it creates shall be the law of New Zealand or such law as the Trustees may adopt by resolution from time to time.

**SIGNED BY THE PARTIES**

SIGNED for and on behalf of  
**CANTERBURY BUSINESS RECOVERY  
GROUP LIMITED**  
as Settlor: )  
)  
)  
)  
)  
)  
)  
)

  
\_\_\_\_\_  
Director  
  
\_\_\_\_\_  
Director

SIGNED by )  
**BRUCE ROBERTSON IRVINE** )  
as Trustee in the presence of: )

  
\_\_\_\_\_

  
\_\_\_\_\_  
Witness Signature

  
\_\_\_\_\_  
Witness Name

  
\_\_\_\_\_  
Witness Address

  
\_\_\_\_\_  
Witness Occupation

## SCHEDULE ONE

### Trustees' Powers

Without limiting in any way the express or implied powers of the Trustees, the Trustees shall have and may exercise the following powers, PROVIDED HOWEVER that where the Trustees hold property under a specific trust, those powers shall be subject to any direction to the contrary in the instrument creating that specific trust:

#### To Receive Gifts

1. To receive any property for the Charitable Objects PROVIDED THAT where that property is vested in the Trustees for a specific Charitable Object the Trustees shall:
  - (a) Hold that property and income derived from that property subject to the powers contained in the instrument creating that specific trust and any other powers contained in this trust deed that are not inconsistent with those powers;
  - (b) Keep that property and the income derived from that property separate from any other property held in trust. Without limiting the above, the Trustees shall not apply that property or any income derived from that property to make good any deficiency, damage, loss or breach of trust that may arise from administering any other trust under this deed, nor apply any other property held in trust to make good any deficiency, damage, loss or breach of trust which may arise from administering the specific trust; and
  - (c) Allocate all expenses that directly relate to the administration of the specific trust, along with an equitable proportion of all expenses incurred in the administration of the Trust that the Trustees in their absolute discretion think fit, against the property held on that specific trust.

#### To Invest

2. To invest the whole or any part of the Trust Fund in any form of investment, and to vary any such investment from time to time. No Trustee shall be liable for any loss arising from a breach of section 13B or section 13C of the Trustee Act 1956 unless that loss is attributable to that Trustee's own dishonesty or the wilful commission by that Trustee of an act known by that Trustee to be a breach of trust.
3. To appoint any person as an investment manager to invest and manage all or any investments forming part of the Trust Fund on such terms as the Trustees think fit.

#### To Retain Investments

4. To retain any investments coming into the Trustees' hands as part of the Trust Fund for as long as the Trustees think proper, even if they are not investments which could be properly made by a Trustee. The Trustees may retain any investments notwithstanding that they may be of a wasting, hazardous or speculative nature, or shares in a limited liability company (whether or not fully paid up), without being liable for any resulting loss.

**To Deposit Funds**

5. To deposit all or any part of the Trust Fund in any currency in an interest bearing or non-interest bearing account with any bank, trust, company or other financial or investment institution in any jurisdiction in the world. In making any deposit the Trustees shall not be liable for any loss due to devaluation or any foreign exchange or other government restriction.

**To Not Invest**

6. To not invest any part of the Trust Fund and to hold that part in any currency for as long as the Trustees think fit without being liable for any loss due to devaluation, or to any foreign exchange or other government restriction.

**To Not Diversify Investments**

7. To invest the whole or any part of the Trust Fund in one or more investments without being liable for any decision not to, or the failure to, diversify the investments.

**To Acquire Property**

8. To acquire any real or personal property as part of the Trust Fund on whatever terms as the Trustees in their absolute discretion think fit.

**To Sell Property**

9. To sell any real or personal property that forms part of the Trust Fund in whatever manner the Trustees in their absolute discretion think fit, including (without limitation) the power to allow all or part of the purchase money to remain owing, with or without security, or to be payable in instalments. The Trustees shall also have the power to buy in any property offered for sale, to rescind any contract for sale, and to sell again without being liable for any loss resulting from the diminution in price.

**To Postpone Sale**

10. To postpone the sale, calling in and conversion of any real or personal property forming part of the Trust Fund for as long as the Trustees think fit without being liable for any loss to the Trust Fund, even though the property may be of a wasting or speculative nature.

**To Disclaim Onerous Property**

11. To decline to accept, hold, or deal with any onerous property, including any property that is subject to any liability, that the Trustees consider is not for the benefit of the Charitable Objects.

**To Rent, Lease, Bail**

12. To rent, lease or bail any real or personal property forming part of the Trust Fund on whatever terms and conditions (including an option to purchase) that the Trustees think fit. The Trustees may accept surrenders of leases and tenancies, and generally manage the leased property as they think fit.

**To Renew Leases and Tenancies**

13. To renew any lease or tenancy on such terms and conditions as the Trustees in their absolute discretion think fit.

**To Maintain and Develop Property**

14. To manage, maintain, repair, improve and develop any real or personal property which, or an interest in which, forms part of the Trust Fund as if the Trustees were the absolute owners of the property. For these purposes, the Trustees may pay, apply or appropriate any of the capital or the income of the Trust Fund as the Trustees think fit.

**To Subdivide**

15. To subdivide any real property forming part of the Trust Fund and to meet the costs of subdivision out of the Trust Fund.

**To Exchange**

16. To exchange property with or without payment or receipt of monies on whatever terms and values as the Trustees think fit.

**To Insure**

17. To insure any property forming part of the Trust Fund or assure the life of any person. The Trustees may pay the premiums out of capital or income and may assign, surrender, transfer or mortgage any legal or beneficial interest in the policy as the Trustees in their absolute discretion think fit.

**To Carry on Business**

18. To carry on any business anywhere in the world (in partnership, joint venture or otherwise) for as long as the Trustees think fit. As a part of any business the Trustees may:
  - (a) Apply any part of the Trust Fund as capital in the business;
  - (b) Employ any managers, agents, employees and other persons (including any Trustee) that the Trustees in their absolute discretion think fit;
  - (c) Be indemnified absolutely out of the Trust Fund for any losses that they may incur in carrying on the business;
  - (d) Distribute any profits derived from the business in any year as income without having to make good any business losses incurred in prior years. Any business losses, unless the Trustees decide otherwise, shall be borne by the capital of the Trust Fund and not recouped out of profits from subsequent years.

**To Promote or Form Companies**

19. To promote or form any company for any purpose whatsoever and sell to that company:
  - (a) Any property forming part of the Trust Fund;

- (b) Any property owned by any company in which the Trustees hold shares.
20. In respect of any company in which the Trust Fund holds a legal or beneficial interest in shares, notes, stock or debentures, the Trustees may:
- (a) Nominate or appoint any person as a director of the company;
  - (b) Act as a director or employee of the company or of other companies that are subsidiaries of the company and to receive and retain any remuneration received as a director or employee;
  - (c) Provide out of the Trust Fund further capital for the company either by way of advances, loans, deposits or otherwise (with or without security) or by taking further shares, notes, stock or debentures in the company, on whatever terms the Trustees think fit;
  - (d) Concur in any reconstruction or amalgamation of the company or in any modification of its regulations, on whatever terms the Trustees think fit; and
  - (e) Act in relation to the company in whatever manner the Trustees consider to be in the best interests of the Trust Fund.

#### **To Operate Bank Accounts**

21. To open any bank account in any name either on the Trustees' own behalf or jointly with some other person, and to overdraw any bank account with or without giving security. The Trustees may also make arrangements with any bank for any Trustee and / or any delegate named in writing by all the Trustees to operate any of the Trustees' accounts at that bank.

#### **To Borrow**

22. To borrow any money at whatever rate of interest and upon whatever other terms and conditions the Trustees may think fit. For this purpose the Trustees may give security for repayment over the entire Trust Fund or any part of it.

#### **To Repay Debt**

23. To apply any income or capital of the Trust fund in payment of any debts owing in respect of the Trust Fund and whether or not the Trustees are contractually liable for the payment of the debts.

#### **To Vary Terms of Debt**

24. To renew, vary or rearrange on whatever terms that the Trustees in their absolute discretion think fit any mortgage, charge, debt or overdraft payable out of the Trust Fund and any guarantees given by the Trustees

#### **To Make Loans and Advances**

25. To make any loans or advances to any person (with or without security) on whatever terms and conditions (including free of interest) as the Trustees think fit.

**To Waive Debts**

26. To waive any debts due to the Trust Fund, either absolutely or on whatever terms the Trustees think fit, without being liable for any loss.

**To Guarantee Obligations**

27. To guarantee the liability of any person or corporation or provide an indemnity for the purposes of the Trust Fund and to give security in support of any such guarantee or indemnity.

**To Grant and Acquire Options**

28. To grant, acquire or exercise any option in relation to any real or personal property on whatever terms and conditions that the Trustees think fit. The Trustees shall not be personally liable for any loss arising from their exercise of this power and shall be indemnified accordingly out of the Trust Fund.

**To Maintain Reserve Funds**

29. To set up and maintain any depreciation or reserve funds for any purpose the Trustees consider appropriate, and to determine in their discretion the amount of income to be credited from time to time to any of these funds, and to determine whether these funds are income or capital.

**To Settle Accounts**

30. 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 grant effective receipts and discharges.

**To Employ**

31. To employ and dismiss any employees or agents as the Trustees consider necessary and to pay for their services. Instead of the Trustees acting personally the Trustees may employ and pay any person to do anything relating to the Trust including the receipt and payment of money without being liable for any loss incurred. A Trustee engaged in any profession or business may be employed by the Trustees and the Trustee shall be entitled to receive all usual charges for work done in connection with the Trusts including acts which the Trustees could have undertaken personally.

**To Appoint Agents**

32. To appoint any person (including any Trustee) to act on behalf of the Trustees as a manager or agent in any matter relating to the management and control of the trust premises and any business which belongs to the Trust. Notwithstanding any rule of law or equity to the contrary, the Trustees shall not be liable for any loss to the Trust Fund resulting from any breach of trust or default of the person appointed.

**To Appoint Attorneys**

33. To appoint another person to act as attorney for any or all of the Trustees for any of the purposes in this deed, in New Zealand or elsewhere, and at any time and for any period of time that the Trustees in their absolute discretion think fit.

**To Seek Advice**

34. To seek advice from any barrister or solicitor of the High Court of New Zealand in relation to the Trust without being liable to any person who may claim to be beneficially interested in respect of any act done in accordance with that advice PROVIDED HOWEVER that nothing in this Clause shall prevent the Trustees from applying to the appropriate Court for directions if the Trustees think fit.

**To Surrender Powers or Discretions**

35. To surrender any power or discretion given to the Trustees by deed, either completely or conditionally, at any time.

## SCHEDULE TWO

### Rules

#### PART I: BOARD OF TRUSTEES

1. The initial Trustee is listed as the second party to this Trust Deed. The Board is comprised of the Trustees of the Trust.
2. Each Trustee is appointed as a trustee for a three year term. Trustees may serve more than one term as a Trustee.
3. The statutory power of appointment of trustees is vested in the Board.
4. The Board may appoint additional persons to hold the office of Trustee, to increase the number of trustees or to replace a Trustee or Trustees who is or are no longer able to act as a Trustee for whatever reason.
5. When considering the appointment (or reappointment) of Trustees to the Board, the Board shall ensure that there is an appropriate mix of skills and experience on the Board, taking account of the Charitable Objects and the then current best governance practices. Appointees to the Board should demonstrate experience, skills or attributes in one or more of the following areas:
  - a) Governance;
  - b) Financial experience and connections;
  - c) Technology;
  - d) A proven track record of commercial and business success;
  - e) Banking and finance;
  - f) Charities fund raising ability.
6. While Trustee appointments should be made on the basis of merit and skill, a blend of gender, age, ethnicity and connectedness to Canterbury along with credibility throughout the New Zealand and international commercial community in the Board composition is desirable.
7. The Board may remove any Trustee from office if all the other Trustees agree.
8. A Trustee shall cease to hold the office of Trustee if at any time the Trustee:
  - a) Dies;
  - b) Resigns by notice in writing to the other Trustees, provided that the Trustee may not resign unless there are at least two (2) continuing Trustees;
  - c) Refuses to act or has been removed from the office of Trustee by the Board;

- d) Becomes of unsound mind or becomes a protected person under the Protection of Personal and Property Rights Act 1988;
  - e) Becomes bankrupt or enters into a composition or assignment for the benefit of his or her creditors;
  - f) Is convicted of any indictable offence and is asked to resign by the other Trustees;
  - g) Is absent without leave of absence approved by the Board for three (3) consecutive Board meetings.
9. All acts done by the Board shall, notwithstanding that it is later discovered that there was some defect in the appointment of any of those Trustees, or that any of them were for any reason disqualified from acting as Trustees, be as valid as if those persons had been properly appointed and qualified to be Trustees.

## **PART II: OFFICERS OF THE BOARD / AUDITOR**

1. The Board may appoint the following officers at the Annual General Meeting, or as required where a vacancy occurs prior to or between Annual General Meetings:
  - a) A Chairperson (who shall be a Trustee);
  - b) A Treasurer (who shall be a Trustee);
  - c) A Secretary (who may or may not be a Trustee).
2. The Board shall also appoint an Auditor (who shall not be a Trustee) to audit the books and accounts of the Trust. The Auditor shall have the right to access, at any time, the books and accounts of the Trust, and to request information from the Board to enable him or her to complete his or her task.
3. The Treasurer shall have the custody of the books of account and be in charge of the Trust's finances. The Treasurer shall ensure that all financial and statutory requirements of the Trust are complied with, and carry out all other duties as the Board may determine, that are normally incidental to the office of Treasurer.

## **PART III: PROCEEDINGS OF BOARD MEETINGS**

1. Subject to the other rules in this Part, the Board may determine the rules and procedures that shall apply in respect of any Board Meeting.
2. The Chairperson or any two Trustees may at any time call a Board Meeting. It shall not be necessary to give notice of a Board Meeting to any Trustee who, for the time being, is absent from New Zealand.
3. Written notice of every meeting of the Board, shall be either hand-delivered, posted or sent by facsimile or email to each Trustee at least 7 days before the date of the meeting. The secretary or some other person acting under the direction of the Chairperson or those Trustees calling the meeting, shall give the notice of the meeting. No notice shall be required for

adjourned meetings except to those Trustees who were not present when the meeting was adjourned.

4. Every notice of a meeting shall state the place, day and time of the meeting and the subject-matter of the meeting.
5. The requirement for notice of a meeting may be waived if all of those Trustees who are for the time being in New Zealand give their written consent to such a waiver
6. If the number of Trustees is less than two (2) then the only business the Board can transact is the application for registration of the Trust under the Charities Act 2005 or the appointment of additional Trustees. Otherwise, the quorum necessary to conduct business shall be two thirds of the total number of Trustees.
7. A Trustee who is interested in a transaction entered into, or to be entered into, by the Trust may not vote on a matter relating to the transaction, but may:
  - (a) Attend a meeting of Trustees at which a matter relating to the transaction arises, and be included among the Trustees present at the meeting for the purpose of a quorum;
  - (b) Sign a document relating to the transaction on behalf of the Trust; and
  - (c) Do anything else as a Trustee in relation to the transaction, as if he or she were not interested in the transaction.
8. Except where these rules or the Trust Deed provide otherwise, a resolution is validly made when it is passed by simple majority of those present and entitled to vote at a properly convened and conducted meeting of the Board.
9. A resolution in writing signed by all the Trustees shall be as valid and effectual as if it had been passed at a Board meeting. Any such resolution may consist of several like documents each signed by one or more Trustees. Any such document sent by a Trustee by electronic transmission or facsimile shall be deemed to have been duly signed by that Trustee.
10. The contemporaneous linking together of the Trustees by telephone or other electronic means of communication ("Electronic Communication") shall constitute a meeting of the Trustees and the provisions of this Part that relate to Board meetings shall apply to such meetings provided the following conditions are met:
  - (a) Each Trustee then in New Zealand shall be entitled to notice of the meeting and to be linked by Electronic Communication for the purposes of the meeting;
  - (b) Each of the Trustees taking part in the meeting must be able to communicate with each of the other Trustees taking part during the whole of the meeting;
  - (c) At the commencement of the meeting each Trustee must acknowledge his or her presence for the purpose of a meeting of the Trustees being held by Electronic Communication;
  - (d) A Trustee may not withdraw from the meeting unless he or she has previously obtained the express consent of the Chairperson of the meeting to do so;

- (e) A Trustee shall be conclusively presumed to have been present and to have formed part of the quorum of the meeting at all times during the meeting by Electronic Communication unless he or she has previously obtained the express consent of the Chairperson to withdraw from such a meeting;
  - (f) Minutes of the proceedings of any such meeting by Electronic Communication shall be sufficient evidence of the proceedings, and of the observance of all necessary formalities, if certified to be correct by the Chairperson of the meeting.
11. All proceedings of Board Meetings shall be recorded in the Minute Book. Any minute of the proceedings at a Board meeting signed by the Chairperson of that meeting (or of the next meeting) shall be evidence of those proceedings.
12. The Chairperson (if one has been appointed) will chair all Board meetings. The Chairperson will have a deliberative vote only and not also a casting vote.

#### **PART IV: ANNUAL GENERAL MEETINGS OF THE BOARD**

1. The Chairperson shall call an Annual General Meeting of the Board no later than the 30<sup>th</sup> day of September in each year. The Board will publish a notice of the Annual General Meeting in a newspaper circulated in the Canterbury Region and will permit any members of the public to attend the Annual General Meeting as observers.
2. The Board will provide a copy of the notice of the Annual General Meeting and a copy of the Trust's annual report to any donor of more than \$100,000 of funds to the Trust Fund.
3. The business to be transacted at the Annual General Meeting shall be:
  - (a) To approve the minutes of the previous Annual General Meeting and of any other General Meeting that may have been held since the date of the last Annual General Meeting;
  - (b) To receive the Treasurer's report and the Auditor's report for the preceding financial year;
  - (c) To present the annual report of the Trust summarising the Trust's activities during the financial year, including a summary of the number of requests for assistance received by the Trust and number and amounts of grants and assistance made by the Trust during that period;
  - (d) To elect the Chairperson, Treasurer and Secretary (if any);
  - (e) To appoint (or re-appoint) an Auditor;
  - (f) To transact any other business that may properly be brought before the meeting.

**PART V: COMMITTEES/ADVISORY BOARDS**

1. The Board may appoint sub-committees, ad hoc committees or executive committees as it may from time to time think expedient for carrying out the Charitable Objects. Any such committee may co-opt any other person, whether a Trustee or not, to be a member of that committee and subject to these rules and to any directions that the Trustees might give, each committee may regulate its own procedure.
2. The Board may constitute and appoint persons to an advisory board to the Trust to advise the Board and make recommendations on distributions from the Trust and other assistance by the Trust. Any such advisory board will be appointed and constituted on such terms and conditions as the Board thinks fit. The Board may also remove and replace any persons so appointed to an advisory board.

**PART VI: FINANCIAL MATTERS**

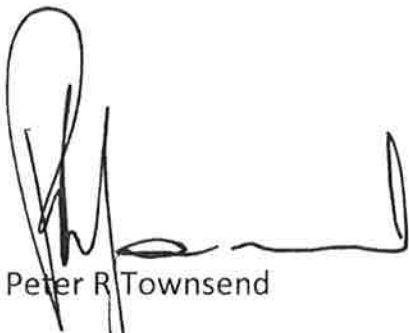
1. The financial year of the Trust shall end on the 30 June in each year or any other date that the Trustees resolve.
2. The Board shall keep proper books of account, which shall be a complete record of the affairs and transactions of the Trust.
3. The books of account shall be prepared by a chartered accountant appointed by the Board and shall be kept at the Board's office or at such other place or places as the Board considers appropriate. The books of account shall be open for inspection by any Trustee.
4. All funds received by or on behalf of the Trust shall be paid immediately to the credit of the Trust in an account or accounts with such trading bank or savings bank as the Board from time to time appoints. All cheques and other negotiable instruments shall be signed on behalf of the Trust by two (2) Trustees or in such other manner as the Board determines from time to time.
5. The Secretary or Treasurer shall have power to receive and give receipts for all legacies, donations, subscriptions or other property bequeathed, made, given or lent to the Trust. Every such receipt shall constitute an effective discharge that the money or other property has been received.

**PART VII: THE COMMON SEAL**

1. If the Trustees become incorporated as a board under the Act, the Secretary shall have the safe custody of the Common Seal and the Board may from time to time, by written resolution, change, alter or adopt a new seal, as it considers appropriate.
2. The Common Seal shall not be affixed to any document except under the authority of the Board and shall be affixed in the presence of two (2) Trustees who shall sign every document sealed.

Canterbury Regional Business Partners

I Peter Ramsay TOWNSEND do hereby submit my resignation as a director of this company at an end to be advised which will facilitate the transition to the Canterbury Business Recovery Group.



Peter R Townsend

4/3/11