

Operational Deed of Trust as at 7 June 2011

Deed of Trust

relating to

Development West Coast
(formerly The West Coast Development Trust)

**Her Majesty The Queen in Right of New Zealand Acting Through
the Minister of Finance**

(the Settlor)

and

Persons Listed in Schedule 1

(the Initial Trustees)

BELL GULLY

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This **Deed of Trust** is made **this 18th day of April 2001**

between (1) **Her Majesty The Queen in Right of New Zealand Acting Through the Minister of Finance (the Settlor)**

and (2) **Persons Listed in Schedule 1 (the Initial Trustees)**

Introduction

- A.** The Settlor has paid an amount of \$1.00 to the Trustees of this Trust. The Trust Fund shall comprise this initial \$1.00 and any other money or property hereafter paid to or transferred to the Trustees with the direction that it be held on the trusts of this Trust.
- B.** The Trustees of the Interim West Coast Development Trust propose to re-settle the funds from the Interim West Coast Development Trust to the Trustees of this Trust which shall be held on the trusts of this Trust.
- C.** The Settlor and the Trustees have agreed to enter into this Deed for the purpose of declaring and constituting the Trust, specifying its objects, and providing for its control, government and regulation.
- D.** The application of income and capital is described in diagrammatic form in Appendix 1 to this Deed.

It is declared

1. General

- 1.1 In this Deed the following terms shall, where the context admits, have the following meanings:
- (a) **Advisory Body** means the group of persons appointed under clause 6 to perform the functions set out in clause 8;
- (b) **Amount of Distribution** means the amount that the Advisory Body recommends should be applied to the Recommended Recipient or that the Trustees approve as a Trustee Approved Project and includes:
- (i) whether the money is to be paid in one lump sum or in instalments;
 - (ii) when the money is to be paid;
 - (iii) if the money is to be paid in instalments, when those instalments are to be paid and how much each instalment is for;
 - (iv) if the Distribution is to be in the form of a loan, the terms of that loan; and
 - (v) if the Distribution is to be in any other form;
- (c) **Distribution Assets** means the Property that is from time to time held by the Trustees on the trusts of this Deed where that Property is the result of the Trustees making a Distribution to a Recommended Recipient in the form of subscribing for shares or by way of loan, surety or guarantee;

- (d) **Distribution Fund** means Income and the amount of Restricted Capital available for distribution, in accordance with clause 11;
- (e) **Elector** means a person whose name is entered on the electoral roll established under section 38 of the Local Electoral Act 2001 for the relevant Council area;
- (f) **Fund Manager** means the person or company appointed under clause 14.4;
- (g) **Income** means:
 - (i) the income earned by the Trust including income on Restricted Capital, Distribution Assets and donations; and
 - (ii) any repayments of, or gains made from, Distributions; and
 - (iii) accumulated Income,

as reduced from time to time by Distributions of Income;

- (h) **Independent Trustee Commencement Date** means a date no later than 4 February 2009, as nominated by the Settlor and notified to the Trustees;
- (i) **Initial Capital** means the amount of money settled on the Trust by way of resettlement from the Interim West Coast Development Trust to the value of \$92 million;
- (j) **Interim West Coast Development Trust** means the trust established under Deed of Trust dated 15 September 2000 and made between **Her Majesty The Queen in Right of New Zealand Acting Through the Minister of Finance** (as Settlor) and John Francis Drylie, Kevin Raymond Adair Brown, Jan Christine Coil, John Hugh Clayton and Christopher John Duncan Mackenzie (as Trustees);
- (k) **Investment Advisor** means the person or company appointed under clause 14.1;
- (l) **Investment Fund** means the Property that is from time to time held by the Trustees on the trusts of this Deed except for Distribution Assets;
- (m) **Property** means all property (whether real or personal) and includes choses in action, rights, interests and money;
- (n) **Recommended Recipient** means a project or recipient that the Advisory Body recommends under clause 8 to receive Distributions;
- (o) **Restricted Capital** means the Initial Capital as reduced from time to time by Distributions made under clause 11.1;
- (p) **Secretary** means the person appointed or employed by the Trustees to manage the affairs of the Trust;
- (q) **Terms and Conditions of the Distribution** refers to any other term or condition that the Advisory Body sets out when recommending a Recommended Recipient that does not relate to the Amount of the Distribution;
- (r) **Trust** means the trust created by this Deed;

- (s) **Trust Fund** means the Investment Fund and the Distribution Assets;
- (t) **Trustees** means the trustees for the time being of the Trust (including the Initial Trustees);
- (u) **West Coast Councils** means:
 - (i) The Buller District Council or its successors;
 - (ii) The Grey District Council or its successors;
 - (iii) The Westland District Council or its successors; and
 - (iv) The West Coast Regional Council or its successors;
- (v) **West Coast Enterprise** means any person who is carrying on or proposes to carry on a business or other activity (whether already established or yet to be established) located (in whole or in part) within the West Coast Region;
- (w) **West Coast Region** means the area within the geographical boundaries of the West Coast Regional Council as at the date of this Deed; and
- (x) **Finance Lease** has the same meaning as in the Income Tax Act 2004.

1.2 In this Deed:

- (a) **20,000 to 50,000 Community Board** is defined in clause 7.2(a) of schedule 3;
- (b) **Appointed Trustees** is defined in clause 2.2(a) of schedule 3;
- (c) **Appointors** is defined in clause 6.2 of schedule 3;
- (d) **Conflict Transaction** is defined in clause 19.1;
- (e) **Conflict Trustee** is defined in clause 19.3;
- (f) **Crown Trustee** is defined in clause 2.2(e) of schedule 3;
- (g) **Determining Person** is defined in clause 17.3;
- (h) **Distribution** is defined in clause 9.1;
- (i) **Elected Trustees** is defined in clause 2.2(b) of schedule 3;
- (j) **Independent Trustees** is defined in clause 2.2(d) of schedule 3;
- (k) **Objects** is defined in clause 4;
- (l) **Tangata Whenua Trustee** is defined in clause 2.2(c) of schedule 3; and
- (m) **Statement of Investment Policies and Objectives (SIPO)** is defined in clause 15.1.

- 1.3 In this Deed the following provisions shall apply:
- (a) references to clauses are to clauses of this Deed;
 - (b) references to schedules are to schedules in this Deed;
 - (c) references to this Deed include its schedules;
 - (d) references to the provisions of any Act shall be construed as a reference to those provisions as modified, extended or replaced by any statute for the time being in force;
 - (e) words importing the singular include the plural and vice versa;
 - (f) words importing one gender include the others; and
 - (g) the contents pages and the headings to clauses are for convenience only and are not part of the content of this Deed.

2. Direction and acknowledgement of trust

The Settlor directs the Trustees, and the Trustees acknowledge that the Trustees have been directed, to hold the Trust Fund upon the trusts and with the powers set out in this Deed.

3. Name of trust

- 3.1 The Trust is known as Development West Coast but the Trustees may amend or change the name by deed.

4. Objects of trust

- 4.1 The Settlor declares that Development West Coast is a trust for charitable purposes for the benefit of the community of the present and future inhabitants of the West Coast Region and directs that the Trust Fund may be applied and used exclusively by the Trustees for the following general purposes within New Zealand (the **Objects**), namely:
- (a) to promote sustainable employment opportunities in the West Coast Region; and
 - (b) to generate sustainable economic benefits for the West Coast Region; and
 - (c) to support projects which are not the ordinary day-to-day running, maintenance and upgrade of the infrastructure that is normally the responsibility of the local authorities or central government, provided such projects meet paragraphs (a) and (b);

provided that any private benefit conferred to any person (other than a charity) is incidental to these overriding objects.

- 4.2 The Trust shall conduct its affairs in a manner that is transparent and accountable to the people of the West Coast Region.

- 4.3 The Trust Fund shall be managed in a manner which provides adequate and reasonable protection of the funds to ensure both that present development opportunities are taken, and that current and future generations will benefit from the establishment of the Trust Fund.
- 4.4 The Advisory Body in considering an application, and the Trustees in considering a Recommended Recipient, must have regard to:
- (a) appropriate strategic development plans for the West Coast Region; and
 - (b) whether other sources of funding or support are available, including assistance provided through industry or regional development policies and programmes of local authorities or central government.
- 4.5 The Trustees may consider:
- (a) the objectives, roles and activities of any other organisations engaged in economic development activities in the West Coast Region; and
 - (b) any other matters that they believe are relevant.

5. Review of Trust

- 5.1 The Trustees or the Settlor may, by written notice to the other, request a review of the operation of the Trust Deed, provided that no such request can be made before 1 June 2012.
- 5.2 The Trustees and the Settlor must consult with the West Coast Councils and appropriate Ministers of the Crown when undertaking the review.

6. Establishment of Advisory Body

- 6.1 The Trustees shall appoint an Advisory Body in accordance with the following procedures:
- (a) the Trustees must discuss a proposed appointee with the Settlor before making the appointment;
 - (b) if the Settlor has any concerns about a proposed appointee, the Settlor will discuss those concerns with the Trustees and the Settlor and the Trustees will work together to make an appointment that is mutually acceptable to both parties; and
 - (c) if after good faith consultation the Settlor and the Trustees cannot agree on an appropriate appointee to the Advisory Body, the Trustees may make the appointment without the Settlor's approval.
- 6.2 The Trustees must only appoint people to the Advisory Body who have one or more of the following:
- (a) specialist financial skills;
 - (b) specialist commercial skills; or
 - (c) specialist entrepreneurial skills,

so that the Advisory Body as a whole has specialised financial, commercial and entrepreneurial skills.

- 6.3 The members of the Advisory Body have a professional duty of care in acting as the Advisory Body.
- 6.4 A person is not permitted to be a member of the Advisory Body if he or she is:
- (a) a Trustee of this Trust;
 - (b) an elected member of any authority listed in Parts I, II or III of the First Schedule to the Local Government Act 1974;
 - (c) a Member of Parliament;
 - (d) an officer of any of the West Coast Councils;
 - (e) a bankrupt who has not obtained a final order of discharge or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled, or to any order under section 111 of the Insolvency Act 1967;
 - (f) a person who has been convicted of any offence punishable by a term of imprisonment of two or more years;
 - (g) a person who is disqualified from being a director of a company under section 199K of the Companies Act 1955 or section 382 of the Companies Act 1993;
 - (h) a person in respect of whom an order has been made under section 199L of the Companies Act 1955 or section 383 of the Companies Act 1993;
 - (i) a person who is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
 - (j) a person who is subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1988.
- 6.5 There shall be at all times at least three Advisory Body members and no more than seven Advisory Body members.
- 6.6 The term of each Advisory Body member is up to five years from the date of appointment. Advisory Body members may serve more than one term on the Advisory Body.
- 6.7 The Trustees may remove a member of the Advisory Body at any time.
- 6.8 Subject to clause 6.1 and clause 6.5, the Trustees may appoint a new member of the Advisory Body at any time and must appoint a new member if the number of members of the Advisory Body falls below three.
- 6.9 Unless otherwise provided by the Trust deed, all questions and matters arising for consideration by the Advisory Body shall be decided by a resolution of 75 percent of the Advisory Body.
- 6.10 The Trustees shall pay members of the Advisory Body for their services in acting on the Advisory Body. The Trustees shall, from time to time, review and determine the amount paid to the Advisory Body.

- 6.11 The provisions of clauses 19.1 and 19.2 of this Deed shall apply to members of the Advisory Body as if each reference to "Trustee" was a reference to the members of the Advisory Body and the reference to "schedule 4" in clause 19.2(c) was a reference to this clause 6.
- 6.12 Where clause 19.1 or clause 19.2 applies in respect of a member of the Advisory Body, that member will be ineligible to participate in a meeting of Trustees in his or her capacity as a member of the Advisory Body in respect of the Conflict Transaction.

7. Functions of Trustees with respect to Distributions

- 7.1 The functions of the Trustees with respect to Distributions are to:
- (a) receive all proposals or applications for funding from the Trust;
 - (b) forward all proposals or applications from West Coast Enterprises requesting distributions of greater than \$100,000 in total to the Advisory Body for analysis and consideration: and
 - (c) decide whether a Distribution is to be made in accordance with clauses 9.1 and 11.
- 7.2 The Trustees may submit a proposal for a Distribution for consideration by the Advisory Body for funding from the Trust for a purpose that promotes or satisfies the Objects of the Trust.

8. Functions of Advisory Body

- 8.1 The functions of the Advisory Body are to:
- (a) act as the Trust's expert advisors in relation to Distributions;
 - (b) analyse proposals: and
 - (c) recommend an application be declined or recommend recipients for Distributions.
- 8.2 The Advisory Body can only recommend a proposal if, in the opinion of the Advisory Body, it promotes or satisfies the Objects of the Trust.
- 8.3 The Advisory Body may request further information about proposals when it determines that this is necessary.
- 8.4 The Advisory Body may request the Trustees to engage external advisors to help the Advisory Body in reviewing and analysing significant proposals. The Advisory Body is entitled to rely on this advice and shall not be held liable for unforeseen consequences arising from that advice.
- 8.5 The Advisory Body shall only recommend proposals where the total amount of Distributions to the Recommended Recipient does not exceed 90% of the total cost of the proposal.
- 8.6 The Advisory Body shall only recommend a proposal which, in the opinion of the Advisory Body, aims to achieve self-sufficiency and sustainability.

- 8.7 The Advisory Body must include the Amount of Distribution and the Terms and Conditions of the Distribution in any recommendation made to the Trustees.
- 8.8 The Advisory Body shall, as requested by the Trustees, provide the Trustees with a report that:
- (a) outlines the number of proposals submitted by West Coast Enterprises in the period of the report;
 - (b) briefly outlines the nature of each proposal;
 - (c) recommends which proposals (if any) that it considers appropriate to receive Distributions;
 - (d) outlines the Amount of the Distribution and the Terms and Conditions of the Distribution; and
 - (e) includes such other information as the Trustees require.

9. Distributions

- 9.1 Subject to clause 11, the Trustees shall only make distributions from the Distribution Fund to:
- (a) a Recommended Recipient for amounts greater than \$100,000 to a single entity (the **Distribution**); or
 - (b) West Coast Enterprises for amounts of less than \$100,000 to a single entity (**Trustee Approved Project**) where the projects will satisfy the objects of the Trust (the **Trustee Distribution**); or
 - (c) A West Coast-based charity (in the form of cash grants only) for total amounts not exceeding \$100,000 in one calendar year, for grants by that charity to support charitable projects of West Coast not-for-profit, charitable, or sporting organisations.
- 9.2 The Trustees may:
- (a) approve a Distribution to a Recommended Recipient;
 - (b) decline to make a Distribution to a Recommended Recipient; or
 - (c) refer matters for either declined applications or recommended recipients back to the Advisory Body for further consideration. An application may not be referred back to the Advisory Body for further consideration if it has been declined for the second time.
- 9.3 If the Trustees decide to make a Distribution, the Trustees are bound by the Amount of the Distribution.
- 9.4 The Trustees may set a minimum amount of the Distribution Fund that can be distributed to a Recommended Recipient from time to time.
- 9.5 Distributions to a Recommended Recipient or Trustee Approved Project can be made in any form, including but not limited to:

- (a) granting money;
- (b) lending money (whether on suspensory loan or other terms); and
- (c) subscribing for shares or other equity in limited liability companies; and
- (d) guaranteeing or acting as surety for a defined amount of indebtedness or exposure, provided that the guarantee or surety granted by the Trust shall be treated as a Distribution for the full amount of the potential liability under the guarantee or surety until repayment or release of the guaranteed or relevant indebtedness or exposure.

9.6 For the avoidance of doubt, the Trust or a subsidiary of the Trust cannot be a partner in a partnership or a party to a joint venture unless the partnership or joint venture is entered into for the purposes set out in clause 2(g) of schedule 2.

9.7 Trustee Approved Project:

- (a) may not exceed \$100,000 to a single entity (the **Maximum Trustee Distribution Amount**); and
- (b) up to the Maximum Trustee Distribution amount may only be made to the same West Coast Enterprise once every three calendar years; and
- (c) when all the Trustee Distributions for one year are combined, shall not exceed, per annum, the higher of:
 - (i) 25 percent of the Trust's annual income; or
 - (ii) one million dollars.

9.8 The Trustees shall determine their own rules for deciding which projects will become a Trustee Approved Project. For the avoidance of doubt, any such Trustee Approved Project must satisfy the objects of the Trust.

9.9 In determining whether Income is available to be applied towards a proposed Distribution or Trustee Distribution the Trustees will be entitled to rely on the current management accounts of the Trust and the Trustees will not be in breach of this clause 9, clause 10 or clause 11 and a Distribution or Trustee Distribution will not be invalid under this Deed where at the time of the Distribution or Trustee Distribution:

- (a) the current management accounts of the Trust show that Income is available to fund that Distribution or Trustee Distribution; and
- (b) the Trustees have no reasonable cause to believe the amount of Income evidenced by those management accounts is incorrect.

10. Application of Income

10.1 The Trustees may pay or apply the Income of the Trust in:

- (a) meeting the expenses of the Trust in attaining the Objects; and
- (b) making Distributions to Recommended Recipients.

10.2 The Trustees are under no obligation to distribute all of the Distribution Fund.

10.3 The Trustees have the power to accumulate Income.

11. Application of Restricted Capital

11.1 The Trustees may distribute up to 5% of the Initial Capital in any financial year to Recommended Recipients provided that the Income has been fully distributed or set aside for distribution to Recommended Recipients.

11.2 Subject to clause 11.3, no further applications of the Restricted Capital can be made under clause 11.1, once the Restricted Capital is reduced to \$50 million.

11.3 The Trustees may only pay or apply further amounts under this clause 11 with the written approval of the Settlor.

12. Donations

12.1 The Trustees may accept any Property that is donated to the Trust.

12.2 The Trustees must not accept any Property subject to any condition that is inconsistent with the achievement of the Objects of the Trust.

12.3 All Property donated to the Trust:

- (a) must form part of the Trust Fund;
- (b) must be held subject to any conditions on which the Property is accepted;
- (c) except to the extent of any restriction or limitation in the conditions on which the Property is accepted, must form part of the Distribution Fund;
- (d) must form part of the Investment Fund, but subject to any restrictions or limitations as to investment or form of investment in the conditions on which the Property is accepted.

13. Investment of Investment Fund

13.1 The Trustees must invest all of the Investment Fund in accordance with the Statement of Investment Policies and Objectives.

13.2 Section 130 of the Trustee Act 1956 shall not apply to the exercise by the Trustees of their powers of investment under this Deed.

14. Investment Advisor and Fund Manager

14.1 The Trustees must appoint a person or company to be an Investment Advisor of the Trust.

14.2 The Investment Advisor shall, if the Trustees direct in writing, have full authority and responsibility to invest the part of the Investment Fund designated by the Trustees and the Trustees shall not be liable for any losses that might arise from the appointment of the Investment Advisor or the investment of the relevant part of the Investment Fund by the Investment Advisor.

- 14.3 The Trustees may appoint more than one Investment Advisor.
- 14.4 The Trustees may, with the approval of the Investment Advisor, appoint one or more Fund Managers.
- 14.5 The Fund Manager shall, if the Trustees direct in writing, have full authority and responsibility to invest the part of the Investment Fund designated by the Trustees and the Trustees shall not be liable for any losses that might arise from the appointment of the Fund Manager or the investment of the relevant part of the Investment Fund by the Fund Manager.
- 14.6 The Trustees must annually review the performance of the Investment Advisor and the Fund Manager.
- 14.7 The Trustees may remove the Investment Advisor or Fund Manager and appoint a new Investment Advisor or Fund Manager at any time.
- 14.8 The Investment Advisor and Fund Manager shall comply with clause 13.1.

15. Statement of Investment Policies and Objectives

- 15.1 The Trustees and Investment Advisor are to develop a Statement of Investment Policies and Objectives (the **SIPO**).
- 15.2 The exact terms of the SIPO are subject to any specific or general prohibitions or restrictions on investment or Trustee powers contained in this Deed.
- 15.3 The Trustees shall publish a summary of the SIPO with the annual accounts.
- 15.4 The SIPO shall be available on request from the Secretary and copies shall be placed in public libraries in the West Coast Region.
- 15.5 The SIPO is to be reviewed annually by the Trustees.

16. Powers and discretions of Trustees

- 16.1 In addition to all the powers, authorities and discretions vested in the Trustees by law or by this Deed, but subject to any specific or general prohibitions or restrictions on investment or Trustee powers contained in this Deed, the Trustees in giving effect to the Objects in their discretion may at all times and from time to time exercise the fullest possible powers and authorities as if they were the beneficial owners of the Trust Fund.
- 16.2 Without prejudice to the generality of clause 16.1, the Trustees have the powers set out in schedule 2 and may in their discretion exercise any one or more of those powers in pursuit of the general administration of the Trust.
- 16.3 If the Trustees wish to use any of the powers set out in schedule 2 to acquire assets with a value of more than \$100,000 for the purposes of the Objects of the Trust, the Trustees must first receive the approval of the Advisory Body by following the same procedures as any other person or entity requesting funding from the Trust.
- 16.4 All powers and authorities and discretions that the Trustees have, including the powers in schedule 2, may be exercised by the Trustees, subject to any specific or

general prohibitions or restrictions on investment or Trustee powers contained in this Deed, in their absolute discretion and from time to time and on such terms and conditions and in such manner and by such means as they think fit.

17. Pecuniary profit and benefits and advantages

- 17.1 No private pecuniary profit shall be made by any person from the Trust, except that (but subject to clause 17.3):
- (a) each Trustee may receive full reimbursement for all costs, charges and expenses properly incurred by the Trustee in connection with the affairs of the Trust;
 - (b) the Trustees may pay reasonable and proper remuneration to any person or firm or company (including a Trustee) in return for services actually rendered to the Trust;
 - (c) each Trustee may be paid all usual professional, business or trade charges for services rendered, time spent and acts done by the Trustee or by any firm or entity of which the Trustee is a member, employee or associate in connection with the affairs of the Trust;
 - (d) each Trustee may retain any remuneration properly payable to the Trustee by any company or other body or firm or undertaking with which the Trust may be in any way concerned or involved for which the Trustee has acted in any capacity whatsoever, notwithstanding that the Trustee's connection with that company or body or firm or undertaking is in any way attributable to the Trustee's connection with the Trust.
- 17.2 The Trustees, in determining all reimbursements, remuneration and charges payable in terms of this Deed, must ensure that the restrictions imposed by clause 17.3 are strictly observed.
- 17.3 Notwithstanding anything to the contrary in this Deed, no remuneration or benefit or advantage (regardless of whether it is convertible into money) or income of any of the kinds referred to in the sections set out in the second proviso to section CB 4(1)(e) of the Income Tax Act 1994 shall be paid or afforded to or received or gained or achieved or derived by any person (the **Determining Person**) if the second proviso to section CB 4(1)(e) of the Income Tax Act 1994 denies the Trustees an exemption from tax on income derived by the Trustees from the carrying on of any business by or on behalf of or for the benefit of the Trustees in the circumstances set out in clause 17.4.
- 17.4 The circumstances referred to in clause 17.3 are those in which the Determining Person is:
- (a) a Settlor or a trustee of the Trust; or
 - (b) a shareholder or director of any company carrying on any business of or for the Trust; or
 - (c) a settlor or trustee of any trust which is a shareholder of any company carrying on any business of or for the Trust; or
 - (d) an associated person (as defined by the Income Tax Act 1994) of any Trustee or any such settlor, shareholder, director or trustee -

and the Determining Person can, by virtue of being a Trustee or such a Settlor, shareholder, director, trustee or associated person, in any way (whether directly or indirectly) determine, or materially influence in any way the determination of, the nature or the amount of the remuneration or benefit or advantage or income referred to in clause 17.3 or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by the Determining Person.

- 17.5 Clause 17.3 does not apply if and to the extent that there is an exclusion from the application of the second proviso to section CB 4(1)(e) of the Income Tax Act 1994 by any law of New Zealand (whether that law is the Income Tax Act 1994 or otherwise).
- 17.6 A person who, in the course of and as part of the carrying on of his or her business of a professional public practice, renders professional services to the Trust, shall not, by reason only of his or her rendering professional services to the Trust, be in breach of clause 17.3.

18. First trustees, and number, appointment, retirement, payment and proceedings of Trustees

- 18.1 The Initial Trustees are the first trustees of the Trust, noting that the first Elected Trustees have been elected in accordance with the procedures set out in clause 4.1 to 4.7 of schedule 3.
- 18.2 The provisions of this Deed dealing with the number, appointment, payment and cessation of office of the Trustees are set out in schedule 3.
- 18.3 The provisions relating to meetings of Trustees are set out in schedule 4.

19. Interested Trustees

- 19.1 A Conflict Transaction exists for a Trustee when:
- (a) the Trustee has been, is, becomes or intends to become associated (whether as director or otherwise in a private capacity or as trustee of another trust) with any company, partnership, organisation, group or trust with which the Trustee is transacting or dealing in his or her capacity as Trustee; or
 - (b) the interests or duty of the Trustee in any particular matter conflicts or might conflict with his or her duty to the Trust; or
 - (c) the Trustee is transacting or dealing as Trustee with himself or herself in another capacity.
- 19.2 When a Conflict Transaction exists for a Trustee and there is at the time more than one Trustee:
- (a) the Trustee for whom the Conflict Transaction exists must declare the nature of the conflict or the potential conflict at a meeting of the Trustees; and
 - (b) the Trustee must not take part in any deliberations or proceedings, including voting or other decision-making, relating to the Conflict Transaction, and the clauses in schedule 4 will be deemed to be varied accordingly; and
 - (c) if the Trustee contravenes paragraphs (a) or (b) of this clause 19.2, his or her vote or other decision will not be counted, and neither will the Trustee be

counted in the quorum present at the meeting, and the clauses in schedule 4 will be deemed to be varied accordingly.

- 19.3 When a Conflict Transaction exists for a Trustee (the **Conflict Trustee**), the Chair may require the Conflict Trustee to leave the meeting.
- 19.4 If the Conflict Trustee does not leave the meeting, the Chair may adjourn the meeting until the Conflict Trustee does leave.
- 19.5 If the Conflict Trustee is the Chair then the Deputy Chair will assume the role of Chair in respect of the Conflict Transaction, including for the purposes of clauses 19.3 and 19.4 of this Deed.
- 19.6 A Conflict Trustee will be ineligible to participate in a meeting of the Advisory Body in his or her capacity as a Trustee in respect of the Conflict Transaction.

20. Execution of documents

Whenever the Trustees need to sign or attest any deed, agreement or contract pursuant to a resolution of the Trustees, it will be sufficient for that deed, agreement or contract to be signed or attested by any two of the Trustees.

21. Limitation of liability and indemnity

- 21.1 No Trustee is liable for the consequence of any act or omission or for any loss unless the consequence or loss is attributable to his or her dishonesty or to the wilful commission by him or her of any act known by him or her to be a breach of trust or to the wilful omission by him or her of any act when the omission is known by him or her to be a breach of trust.
- 21.2 No Trustee is bound to take any proceedings against a co-Trustee for any breach or alleged breach of trust by the co-Trustee.
- 21.3 Each Trustee is fully indemnified by and out of the Investment Fund (whether from the capital or the Income of the Investment Fund) for any loss or liability which he or she incurs in the carrying out or omission of any function, duty or power of the Trustees under this Deed and in respect of any outlay or expenses incurred by him or her in the management and administration of the Trust unless the loss or liability is attributable to his or her dishonesty or to the wilful commission by him or her of an act known by him or her to be a breach of trust or to the wilful omission by him or her of any act when the omission is known by him or her to be a breach of trust. The indemnity given by this clause extends to any loss or liability which a person after ceasing to be a Trustee incurs through the carrying out of any function, duty or power of the Trustees, whether the carrying out took place before, during or after the period in which the person was a Trustee.

22. Accounts and audit

- 22.1 The Trustees must ensure that financial records are kept.
- 22.2 The financial records must present the Trusts receipts, credits, payments, assets, liabilities and all other matters necessary or appropriate in a way that shows the true state and condition of the financial affairs of the Trust.

- 22.3 The annual accounts of the Trust must be prepared by a chartered accountant appointed by the Trustees.
- 22.4 In addition to what is required under generally accepted accounting principles the annual report of the Trust must disclose:
- (a) the number of proposals received in that financial year;
 - (b) the number of recommendations made by the Advisory Body;
 - (c) which recommendations were accepted by the Trustees including:
 - (i) the name of the actual recipient;
 - (ii) the amount of the Distribution; and
 - (iii) the type of Distribution;
 - (d) any current or future commitments or guarantees resulting from previous or current accepted recommendations;
 - (e) the amounts of:
 - (i) Initial Capital;
 - (ii) Restricted Capital;
 - (iii) opening and closing Income;
 - (iv) Distribution Fund;
 - (v) the Investment Fund;
 - (vi) Distribution Assets;
 - (f) the members of the Advisory Body;
 - (g) the Investment Advisor(s); and
 - (h) the Fund Manager(s).
- 22.5 The Trustees shall have the annual accounts audited by the Auditor-General.
- 22.6 The financial records and annual accounts will be kept at the Trustees' office or at such other place, as the Trustees think fit.
- 22.7 The financial records and annual accounts must always be available to be inspected by the Trustees.
- 22.8 The Trustees shall publish a summary of the annual report in newspapers circulating in the West Coast Region.
- 22.9 The annual report shall be available on request from the Secretary and copies shall be placed in public libraries in the West Coast Region.

22.10 The Trustees shall hold a public meeting within five months of balance date to present, and receive public comment on, the annual report. The Trustees shall publicise the date of that meeting in newspapers circulating in the West Coast Region.

22.11 The Trustees are to determine the balance date of the Trust.

23. Borrowings and Derivatives

23.1 The Trustees shall have no power to borrow except as set out in clause 23.2, 23.3, 23.4, 23.5 and 23.9.

23.2 The Trustees may, from time to time, enter into Finance Leases for the purposes of carrying out the administration of the Trust, but Finance Leases cannot be entered into for the purposes of leveraging the Trust Fund.

23.3 The Trustees may borrow money by way of overdraft where it is necessary to temporarily fund the application of Trust funds to Recommended Recipients or expenses where there is a mismatch between cash held, cash inflows, and cash outflows, provided that this borrowing is repaid as soon as possible and in any event within five business days.

23.4 The Trustees will not be considered to be in breach of Clause 23.1 where the consolidated accounts of the Trust show borrowings, if those borrowings have been undertaken by a subsidiary entity or entities and are not guaranteed by, or have recourse to the Trust;

23.5 Subject to this section, the Trustees may, from time to time, enter into or trade Derivative Financial Instruments but only:

- (a) for the purposes of hedging, against movements in interest, discount, or currency rates or asset prices in relation to the investments of the Investment Fund;
- (b) to the extent that the Trustees and the Investment Advisor or Fund Manager are of the view that the Trustees will be able to met their payment obligations (if any) under the Derivative Financial Instrument as they fall due; and
- (c) to the extent consistent with the Statement of Investment Policies and Objectives.

23.6 The Trustees and the Investment Advisor must include a policy on the use of Derivative Financial Instruments in the Treasury Policy which is an appendix to the Statement of Investment Policies and Objectives required under clause 14.1.

23.7 The term **Derivative Financial Instrument**, where used in this section, means a derivative transaction as defined in the Crown Entities Act 2004 that is:

- (a) traded on a recognised futures or securities exchange; or
- (b) entered into over-the-counter with a counterparty having an investment grade credit rating, as measured by at least two recognised credit rating agencies.

23.8 The Trustees shall have no power to give guarantees except in accordance with clause 9.5(d).

- 23.9 The Trustees may borrow up to 10% of the value of the Investment Fund (as determined by the most recent annual accounts), provided that any funds borrowed can only be used by the Trustees for the purposes of investment.

24. Amendment of trust deed

Subject to any relevant legislation for the time being in force relating to charitable trusts and only with the prior written consent of the Settlor, the Trustees have power by deed:

- (a) to amend, revoke or add to any of the provisions of this Deed unless to do so would amend, revoke or add to the Objects or would enable a payment or application of any part of the Trust Fund in a manner that is inconsistent with the Objects; and
- (b) notwithstanding paragraph (a) of this clause, to amend, revoke or add to the Trust Deed including the Objects if and to the extent that it is necessary to do so for the Trust to qualify as a charitable trust under the Income Tax Act 1994.

25. Winding Up

- 25.1 Subject to written approval from the Settlor, the Trustees may at any time wind up the Trust.
- 25.2 On the winding up the Trustees will pay or apply such of the Trust Fund as then remains towards the furtherance within New Zealand of such of the Objects as the Trustees and the Settlor determine. If the Trustees and Settlor cannot agree, the Trust Fund will be paid or applied to such of the Objects as the High Court of New Zealand directs.

26. Governing law

The Trust will be governed by and construed in accordance with the laws of New Zealand.

27. Extraordinary Distribution Fund

- 27.1 Notwithstanding any other provision of this Deed, the Trustees are empowered to create a special fund within the books of the Trust, to be known as the "*Extraordinary Distribution Fund*", ("the EDF") by the transfer from the Restricted Capital to the EDF of up to \$6,000,000.00.
- 27.2 The EDF is an exceptional, once-only fund which may contain only the amount transferred under clause 27.1.
- 27.3 The EDF is to be used as a fund from which grants may (in the discretion of the Trustees) be made to any of the West Coast District Councils (up to a maximum amount of \$2,000,000.00 for each West Coast District Council) in order to fund the undertaking of community projects which are within the Objects.
- 27.4 The Trustees shall determine their own rules for verifying that the purpose of a grant sought from the EDF is within the Objects. For the avoidance of doubt, the Trustees are not required to consult with or otherwise involve the Advisory Body in determining which grants are to be made from the EDF.

- 27.5 Before establishing the EDF, the Trustees must enter into a written Funding Agreement with the West Coast District Councils, setting out the terms and conditions upon which the EDF is to be made available to the West Coast District Councils.
- 27.6 The Trustees will maintain reasonable oversight of community projects in respect of which the Trustees have determined to make grants to any West Coast District Councils from the EDF. However, the West Coast District Councils will be exclusively responsible for complying with their statutory and other legal obligations with respect to the use of any funding received by them from the EDF.
- 27.7 The EDF must be invested by the Trustees in accordance with the provisions relating to investment set out elsewhere in this Deed of Trust, pending distribution of the EDF to the West Coast District Councils.

Execution

Executed as a deed of trust.

Signed for Her Majesty The Queen in Right of New Zealand by and through the Minister of Finance as the Settlor in the presence of:

(Minister of Finance)

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

F T Dooley

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

J C Coll

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

M Copeland

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

M Sawyers

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

M Duncan

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

K Brown

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

A Pegley

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

C Auchinvole

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of:)

L Bamfield

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of:)

D Routhan

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of:)

I Boustridge

Witness Signature

Occupation

Place of residence

SIGNED by _____)
as a trustee in the presence of: _____)

J Drylie

Witness Signature

Occupation

Place of residence

Schedule 1: Initial Trustees

Appointed Trustees:

J F Drylie
C J Coll
D Truman
M Copeland

Elected Trustees:

C J Auchinvole
L A Bamfield
D Briggs
F T Dooley
A J Pegley
D C Routhan

Tangata Whenua Trustee:

M W Duncan

Independent Trustee:

W H M Sawyers

Schedule 2: Powers of Trustees

1. Interpretation

In this schedule:

- (a) Expressions or terms have the meanings given by the Trust Deed, unless the context requires otherwise;
- (b) Unless the context requires otherwise, references to clauses are to clauses of this schedule.

2. Powers of Trustees

The Trustees have power in accordance with clause 16 of the Trust Deed:

- (a) To invest the Investment Fund in accordance with the SIPO;
- (b) To purchase and hold Property;
- (c) To lease Property;
- (d) To grant leases of Property;
- (e) To accumulate the Income of the Trust Fund;
- (f) To apply or set aside any part of the Investment Fund towards the payment of any liabilities or obligations incurred or suffered by the Trustees or falling due in future;
- (g) To carry on or form any business or venture or company for the provision of services to achieve the Objects of the Trust;
- (h) To enter into contracts for the provision of services to achieve the Objects of the Trust;
- (i) To open and maintain a bank account and to decide who will be the signatories to that account;
- (j) In relation to any share or other security that is part of the Trust Fund:
 - (i) to exercise any voting or controlling or decision-making rights or powers attaching to it; and
 - (ii) to concur in any reconstruction or amalgamation of it or in any modification of the rights of the holders of it or of others interested in it and generally to act in respect of it;
- (k) To advertise the Trust and the Objects;
- (l) To obtain incorporation or registration of the Trust in accordance with any law from time to time in force relating to charitable trusts;
- (m) To appoint or engage or employ any person or company (including any of the Trustees) for any period:

- (i) as an expert or professional person or entity to advise on or carry out any of the trusts and powers authorised by this Deed; or
- (ii) as an attorney or delegate for the Trustees in New Zealand or elsewhere for all or any of the purposes of the Trust; or
- (iii) as a manager or agent for or on behalf of the Trustees in all or any matters relating to the management and the control of the Trust, and any business owned by the Trustees or in which they are concerned; or
- (iv) as Secretary; or
- (v) as an employee of the Trustees in all or any matters relating to the Trust;
- (n) To act upon any opinion or advice or information obtained from a person or entity referred to in paragraph (m)(i) of this clause;
- (o) To determine all questions and matters of doubt which may arise in the course of the management, administration, investment, realisation, distribution, liquidation, partition, resettlement or winding up of the Trust Fund or the Trust, or to apply for directions under section 66 of the Trustee Act 1956;
- (p) Generally to do all such other lawful acts and things that are incidental or conducive to the attainment of the Objects; and
- (q) Subject to clauses 17.1 to 17.4 of the Trust Deed, to pay from the Investment Fund any costs or expenses incurred in the course of the Trustees discharging, carrying out or exercising any of their duties and powers.

Schedule 3: Rules Governing the Number and Appointment and Cessation of Office of the Trustees

1. Interpretation

In this schedule:

- (a) Expressions or terms have the meanings given by the Trust Deed, unless the context requires otherwise.
- (b) Unless the context requires otherwise, references to clauses are to clauses of this schedule.

2. Number of Trustees

2.1 There shall be up to seven (7) Trustees.

2.2 There shall be:

- (a) Up to one Trustee appointed in accordance with clause 3.1 of this schedule (the **Appointed Trustee**);
- (b) Up to three Trustees elected in accordance with clause 4.1 of this schedule (the **Elected Trustees**);
- (c) Up to one Trustee appointed in accordance with clause 5.1 of this schedule (the **Tangata Whenua Trustee**);
- (d) Up to two Trustees appointed in accordance with clause 6.2 of this schedule (the **Independent Trustees**); and
- (e) Up to one Trustee appointed in accordance with clause 6A.1 of this schedule (the **Crown Trustee**).

3. Appointed Trustees

3.1 The Appointed Trustee shall be appointed by a majority vote of an appointments panel (the **Panel**).

3.2 The term of the Appointed Trustee is up to three years from the date of appointment. An Appointed Trustee may serve more than one term as a Trustee.

3.3 The Panel is to consist of natural persons as follows:

- (a) 1 person appointed by the Buller District Council or its successors;
- (b) 1 person appointed by the Grey District Council or its successors;
- (c) 1 person appointed by the Westland District Council or its successors; and
- (d) 1 person appointed by the West Coast Regional Council or its successors.

- 3.4 Each member of the Panel has a single vote.
- 3.5 A member of the Panel:
- (a) must act independently; and
 - (b) is not responsible to the person who appointed the member or whom the member represents.
- 3.6 A member of the Panel will cease to hold office where:
- (a) he or she resigns; or
 - (b) the Council that appointed the person removes that person from the Panel.
- 3.7 Other than as set out in this Deed, the Panel may regulate its procedures as it sees fit.
- 3.8 The Panel may, by majority vote, remove the Appointed Trustee and appoint a replacement Appointed Trustee at any time.
- 3.9 If the Appointed Trustee ceases to be a Trustee pursuant to clause 8 of this schedule, a new Trustee will be appointed by the Panel pursuant to clause 3.1 of this schedule.
- 3.10 In the event that the position of Appointed Trustee is vacant and the Panel is unable to decide on the appointment of an Appointed Trustee, the position of Appointed Trustee will remain vacant until such time as an Appointed Trustee is appointed by the Panel pursuant to clause 3.1 of this schedule.
- 3.11 Where the Panel considers it is necessary, the Panel may appoint an independent facilitator to assist it in appointing the Appointed Trustee. The Trust will pay the reasonable professional fees of any facilitator appointed under this clause.

4. Elected Trustees

- 4.1 The Elected Trustees are to be elected as follows:
- (a) one by the Electors of the Buller District Council;
 - (b) one by the Electors of the Grey District Council; and
 - (c) one by the Electors of the Westland District Council.
- 4.2 Subject to clause 4.3 of this schedule any person who is eligible to vote at an election or poll held under the Local Elections and Polls Act 1976, irrespective of the place of residence of the person in New Zealand, may be a candidate for election as an Elected Trustee.
- 4.3 A person is not permitted to be an Elected Trustee if he or she is a person to whom one of clauses 8(d) to 8(i) applies or is:
- (a) an elected member of any of the West Coast Councils;
 - (b) a Member of Parliament;

- (c) a full time permanent employee of any of the West Coast Councils.
- 4.4 The Chief Executive Officer shall be responsible for the conduct of elections of the Elected Trustees, and may delegate his or her responsibilities in respect of each Council area.
- 4.5 The term of the elected Trustee is up to three years from the date of appointment and the elected Trustees may serve more than one term as a Trustee.
- 4.6 The Trustees may resolve to hold elections in conjunction with local body elections.
- 4.7 Elections must be held in the manner set out in the Local Elections and Polls Act 1976 subject to the following modifications:
- (a) No deposit shall be required to be paid by a candidate;
 - (b) The only persons who are eligible to vote are the Electors.
- 4.8 If one of the Elected Trustees ceases to be a Trustee pursuant to clause 8 of this schedule, the Trustees shall resolve whether:
- (a) To appoint the next highest polling candidate from the relevant Council area at the most recent election of Elected Trustees;
 - (b) To hold an election for an Elected Trustee in the relevant Council area for the balance of the term of the Elected Trustee who ceased to be a Trustee;
 - (c) If an election is due within 12 months of the Elected Trustee ceasing to be a Trustee, to:
 - (i) apply paragraph (a) or paragraph (b) of clause 4.8 of this schedule; or
 - (ii) appoint a Trustee from the relevant council area for the balance of the term of the Elected Trustee ceasing to be a Trustee;
 - (d) To decide not to replace the Elected Trustee if an election is due within 3 months of the Elected Trustee ceasing to be a Trustee.
- 4.9 On the second Monday after the publication of the result of an election of Elected Trustees by the Chief Executive Officer, the existing Elected Trustees shall cease to be Trustees and the newly-elected Elected Trustees shall become Trustees.

5. **Tangata Whenua Trustee**

- 5.1 One Trustee will be appointed by the representative of the Tangata Whenua of the West Coast Region, namely Te Runanga o Ngai Tahu.
- 5.2 The term of the Tangata Whenua Trustee is up to three years from the date of appointment. Tangata Whenua Trustees may serve more than one term as a Trustee.
- 5.3 Te Runanga o Ngai Tahu having appointed the Tangata Whenua Trustee pursuant to clause 5.1 of this schedule may remove its appointed Tangata Whenua Trustee and appoint a replacement Tangata Whenua Trustee at any time.

- 5.4 If the Tangata Whenua Trustee ceases to be a Trustee pursuant to clause 8 of this schedule, Te Runanga o Ngai Tahu may appoint a replacement Trustee.

6. Independent Trustees

- 6.1 Each Independent Trustee shall be a person acting in a professional capacity as a trustee.
- 6.2 The Independent Trustees shall be appointed as follows:
- (a) For the period prior to the Independent Trustee Commencement Date, one Independent Trustee shall be jointly appointed by:
 - (i) the President of the New Zealand Law Society; and
 - (ii) the President of the New Zealand Institute of Chartered Accountants (each an **Appointor**, together the **Appointors**); and
 - (b) On and from the Independent Trustee Commencement Date:
 - (i) one Independent Trustee shall be appointed by one Appointor; and
 - (ii) one Independent Trustee shall be appointed by the other Appointor.
- 6.3 The term of each Independent Trustee is up to three years from the date of appointment. Independent Trustees may serve more than one term as a Trustee.
- 6.4 At any time prior to the Independent Trustee Commencement Date, the Appointors may remove the Independent Trustee and appoint a replacement Independent Trustee.
- 6.5 After the Independent Trustee Commencement Date, each Appointor may remove the Independent Trustee that it appointed and appoint a replacement Independent Trustee at any time.
- 6.6 If, prior to the Independent Trustee Commencement Date, the Independent Trustee ceases to be a Trustee pursuant to clause 8 of this schedule, a new Trustee must be appointed by the Appointors.
- 6.7 If, after the Independent Trustee Commencement Date, either Independent Trustee ceases to be a Trustee pursuant to clause 8 of this schedule, a new Trustee must be appointed by the Appointor who had appointed that Independent Trustee.
- 6.8 If the Appointors (or either Appointor) fail to appoint a replacement Trustee within four weeks after the occurrence of the vacancy, the Settlor shall appoint a replacement Trustee.

6A Crown Trustee

- 6A.1 One Trustee will be appointed by the Settlor.
- 6A.2 The term of the Crown Trustee is up to twelve months from the date of appointment. A Crown Trustee may serve more than one term as a Trustee.

- 6A.3 The Settlor may remove the Crown Trustee and appoint a replacement Crown Trustee at any time.
- 6A.4 If the Crown Trustee ceases to be a Trustee pursuant to clause 8 of this schedule, a new Crown Trustee may be appointed by the Settlor.
- 6A.5 The Crown Trustee must be removed from office by the Settlor no later than the Independent Trustee Commencement Date.
- 6A.6 On and from the Independent Trustee Commencement Date, the Settlor shall not be entitled to appoint a Crown Trustee.

7. Payment of Trustees

- 7.1 The Trust shall pay the Trustees an annual fee for their services as Trustees.
- 7.2 The Chairperson shall receive an annual fee equal to the highest amount payable under the current Cabinet Fees Framework for Members of Statutory and other Bodies Appointed by the Crown in the fee category "Group 3: Management Boards, General (Group 3a), Level 4, Chair" as determined at 1 April each year.
- 7.3 Each Trustee other than the Chairperson shall receive an annual fee equal to the highest amount payable under the current Cabinet Fees Framework for Members of Statutory and other Bodies Appointed by the Crown in the fee category "Group 3: Management Boards, General (Group 3a), Level 4, Member" as determined at 1 April each year.

8. Cessation of Trusteeship

- 8.1 A person shall cease to be a Trustee if the Trustee:
- (a) resigns or retires by written notice to the other Trustees;
 - (b) dies;
 - (c) refuses or is unable to act in his or her capacity as a Trustee;
 - (d) is a bankrupt who has not obtained a final order of discharge or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled, or to any order under section 111 of the Insolvency Act 1967;
 - (e) is a person who has been convicted of any offence punishable by a term of imprisonment of two or more years;
 - (f) is a person who is disqualified from being a director of a company under section 199K of the Companies Act 1955 or section 382 of the Companies Act 1993;
 - (g) is a person in respect of whom an order has been made under section 199L of the Companies Act 1955 or section 383 of the Companies Act 1993;
 - (h) is a person who is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or

- (i) is a person who is subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1988.
- (j) Is absent without leave of absence approved by the Board of Trustees for three consecutive Trust Board meetings.

Schedule 4: Rules Governing the Meetings of Trustees

1. Interpretation

In this schedule:

- (a) Expressions or terms have the meanings given by the Trust Deed, unless the context requires otherwise.
- (b) Unless the context requires otherwise, references to clauses are to clauses of this schedule.

2. Quorum

A quorum for meetings of Trustees shall be four of the Trustees.

3. Time of Meetings

Subject to these rules and to this Trust Deed, the Trustees shall meet and regulate their meetings as they think fit.

4. Chair

4.1 The Trustees may from time to time appoint:

- (a) one of their number as Chair of the Trustees; and
- (b) one of their number as Deputy Chair of the Trustees –

and decide on the period for which the Chair and Deputy Chair will hold office.

4.2 The Chair (or in the absence of the Chair, the Deputy Chair, or the in absence of the Chair and the Deputy Chair another Trustee elected by the meeting) shall take the chair at all meetings of the Trustees, but shall not have a casting vote.

4.3 The other Trustees may by unanimous resolution remove:

- (a) the Chair of the Trustees as chair; or
- (b) the Deputy Chair of the Trustees as deputy chair.

5. Notice of Meetings

5.1 The Chair or any three Trustees may at any time summon a meeting. Seven days notice of any meeting (stating the place, day and time of the meeting) shall be communicated to each of the other Trustees unless all of the Trustees agree to shorten or waive the period of notice.

5.2 No notice will be necessary for the resumption of adjourned meetings except to Trustees not present at the meeting adjourned.

6. Decisions

- 6.1 All questions and matters arising at meetings of Trustees shall be decided by majority resolution of the Trustees present at the meeting and entitled to vote.
- 6.2 A resolution in writing signed by all of the Trustees shall be as effective as if it had been passed at a meeting. Such a resolution may consist of several like documents each signed by one or more of the Trustees and may be sent by facsimile transmission.
- 6.3 Any resolution of the Trustees may be rescinded or varied from time to time by the Trustees.

7. Audible Communication

- 7.1 The contemporaneous linking together by telephone or any other means of audible communication of enough of the Trustees to constitute a quorum shall be deemed to constitute a meeting of the Trustees so long as the following conditions are met:
- (a) Each of the Trustees must have received notice of the meeting (or have waived notice) under clause 5.1;
 - (b) Each of the Trustees taking part in the meeting must be able to hear each of the other Trustees taking part at the commencement of the meeting and (subject to the terms on which a Trustee may leave the meeting under clause 7.2) throughout the meeting; and
 - (c) At the commencement of the meeting each of the Trustees must acknowledge his or her presence to all the other Trustees taking part in the meeting.
- 7.2 A Trustee must not leave a meeting (whether by departing or by disconnecting his or her telephone or other means of communication) unless he or she has previously obtained the express consent of the Chair of the meeting. A Trustee shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he or she has previously obtained the express consent of the Chair to leave the meeting.

8. Minutes

- 8.1 The Trustees are to keep minutes of their meetings and of all their decisions. The minutes shall be kept in a minute book maintained by a person appointed by the Trustees.
- 8.2 Any minute of a meeting of the Trustees (including their decisions) purporting to be signed by the Chair of the meeting or of the next meeting shall be prima facie evidence of the matters referred to in such minute having been authorised done or passed by the Trustees. The decisions recorded in the minutes will be read in conjunction with the Trust Deed and will be binding on all persons interested in the Trust.

9. **Adjournment**

- 9.1 If a quorum is not present within twenty minutes after the time appointed for any meeting, the Chair of the meeting may adjourn the meeting to another time.
- 9.2 Any meeting may be adjourned if the Trustees present so resolve.

10. **Interested Trustees and Conflict Transactions**

Clauses 19.1 to 19.2 of the Trust Deed govern the instances and consequences of a Trustee for whom a Conflict Transaction exists. When there is a Conflict Transaction, clauses 2 to 10 of these rules shall be deemed to be varied to the extent required by clause 19.2 of the Trust Deed.