

Dated 16 June 2003

**TRUST DEED FOR
ROTARY CLUB OF WANGANUI FOUNDATION**

**HORSLEY CHRISTIE
LAWYERS
WANGANUI**

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PARTIES

1. **OSWALD IAN BRUCE HAWKEN**
2. **COLIN JOHN WHITLOCK**
3. **RONALD ARCHIBALD LAMONT**

BACKGROUND

- A. The parties to this deed wish to establish a charitable trust (“the Trust”) for the purposes described in clause 3 of this deed.
- B. All parties to this deed have been appointed by nomination by the board of Rotary Club of Wanganui Incorporated.
- C. The parties have agreed to enter into this deed to specify the purposes of the Trust and to provide for its control and governance.

THIS DEED RECORDS

1. **Name**

The name of the Trust shall be “Rotary Club of Wanganui Foundation”, provided that the Board of Trustees of the Trust (“the Board”) may change the name of the Trust by Deed to any other name which they may determine from time to time.

2. **Office**

The office of the Trust shall be such place in Wanganui as the Board may determine from time to time.

3. **Purposes**

3.1 The Board shall raise, accept and hold all capital and income of the Trust, and may pay or apply so much of the capital and income of the Trust as the Board think fit, for or towards any one or more objects or purposes which are from time to time charitable in accordance with the laws of New Zealand as the Board shall determine from time to time, which objects and purposes are declared to be the objects and purposes of the Trust.

3.2 All the objects and purposes of the Trust must be objects and purposes exclusively within New Zealand.

4. **Members of the Board**

4.1 **Number of Board.** The Board shall consist of not less than two (2) nor more than five (5) members. The initial members of the Board shall be the signatories to this deed.

- 4.2 **Term of Board.** Unless otherwise specified in this deed each member of the Board shall hold office for a term of two (2) years or until she or he dies or is declared bankrupt or is found to be a mentally disordered person within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or indicates in writing that she or he wishes to resign from the Board, whichever shall be the sooner. Any retiring member shall be eligible for re-appointment.
- 4.3 **Appointment of New Trustees.** The filling of vacancies on the Board (whether as a result of a member retiring, resigning or having his or her membership terminated) shall be by appointment by the board of directors of Rotary Club of Wanganui Incorporated or any successor to such incorporation ("Rotary Club of Wanganui").
- 4.4 **Termination of Trusteeship.** The board of directors of Rotary Club of Wanganui may terminate a board member's membership of the Board if it believes that such action is in the best interest of the Trust.
- 4.5 **Name of the Board.** The name of the Board shall be "Rotary Club of Wanganui Foundation".
5. **Powers**
- 5.1 **General and Specific Powers.** In addition to the powers implied by the law of New Zealand, but subject to the restrictions contained in this Deed, the powers which the Board may exercise in order to carry out its charitable purposes are as follows:
- a To seek and accept any gift, bequest or other disposition for any of the objects and purposes of the Foundation, whether subject to any special trust or not, provided that the Board may decline to accept any gift, bequest or other disposition or to take over any property which has annexed to it any condition or obligation not approved by the Board; and
 - b To use the funds of the Foundation as the Board thinks necessary or proper in payment of the costs and expenses of the Foundation, including the employment of professional advisors, agents, officers and staff as appears necessary or expedient; and
 - c To purchase, take on lease or in exchange or hire or otherwise acquire any land or personal property and any rights or privileges which the Board thinks necessary or expedient for the purpose of attaining the objects of the Foundation and to sell, exchange, bail or lease, with or without option of purchase, or in any manner dispose of any such property, rights or privileges as aforesaid; and
 - d To carry on any business; and
 - e To invest surplus funds in any way permitted by law for the investment of trust funds and upon such terms as the Board thinks fit; and
 - f To borrow or raise money from time to time with or without security and upon such terms as to priority and otherwise as the Board thinks fit; and

- g To seek incorporation in accordance with the provisions of the Charitable Trusts Act 1957; and
- h To do all other things which the Board could do if they were the beneficial owners of the capital and income of the Trust, to enable the Board to give effect to and to attain the charitable purposes of the Foundation.

5.2 **Employment.** Under rule 5.1.b the Board may employ as agents, officers and staff persons who are members of the Board.

5.3 **Exercise Powers Independently.** None of the powers or authorities conferred on the Board by clause 5 or otherwise will be deemed subsidiary or ancillary to any other power of authority. The Board may exercise any of those powers and authorities independently of any other power or authority. If there is any ambiguity, this provision will be construed so as to widen and not restrict the Board' powers provided that at no time can any provision be construed so as to detract from the exclusively charitable nature of the Trust.

6. **Income, Benefit or Advantage to be Applied to Charitable Purposes**

6.1 **Application.** Any income, benefit or advantage shall be applied to the charitable purposes of the Foundation.

6.2 **Influence.** No member or person associated with a member of the Foundation shall derive any income, benefit or advantage from the Foundation where they can materially influence the payment of the income, benefit or advantage except where that income, benefit or advantage is derived from:

- a Professional services to the Foundation rendered in the course of business charged at no greater rate than current market rates; or
- b Interest on money lent at no greater rate than current market rates.

7. **Proceedings of the Board**

7.1 **Meetings.** The Board shall meet at such times and places as it determines, and shall elect a chairperson from amongst its members at its first meeting and at every subsequent annual general meeting.

7.2 **Chairperson.** The chairperson shall preside at all meetings of the Board at which she or he is present. In the absence of the chairperson from any meeting, the members present shall appoint one of their number to preside at that meeting.

7.3 **Quorum.** At any meeting of the Board of which notice of meeting has been duly given a majority of members shall form a quorum and no business shall be transacted unless a quorum is present.

- 7.4 **Notice of Meeting.** Notice of meeting shall be deemed to have been duly given if all the members of the Board are present at a meeting or if notice of the meeting is given in writing by or on behalf of the chairperson or two members of the Board and delivered to the last known place of residence or work of the members of the Board not less than seven (7) days before the meeting. Any notice will be deemed to be given:
- a if delivered by hand, when so delivered;
 - b if delivered by facsimile, when successful transmission is confirmed by the transmitting facsimile;
 - c if delivered by post, on the third Business Day after posting; or
 - d if delivered by email, on the sender's receipt of an email or other confirmation indicating that the email has been opened at the recipient's terminal.
- 7.5 **Voting.** All questions before the Board shall be decided by consensus. However, where a consensus cannot be reached on a question, it shall, unless otherwise specified in this deed, be put as a motion to be decided by a majority of votes. If the voting is tied, the motion shall be lost.
- 7.6 **Written Resolution.** A written resolution, signed by all the members of the Board will be as valid and effectual as if it had been passed at a meeting of the Board. Any such resolution may consist of several documents in like form each signed by one or more members of the Board.
- 7.7 **Minutes.** The Board shall keep minutes of the proceedings of the Board, such minutes to be entered in a minute book. Any minute of any meeting of the Board if purporting to be signed by the Chairperson of such meeting or by the Chairperson of the next succeeding meeting shall be prima facie evidence of the matters recorded in the minute.
- 7.8 **Reports.** The Board shall report regularly and at least annually on its activities to the Board of Rotary Club of Wanganui.
- 7.9 **Guidance.** The Board shall be guided but not bound in its decisions by the views of the Board of Rotary Club of Wanganui.
- 7.10 **Rules.** The Board may by resolution make rules consistent with this Deed regulating the proceedings of the Board or providing for such matters as may be deemed necessary or expedient for carrying out the work of the Board.
8. **Accounts**
- 8.1 **True and Fair Accounts.** The Board shall keep true and fair accounts of all money received and expended.
- 8.2 **Audit.** The Board shall as soon as practicable after the end of every financial year of the Board, cause the accounts of the Board for that financial year to be audited by an accountant appointed for that purpose and the audited accounts shall be made available to the public.

9. **Power to Delegate**

- 9.1 **Power to Delegate.** The Board may from time to time appoint any committee and may delegate any of its powers and duties to any such committee or to any person, and the committee or person, as the case may be, may without confirmation by the Board exercise or perform the delegated powers or duties in like manner and with the same effect as the Board could itself have exercised or performed them.
- 9.2 **Delegate Bound.** Any committee or person to whom the Board has delegated powers or duties shall be bound by the charitable terms of the Foundation.
- 9.3 **Delegation Revocable.** Every such delegation shall be revocable at Will, and no such delegation shall prevent the exercise of any power or the performance of any duty by the Board.
- 9.4 **Delegate need not be Trustee.** It shall not be necessary that any person who is appointed to be a member of any such committee, or to whom any such delegation is made, be a member of the Board.

10. **Common Seal**

The Board shall have a Common Seal which shall be kept in the custody of a member of the Board and shall be used only as directed by the Board. It shall be affixed to documents only in the presence of and accompanied by the signature of two members of the Board.

11. **Alteration of Rules**

The Board may by consensus or under a motion decided by a two-thirds majority of votes, by supplemental deed make alterations or additions to the terms and provisions of this deed provided that no such alteration or addition shall:

- a Detract from the exclusively charitable nature of the trust or result in the distribution of its assets on winding up or dissolution for any purpose that is not exclusively charitable; or
- b Be made to Rules 6 or 12 unless it is first approved in writing by the Department of Inland Revenue.

12. **Disposition of Surplus Assets**

On the winding up or dissolution of the Trust, all surplus assets after the payment of costs, debts and liabilities shall be given to such exclusively charitable organisation or organizations within New Zealand of a similar nature to the Foundation as the Board, with the written consent of the board at that time of Rotary Club of Wanganui decides, to be used for exclusively charitable purposes, or, if the Board and the board at that time of Rotary Club of Wanganui are unable to make such decision, shall be disposed of in accordance with the directions of the High Court under Section 27 of the Charitable Trusts Act 1957.

13 Trustees Liability

13.1 **Liability for Loss:** No member of the Board will be liable for any loss to the Trust unless it is attributable to that Trustee's own dishonesty or to the wilful commission or omission of any act known by that Trustee to be a breach of trust.

13.2 **Trustee Act:** Subject to clause 13.1, despite:

- a **Section 13C:** the provisions of section 13C of the Trustee Act 1956; and
- b **Professional Trustees:** the likelihood that the members of the Board will from time to time include persons whose profession, employment or business is or includes acting as a trustee or investing money on behalf of others;

the care, diligence and skill to be exercised by those persons will not be that required by Section 13C of the Trustee Act 1956 but will at all times be the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.

13.3 **Proceedings:** No Trustee will be bound to take, or be liable for failure to take, any proceedings against any other Trustee or former Trustee for any breach or alleged breach of trust committed by that other Trustee or former Trustee.

13.4 **Receipt of Money:** Subject to clauses 13.1 and 13.2, a Trustee will be chargeable only for any money which that Trustee has received. For the purposes of this clause, a Trustee is deemed to have received money even if not actually paid to that Trustee if that money has been credited in account, reinvested, accumulated, capitalised, carried to any reserve, sinking or insurance fund, or otherwise dealt with on that Trustee's behalf.

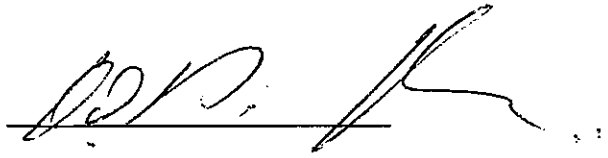
14 Indemnity


Each Trustee or former Trustee is entitled to be indemnified out of the Trust Fund against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, costs (including legal costs) and expenses (together called "liabilities") suffered or incurred by that Trustee or former Trustee in connection with the Trust, except to the extent that those liabilities are due to:

- a **Dishonesty:** that Trustee or former Trustee's own dishonesty or lack of good faith; or
- b **Wilful Breach of Trust:** that Trustee or former Trustee's wilful commission or omission of an act known by that Trustee or former Trustee to be a breach of trust.

SIGNED as a Deed.

SIGNED by
OSWALD IAN BRUCE HAWKEN)
in the presence of:

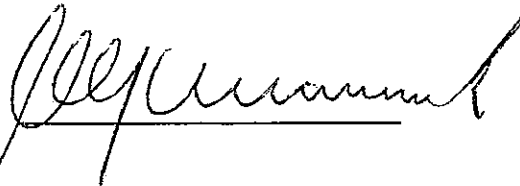


Witness Signature: 

*Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)*

Witness Name: Peter D. Brown
Witness Occupation: Solicitor
Witness Address: Wanganui

SIGNED by
COLIN JOHN WHITLOCK)
in the presence of:

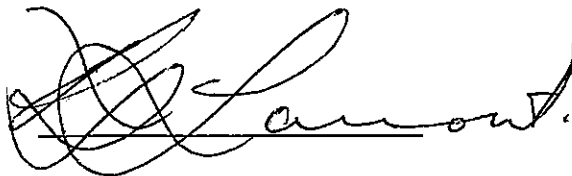


Witness Signature: 

*Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)*

Witness Name: Peter D. Brown
Witness Occupation: Solicitor
Witness Address: Wanganui

SIGNED by
RONALD ARCHIBALD LAMONT)
in the presence of:



Witness Signature: 

*Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)*

Witness Name: Peter D. Brown
Witness Occupation: Solicitor
Witness Address: Wanganui