

ARTS COUNCIL NELSON INCORPORATED

Donor

[INSERT TRUSTEE(S)]

Trustees

DEED OF TRUST ESTABLISHING

TE TAI-O-AORERE ARTS DEVELOPMENT TRUST

I hereby certify that this is a correct copy of the trust deed or rules of the TE TAI-O-AORERE ARTS DEVELOPMENT TRUST as per section 10(2)(a) of the Charitable Trusts Act 1957.

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DEED dated

2024

PARTIES

1. ARTS COUNCIL NELSON INCORPORATED (the “Donor”)
2. **[insert name of trustee 1]**;
[insert name of trustee 2]; and
[insert name of trustee 3, etc...],
(the “Trustees”)

INTRODUCTION

- A. The Donor has decided to create a charitable trust to be known as **TE TAI-O-AORERE ARTS DEVELOPMENT TRUST**.
- B. The Trustees have agreed to be the initial Trustees of the Trust.

BACKGROUND

In 1969 the Nelson Provincial Arts Council (NPAC) was the founding Arts Council for the Nelson/Tasman regions. In 1997, with the formation of the Golden Bay and Motueka Community Arts Councils, NPAC shifted its focus to the wider Whakatū Nelson area (including Richmond and Waimea through to Murchison).

As a result Arts Council Nelson Incorporated (CC33641) was incorporated on 15 May 1997 and is governed by a constitution dated 15 May 1997 and varied on 10 August 1998, 4 March 2005, and 1 August 2014. Since its incorporation, Arts Council Nelson has continued the legacy of NPAC, stimulating and strengthening the artistic life of its region, serving the communities in Whakatū, Richmond, and Waimea through to Murchison.

In 2022 Nelson City Council led the development of a community arts and creativity strategy, He Tātai Whetū, which identified the need for an independent arts development organisation. Arts Council Nelson was identified as the appropriate organisation to expand its existing work and fulfil this role. Following endorsement of this approach by Nelson City Council and the Arts Council Nelson Executive, work began to ensure the organisation's capacity and sustainability for growth.

As a result, Arts Council Nelson Incorporated has now established this new charitable trust to take over the assets, operation, and core charitable purposes of the Society, alongside the expanded remit envisioned in He Tātai Whetū. The creation of this new charitable trust will provide new governance and decision making, and facilitate the continuation of the charitable work of the Nelson Provincial Arts Council and Arts Council Nelson Incorporated into the next generation.

OPERATIVE PROVISIONS

1. DEFINITIONS & INTERPRETATION

1.1 Unless the context otherwise requires the following expressions will have the meaning ascribed to them:

- (a) **“Board”** means the Trustees of the Trust incorporated as a Board under the Charitable Trusts Act 1957 (or, before incorporation, the Trustees collectively).
- (b) **“Charitable Purposes”** means the charitable purposes set out in clauses 3.1 and 3.2 of this Deed.
- (c) **“Trust Fund”** means all property owned or held by the Board on the trusts of this Deed from time to time, including the initial settlement referred to in clause 2.1.
- (d) **“Trustees”** means the trustees of the Trust for the time being (including the Trustees who are parties to this Deed and who remain as trustees, together with any additional or substituted trustees).
- (e) **“Trust”** means the trust created by this Deed.

1.2 Unless the context otherwise requires:

- (a) A reference to this Deed includes any variation of it;
- (b) The singular includes the plural and vice versa;
- (c) A reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (d) Where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (e) A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (f) A reference to a statute or statutory provision will include all subordinate legislation made from time to time under that statute or statutory provision;
- (g) A reference to writing or written includes faxes and e-mails;
- (h) A Trustee who is ineligible to vote on a matter, including in accordance with clause 6.2, must not be included for the purposes of determining whether an approval threshold has been met;
- (i) Headings are for reference only and do not affect the construction or interpretation of this Deed; and
- (j) The words including and include mean including, but not limited to.

2. CREATION OF THE TRUST

2.1 The Donor settles the sum of ten dollars (\$10.00) on the Trustees as an initial settlement to create the Trust.

2.2 The Trustees acknowledge receipt of the sum of ten dollars (\$10.00) and agree to act as trustees of the Trust on the terms set out in this Deed.

2.3 The Trust created by this Deed will be known as TE TAI-O-AORERE ARTS DEVELOPMENT TRUST or such other name approved by the Trustees by unanimous resolution.

2.4 The Trustees declare that they will hold the Trust Fund on the terms set out in the Trust. The Trust Fund will be held by the Trustees jointly until incorporation under the Charitable Trusts Act 1957, from which point it will be held by and in the name of the Board.

3. CHARITABLE PURPOSES

3.1 The purposes and aims of the Trust are to devote or apply both capital and income of the Trust Fund to advance education and other purposes beneficial to the community by stimulating and strengthening the artistic and cultural life of the Te Tai-o-Aorere region, through:

- (a) Honouring and upholding Te Tiriti o Waitangi and working towards its implementation in all aspects of the organisation;
- (b) Operation of an arts development organisation, supporting:
 - (i) Participation, including proactively increasing accessibility and engagement, and supporting participation by offering a wide range of accessible events and opportunities catering to diverse demographics and addressing barriers such as physical disabilities;
 - (ii) Identity, including assisting the creative community in sharing narratives that resonate with their identities and experiences, fostering a sense of belonging within the city;
 - (iii) Infrastructure, including offering a central contact point to support the strategic development of the arts sector by securing sustainable funding, increasing opportunities, and fostering connectivity among artists;
 - (iv) Place-making, including creating inclusive and welcoming spaces that foster collaboration, interaction, and a sense of community among artists and audiences; and
 - (v) Creative Economy, including exploring and piloting innovative funding models, addressing equity and sustainability for the creative sector, and supporting career and business development pathways.
- (c) Continuing the legacy of the charitable purposes of the Nelson Provincial Arts Council and Arts Council Nelson Incorporated, through:
 - (i) Responding to community enquiries with appropriate information and resources;
 - (ii) Promoting and supporting existing arts and cultural activities;
 - (iii) Fostering liaison and networking with groups and individuals;
 - (iv) Informing, advising and supporting government, agencies, and organisations on arts and cultural matters;

- (v) Encouraging high quality student-centred education and training to increase opportunities for further training and employment in the arts;
 - (vi) Encouraging active participation of community members in the operation and direction of the trust;
 - (vii) Working in cooperation with other agencies, statutory and voluntary, and the arts community to foster the development of organisations and groups with similar arts and cultural goals;
 - (viii) Operating in a cooperative, participatory and inclusive manner; and
 - (ix) Expressing collective comment and to encourage more artistic awareness in Te Tai-o-Aorere region, and specifically Whakatū Nelson.
- (d) To do all such things as are incidental or conducive to the attaining of the above Purposes, provided that the exercise of any ancillary power shall always be charitable.

3.2 The Trustees have discretion over how to apportion the use of the Trust Fund to advance the Charitable Purposes set out above.

3.3 The Trustees will have the power to transfer or pay all or any part or parts of the Trust Fund to any charity in the Te Tai-o-Aorere region whose objects are similar to the Charitable Purposes of the Trust, provided that such power may be exercised only by unanimous resolution of the Trustees.

4. PRINCIPLES

4.1 In carrying out the Charitable Purposes, the Trustees will be guided by the following principles:

- (a) respecting and implementing the dual heritage of the partners of te Tiriti o Waitangi;
- (b) respecting the cultural diversity of people and communities and encouraging people from all whakapapa and backgrounds;
- (c) avoiding barriers to participation and engagement by proactively centering accessibility in actions and activities;
- (d) inspiring and enabling people and communities to reach their full potential and take ownership of their future;
- (e) maintaining high standards of professionalism, integrity and ethical conduct; and
- (f) enabling positive social change from within, by building capable communities with the belief, the means, and the opportunities to create sustainable positive outcomes for all stakeholders and future generations.

5. CHARITABLE PURPOSES PARAMOUNT

5.1 Notwithstanding anything contained or implied in this Deed:

- (a) The Charitable Purposes are paramount. Nothing in this Deed authorises the Trustees to do anything that does not accord with the Charitable Purposes. All

capital and income of the Trust and any other benefit or advantage belonging to the Trust Fund must be applied to the Charitable Purposes.

- (b) The Trustees must not pay, provide or allow to be derived any benefit or advantage of any kind referred to in sections CW42(1)(c) and CW42(3)-(8) of the Income Tax Act 2007 to or by any person who has some control over any business carried on by, for, or for the benefit of the Trust (as defined in section CW42 of the Income Tax Act 2007) in circumstances which would disqualify the Trust or any company owned by or business carried on by the Trust from the benefit of exempt status under section CW 42 of the Income Tax Act 2007 (or any statutory replacement or equivalent).

6. EMPLOYMENT AND REMUNERATION OF TRUSTEES AND OTHER PERSONS

6.1 No private pecuniary profit may be made by any person from the Trust Fund, except that, subject to clauses 3.1, 3.2 and 4:

- (a) The Trustees may in good faith pay reasonable remuneration to any Trustees or other person (including professional service providers) for services rendered provided such remuneration:
 - (i) is for services rendered directly or indirectly for the benefit of the Trust;
 - (ii) is reasonable, relative to the services supplied;
 - (iii) is not greater than the consideration that would be paid or supplied in an arms-length transaction (being the open market value) for such services;
 - (iv) is not directly or indirectly fixed or determined by the said recipient Trustee or person; and
 - (v) is confirmed by independent market evidence of market rates for such services.
- (b) Any Trustee may receive full reimbursement for all reasonable expenses properly incurred by that Trustee in connection with the affairs of the Trust.
- (c) Excluding the Trustee in question, the Trustees may, by unanimous resolution, authorise the payment of remuneration and/or koha (or the provision of other benefits) out of the Trust Funds to the Trustee for his or her services as a Trustee, if the Trustees are satisfied that to do so is reasonable and fair to the Trust.

6.2 No Trustee can vote on any matter in which they have any personal or pecuniary interest or in which any company or other body in which the Trustee has a personal or financial interest itself has any pecuniary interest. No Trustee, or anyone associated with a Trustee, is allowed to take part in, or influence any decision made by Trust in respect of payments to, or on behalf of, the Trustee or associated person of any income, benefit, or advantage.

6.3 Any Trustee who becomes aware that they have or may have an interest of the type referred to in clause 6.2 must immediately declare that interest to the Board and their declaration must include all relevant detail needed to provide a full and fair disclosure. All Trustees must act in good faith in all such matters.

7. TRUSTEES POWERS

- 7.1 In carrying out the Charitable Purposes, and subject to clause 5, the Board will have, in addition to all other powers conferred by law (including, without limitation, in the Trusts Act 2019), all the same powers as a natural person acting as beneficial owner of the Trust Fund.
- 7.2 In addition to the powers set out in clause 7.1 and those implied by the general law in Aotearoa New Zealand or contained in section 56 of the Trusts Act 2019, the Board will have the following powers:
- (a) To incorporate the Trustees as a Board pursuant to the Charitable Trusts Act 1957, and register on the Charities Register pursuant to the Charities Act 2005;
 - (b) To use the Trust Fund as the Board thinks necessary or proper in payment of the costs and expenses of the Trust, including the employment of professional advisers, agents, officers and staff (which may include a Trustee or Trustees);
 - (c) To purchase, take on a lease or licence or exchange or hire or otherwise acquire, develop, improve or otherwise deal with any land or personal property and any rights or privileges or sell, exchange, lease or dispose of any land or personal property which the Board thinks necessary or expedient for the purpose of attaining the objects of the Trust;
 - (d) To accept money, investments or other property as a gift, legacy or loan on any terms acceptable to the Trustees;
 - (e) To carry on any business, incorporate any company or enter into any partnership or joint venture;
 - (f) 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;
 - (g) To indemnify, guarantee and secure any company, firm or person against debt or liability incurred or undertaken on behalf of the Trust in good faith and against any costs, losses or expenses in connection with the affairs of the Trust;
 - (h) To borrow or raise money (including borrowing for investment purposes or lending to someone else) with or without security and upon such terms as the Board thinks fit;
 - (i) To retain the Trust Fund (or any part of it, or the income from it or any part of such income) for such time as the Trustees in their discretion may think fit and whether or not that part of the Trust Fund is of a wasting or speculative nature;
 - (j) To make payment or contribute to any charitable organisation which has purposes similar to the Trust;
 - (k) To amalgamate or merge the Trust with any other exclusively charitable trust or organisation and to transfer all or part of the Trust Fund to such amalgamated or merged Trust or organisation; and
 - (l) To do all things which are incidental to or conducive to or desirable to enable the Trustees to give effect to and to attain the Charitable Purposes of the Trust.
- 7.3 The Board has, to the extent permitted by law, full power to delegate all or any of the powers, authorities, and discretions exercisable by the Board under this Deed to:

- (a) any Trustee;
- (b) any officers or employees of the Trust; or
- (c) any attorney, agent or other person nominated or appointed by the Board,

but without in any way releasing the Board from its obligations under this Deed. A Trustee can appoint any other person to exercise or perform, on their behalf, any powers or functions they hold in relation to the Trust under section 67 of the Trusts Act and delegate their powers and functions pursuant to section 70 of the Trusts Act.

- 7.4 In performing their roles the Trustees will comply with the duties of Trustees set out in the Second Schedule, which modify certain default duties of Trustees in the Trusts Act 2019.

8. RULES

- 8.1 The Trustees must comply with the rules as to conducting the affairs of the Trust set out in the First Schedule (the “Trust Rules”). The Trust Rules may be amended or added to from time to time by resolution of a majority of not less than two-thirds (2/3) of the Trustees for the time being of this Trust provided that any amendment to the Trust Rules does not breach the Charitable Purposes.

9. POWER TO AMEND

- 9.1 The Trustees for the time being may amend the powers and terms of this Deed as they see fit by unanimous resolution PROVIDED THAT the Trustees may not amend this Deed in any manner which would:
- (a) Modify the intention of the Charitable Purposes set out in this Deed except to the extent required to register the Trust as a charitable trust under the Charities Act 2005 or any amendment or any statutory provision in substitution thereof; or
 - (b) Result in the Trust losing its status as a “charitable entity” under the Charities Act 2005 or any amendment or any statutory provision in substitution thereof.

10. NUMBER OF TRUSTEES

- 10.1 The number of Trustees must be a minimum of three (3) and a maximum of nine (9). The ideal number of Trustees for a functioning Board is five (5) to seven (7).
- 10.2 If at any time there are less than minimum number of Trustees set out in clause 10.1, the Trustees may appoint additional Trustees and the Board may carry out essential administrative matters but may not undertake any other action or make any other decision until the number of Trustees is increased to such minimum, PROVIDED THAT the Board (once it has the minimum number of Trustees required) may ratify and confirm any earlier action or decision purported to have been taken or made by or on behalf of the Trust while the Board was composed of less than the minimum number of Trustees.

11. APPOINTMENT OF TRUSTEES

- 11.1 Subject to clause 10.1 above, the Trustees will have the power to appoint new, additional or replacement Trustees of the Trust by way of a Board resolution of a majority of not less than two-thirds (2/3) of the Trustees for the time being of the

Trust (or the survivor or survivors of them or in the executor or administrator of the last survivor or survivors of them).

- 11.2 To the greatest extent practicable, the Board composition shall reflect the diversity of Te Tai-o-Aorere region, including people of different ethnicity, gender and age, shall provide for representation by Tangata Whenua, and all members must be permanent residents of Aotearoa New Zealand.
- 11.3 Subject to clause 11.2, to the greatest extent practicable, the Board composition shall also reflect a genuine connection to the Te Tai-o-Aorere creative community, including a range of experience with different artistic practices and a demonstrated commitment to the region.
- 11.4 Subject to clause 11.1, in appointing new, additional or replacement Trustees of the Trust, Trustees shall take into account the following criteria:
- (a) Trustees shall be interested in and able to promote the purposes of the trust;
 - (b) Trustees should be persons known in the communities for their respective governance experience, competence in financial stewardship or strategic leadership, or expertise and knowledge in arts and culture matters and issues; and
 - (c) Trustees should be familiar with and have or be willing and able to gain an appreciation of art and creativity issues, arts development and community arts, and Te Ao Māori and a cultural awareness especially of issues relating to Ngā Toi Māori.
- 11.5 Subject to clause 11.1, Trustees will serve for a term of three (3) years and may serve for one (1) further three (3) year term before being required to stand down for one (1) year, or as otherwise determined. Trustees may then be reappointed for a further two (2) terms of three (3) years, subject to clause 11.1, or as otherwise determined.

12. REMOVAL OF TRUSTEES

- 12.1 A Trustee will cease to hold office if the Trustee:
- (a) in the opinion of a majority of all other Trustees, becomes physically or mentally incapable of acting as a Trustee and a majority of all other Trustees has passed a resolution confirming their opinion;
 - (b) commits an act of bankruptcy;
 - (c) dies;
 - (d) is accused or convicted of a criminal offence which in the opinion of a majority of the other Trustees makes his or her position as Trustee undesirable and a majority of all other Trustees has passed a resolution confirming their opinion;
 - (e) becomes disqualified to be an officer of a charity in accordance with the Charities Act;
 - (f) is requested to resign by notice in writing signed by not less than two-thirds (2/3) of all other Trustees;
 - (g) retires or resigns as Trustee by giving written notice to the Board; or

(h) is absent from three consecutive Board meetings without leave of absence.

13. **ADVISORY COMMITTEE**

- 13.1 Trustees will ensure, in accordance with clauses 3.1 b) i), 3.1 c) vi), and 3.1 c) viii), the ability of community members to actively participate in the operation and direction of the trust in a cooperative, participatory and inclusive manner.
- 13.2 In accordance with clause 13.1, the Board will maintain an Advisory Committee and may establish further Advisory Committees, and will provide a Terms of References that determines the operation, focus, and membership of such an Advisory Committee.
- 13.3 The Advisory Committee or Committees shall be appointed by the Board and shall:
- (a) To the greatest extent practicable and subject to the Board's approval, be open to any consenting person who agrees with the Purposes of the Trust and who holds relevant experience or expertise on the matters for which the advisory committee was established;
 - (b) To the greatest extent practicable, reflect the diversity of Te Tai-o-Aorere region, including people of different ethnicity, gender and age, and shall provide for representation by Tangata Whenua; and
 - (c) To the greatest extent practicable, reflect a genuine connection to the Te Tai-o-Aorere creative community and a demonstrated commitment to the region in its membership.
- 13.4 The Board, or any other relevant officer, employee, nominated or appointed person with delegations under clause 7.3 as determined by the Terms of Reference, shall carefully consider any advice or recommendations submitted by an Advisory Committee, and whether that advice or those recommendations should be incorporated into any decision made by the Trust.
- 13.5 The Board shall inform the Advisory Committee of any decisions taken in relation to any advice or recommendations submitted by the Committee and the reasons for them, unless determined by Trustees to be legally or commercially sensitive, or otherwise determined to not be in the best interests of the trust to be made public.

14. **MEMBERS**

- 14.1 The Trust may have members from time to time as the trustees so determine.
- 14.2 In accordance with clause 14.1, should the Trust have members, the Board will provide a Terms of Reference that determines the relationship between the Trust and members.

15. **TRUSTEE LIABILITY**

- 15.1 It is declared that:
- (a) Each Trustee is responsible only for such money and assets they actually receive, or which, but for their own acts, omissions, neglects, or defaults they would have received, notwithstanding their signing any receipt for the sake of conformity;
 - (b) Each Trustee will be answerable and responsible respectively only for their own acts, receipts, omissions, neglects and defaults and not for those of each other,

or of any banker, broker, auctioneer, or other person with whom, or into whose hands, any Trust money or security is properly deposited or has come;

- (c) No Trustee will be liable personally for the maintenance, repair, or insurance of any property included in the Trust Fund; or for the payment of any charges on such property;
- (d) No Trustee hereof will be liable for any liability or expense arising from any cause whatsoever when acting with the authority of the Board and will be entitled:
 - (i) If the Trustee has paid the expense or discharged the liability out of the Trustee's own funds, to reimbursement from the Trust Fund; or
 - (ii) In any other case, the Board must pay the expense or discharge the liability directly from the Trust Fund;

UNLESS such liability or expense arose from the Trustee's dishonesty, wilful misconduct or gross negligence or was incurred without authority from the Board.

- (e) No Trustee will be bound to take any proceedings against a co-trustee for any breach or alleged breach of trust committed by that co-trustee;
- (f) Notwithstanding the prudence or otherwise of retaining assets in the Trust Fund no Trustee will be liable for any loss suffered by the Trust Fund by reason of the Trustees retaining any asset forming part of the Trust Fund; and
- (g) Subject to clause 15.1(d) above, a Trustee (including a retiring Trustee) will be entitled to an indemnity out of the Trust Fund for any loss or liability that Trustee incurs while acting (or failing to so act) as a Trustee.

16. COMMON SEAL

- 16.1 The Board must have a common seal (the "Common Seal") which must be kept in the custody of the secretary (or such other officer as may be appointed by the Board) and which may be used only by authority of the Trustees previously given at a meeting of the Board to any document requiring execution by the Trustees. Each such use of the Common Seal must be performed in the presence of and accompanied by the signatures of at least two (2) Trustees and will be sufficient evidence of the authority to use such seal. No person dealing with the Trustees will be bound or concerned to see or enquire as to the authority under which any document is sealed and in whose presence it was sealed.

17. TRUST CONTRACTS

- 17.1 Contracts on behalf of the Trust may be made as follows:
 - (a) A contract which if made by private persons would be by law required to be by deed may be made on behalf of the Trust in writing under the Common Seal of the Trust attested as referred to above;
 - (b) A contract which if made between private people that would by law be required to be in writing, signed by the parties to be charged herewith, may be made on behalf of the Board in writing signed by any person acting under its authority, express or implied; and

- (c) A contract which if made between private people would by law be valid although made verbally only, and not reduced into writing, may be made verbally on behalf of the Board by any person acting under its authority, express or implied.

PROVIDED HOWEVER no such contract may be entered into by any person on behalf of the Trust except with the authority of a resolution passed by the Trust.

18. COUNTERPARTS

- 18.1 This Deed may be executed in any number of counterparts (including email and facsimile copies), all of which, when taken together, will constitute one and the same instrument. A party may enter into this Deed by executing any counterpart.

19. DISSOLUTION OR WIND UP OF TRUST

- 19.1 The Trust may be wound up at any time on the passing of a resolution to wind up carried by a unanimous resolution of the Trustees at a meeting called for such purpose.
- 19.2 If at any time the Charitable Purposes of the Trust will fail or if for any other reason the Charitable Purposes will become wholly frustrated and incapable of being carried out or if the Trust Fund will no longer be used or required for the Charitable Purposes declared hereof then and in such case the Trustees must proceed to wind up the Trust.
- 19.3 Upon a winding up for any reason, any remaining portion of the Trust Fund, or the net proceeds arising from the sale of the assets of the Trust must be applied, after payment of all liabilities, towards such charitable purposes in Aotearoa New Zealand as may be determined by the Board, or in default of its determination, as may be decided on application to a judge of Te Kōti Matua o Aotearoa | The High Court of New Zealand.

SIGNED AS A DEED

SIGNED by the affixing of the)
 common seal of the said)
ARTS COUNCIL NELSON)
INCORPORATED)
 as Donor in the presence of the Chairperson
 Chairperson and the Secretary:

 Secretary

Common Seal

SIGNED by the said)
)
as Trustee)
in the presence of:)

[]

Witness Signature

Witness Name

Witness Occupation

Town/City of Residence

SIGNED by the said)
)
as Trustee)
in the presence of:)

Witness Signature

Witness Name

Witness Occupation

Town/City of Residence

SIGNED by the said)
)
as Trustee)
in the presence of:)

Witness Signature

Witness Name

Witness Occupation

Town/City of Residence

FIRST SCHEDULE: TRUST RULES

Subject to an amendment in accordance with clause 8.1, the Trustees must conduct the Trust in accordance with the following Trust Rules:

- (a) The Trustees will hold meetings at such times as they will determine PROVIDED HOWEVER that they meet a minimum of four (4) times in a calendar year and that any Trustee may request a meeting of the Board (a “**Special Meeting**”) by notice in writing directed to the secretary. Upon receiving any such notice the secretary must arrange such Special Meeting of the Board and must give to the Trustees fourteen (14) days’ notice in writing of such Special Meeting.
- (b) The trustees will hold a public Annual General Meeting within six (6) months of the end of the Trust’s financial year and such meetings shall:
 - (i) Be publicly notified at least fifteen (15) working days before the date of such meeting, through any avenues determined by the trustees to provide sufficient notice.
 - (ii) Report on the activities of the Trust for the period following the previous Annual General Meeting.
 - (iii) Provide and report on the annual accounts.
 - (iv) Make available the minutes of trust meetings for the period following the previous Annual General Meeting upon request, unless determined by Trustees to be legally or commercially sensitive, or otherwise determined to not be in the best interests of the trust to be made public.
- (c) No meeting of Trustees may transact any business unless a quorum of Trustees is present. A quorum must be such number of Trustees as will be at least fifty percent (50%) of the number of Trustees for the time being, provided that the quorum for a Special Meeting must be not less than seventy-five percent (75%) of the number of Trustees.
- (d) Upon any matter to be decided or business to be transacted at a meeting of the Trustees each Trustee personally present will have one (1) vote. The number of votes required to reach any decision will be:
 - (i) For a general meeting, not less than seventy-five percent (75%) of the number of Trustees present at such meeting; and
 - (ii) For a Special Meeting, not less than one hundred percent (100%) of the number of Trustees present at such meeting.
- (e) A resolution in writing (including by way of email) signed or assented to by not less than seventy-five percent (75%) of the number of Trustees will be as valid and effectual as if it had been passed at a general meeting of the full Board, and a resolution in writing signed by all Trustees will be as valid and effectual as if it had been passed at a Special Meeting of the full Board. Any such resolution may consist of several documents (including email messages assenting to the resolution, scanned copies of signed resolutions and other similar means of communication) each signed or assented to by one (1) or more Trustees.
- (f) Meetings may be conducted by telephone conference, video conference or any similar means of electronic, audio or audio-visual communication, provided that the Trustees

can hear each other well enough to follow the discussion throughout the meeting. For the purposes of establishing a quorum and voting on any matter to be decided or business to be transacted as a meeting of Trustees, a Trustee attending in accordance with the provisions of this clause (f) will be deemed to be present at the meeting.

- (g) Where any procedural requirement set forth in these Trust Rules may be found not to have been complied with, any subsequent meeting of the Trustees may ratify and confirm any earlier action purported to have been taken or done by or on behalf of the Trust.
- (h) The Trustees must ensure that there are appropriate and up to date financial and accounting policies in place so as to safeguard the Trust from financial risks including fraud, embezzlement, money laundering and any other form of financial theft or loss.
- (i) The Trustees must ensure that annual financial statements are prepared for the Trust in accordance with the financial and accounting policies in place for the Trust and may elect to have them reviewed or audited annually by a suitably qualified person.
- (j) The Trustees may decide among themselves who is to be chairperson of the Board. The chairperson will not have a casting vote.

SECOND SCHEDULE: DUTIES OF TRUSTEES

Further to clause 7.4, this Schedule sets out the duties of Trustees.

1. Mandatory duties

1.1 The Trustees acknowledge the mandatory duties that apply to them which are set out in sections 22 to 27 of the Trusts Act 2019, which are to:

- (a) know the terms of the Trust;
- (b) act in accordance with the terms of the Trust;
- (c) act honestly and in good faith;
- (d) hold or deal with the assets of the Trust to further the purpose of the Trust; and
- (e) exercise their powers for a proper purpose.

2. Modification of default duties

2.1 The clauses which follow modify the default duties under the Trusts Act 2019, including the following sections:

- (a) Section 29 General duty of care;
- (b) Section 31 Duty not to exercise power for own benefit;
- (c) Section 32 Duty to consider exercise of power;
- (d) Section 33 Duty of trustees not to bind or commit trustees to future exercise of discretion;
- (e) Section 34 Duty to avoid conflict of interest;
- (f) Section 35 Duty of impartiality;
- (g) Section 36 Duty not to profit; and
- (h) Section 37 Duty to act for no reward.

2.2 All of the duties listed in the previous sub-paragraph are modified to the extent necessary to give full effect to the following clauses in this Schedule.

2.3 In addition to this, the duty to invest prudently (section 30 Trusts Act 2019) is excluded and replaced by the provisions of this Schedule.

3. Exercise of discretion

3.1 No Trustee will be liable for the exercise of any discretion in accordance with the Deed except for any loss which arises from the Trustee's dishonesty, wilful misconduct or gross negligence.

3.2 The Trustees may by deed give up any of their powers (under the Deed as amended by a deed or under any Act), or any part of any of them. Such deed may also bind future Trustees if the deed says this.

3.3 The Trustee's duty to consider their exercise of power under section 32 of the Trusts Act 2019 is excluded but only to the extent that is consistent with section 51(4) of the Trusts Act 2019.

4. Trustees' decisions

4.1 The Trustees must record minutes of meetings throughout the year including, in writing, decisions taken.

4.2 The Trustees need not give reasons for any decision they take and need not record in writing reasons for decisions.

4.3 If the Trustees do not record decisions or give reasons, this must not be treated as an unreasonable or improper action on the part of the Trustees.

5. Trustees who also act as directors

5.1 Any Trustee or special trust adviser may act as a director, officer or employee of any company or its subsidiary company even though the shares or debentures of that company form part of the Trust Fund.

5.2 The Trustee or special trust adviser may also retain any payment received for acting as director, officer or employee despite any rule of law or equity to the contrary. This will be the case even if the votes or other rights attached to the shares or debentures may have been instrumental (either alone or in conjunction with other votes or rights) in securing that appointment.

6. Delegation

6.1 The Trustees may appoint agents and attorneys to the extent permitted by law.

6.2 Any Trustee may appoint a delegate, agent or attorney, to exercise the duties, discretions and powers of that Trustee, where permitted by law.

6.3 The Trustees may vest any trust asset in any person as nominee, may authorise the use of sub-nominees, and may place any trust asset in the possession or control of any person or persons.

6.4 The general duty of care (s 29 of the Trusts Act 2019) does not apply to any appointment described in the previous three clauses.

6.5 No Trustee will be liable for any loss arising from lawful appointment of an agent, attorney, delegate or nominee unless the loss arises from the Trustee's dishonesty, wilful misconduct or gross negligence.

7. Investment Principles

7.1 The Trustees have authority to invest any or all of the Trust Fund as they think fit at any time.

7.2 Section 29 of the Trusts Act 2019 is modified so that it does not apply to investment of the Trust Fund but the Trustees must invest in good faith in what the Trustees believe to be the best interest of the purposes of the Trust.

7.3 Section 30 of the Trusts Act 2019 and other legal provisions and rules of law which constrain Trustees' investment duties do not apply and are excluded by this Deed.

Instead the Trustees must invest in the manner they believe in good faith to be in the best interest of the purposes of the Trust.

7.4 The clauses in this Schedule which follow are intended only to amplify the previous three sub-clauses and to avoid any doubt. Nothing in the following clauses is to be read so as to limit the wide provisions of these investment principles.

7.5 The Trustees will not be liable for any loss or liability resulting from investment in accordance with any of these investment principles and the clauses which follow. The Trustees will be indemnified out of the Trust Fund in each such case. However, this clause does not exclude liability for a Trustee's dishonesty, wilful misconduct or gross negligence.

8. Freedom to invest

8.1 The Trustees need not diversify investments or maintain a balanced investment strategy.

8.2 The Trustees may retain land or interests in land or bank deposits or bank accounts or any other type of investments as the sole or predominant asset class in the Trust Fund.

8.3 The Trustees may adopt a portfolio approach to investment, with or without taking advice.

8.4 The Trustees need not invest so as to balance the interests of income and capital beneficiaries (if any). They may hold wasting assets or those which produce little or no income.

8.5 The Trustees may delegate investment decisions, management or allocation to a professional investment manager or advisor or a trustee corporation.

8.6 The Trustees will not have any duty to insist on payment of dividends or distributions from any company they have an interest in.

8.7 The Trustees will at all times be entitled, as of right, to a set off of the type specified in Section 129 of the Trusts Act 2019, as if this had already been approved by the court.

9. Shareholdings

9.1 The Trustees need not interfere or be involved in any way in managing or supervising the business of any company or incorporated body which the Trustees may hold shares in.

9.2 This clause applies no matter what proportion of the total capital of the company is held by the Trustees.

9.3 The Trustees will be entitled to leave all the running of that business to the directors of the company or incorporated body, unless they actually know a director has acted dishonestly or has misappropriated money as director.

9.4 The previous sub-clause applies to paying dividends, or deciding not to pay dividends, and all other aspects of running the business.

9.5 No one who has any entitlement or interest in the Trust will have any authority to insist on dividends or distributions being paid.