

DATED

22 February

2012

BETWEEN

DEBRA LAWSON and DOUGLAS MACGREGOR LIND

(Settlors)

AND

**WILLIAM EDWARD DOLAN and JOHN MELVILLE GAZZARD and JACQUELINE SARAH
HILDA GILLIES and DAVID JAMES CLARKE and SUSAN MARIE STEVENS and OLIVIA
LOUISE PORTER and GRANT HYLTON HENSMAN**

(Trustees)

DEED OF TRUST OF THE WAKATIPU HERITAGE TRUST

MACALISTER TODD PHILLIPS

Barristers, Solicitors, Notaries

Queenstown • Wanaka • Cromwell • Christchurch • Lyttelton

Ph: (03) 441 0125 - Fax: (03) 442 8116

Email: queenstown@mactodd.co.nz

P O Box 653

QUEENSTOWN 9348

Contents

1. INTERPRETATION.....	1
2. NAME OF TRUST.....	2
3. PURPOSES OF TRUST	3
4. TANGATA WHENUA	5
5. POWERS OF TRUSTEES.....	5
6. APPOINTMENT AND REMOVAL OF TRUSTEES.....	5
7. ADMINISTRATION OF THE TRUST	8
8. LIABILITY OF TRUSTEES.....	11
9. INDEMNIFICATION OF TRUSTEES.....	12
10. TRUSTEE REMUNERATION AND EXPENSES.....	12
11. NO PRIVATE PROFIT	13
12. RESTRICTIONS RELATING TO BUSINESS INCOME	13
13. MODIFICATION OF TRUST TERMS	14
14. WINDING UP THE TRUST	14
15. GOVERNING LAW	14

THIS DEED dated the day of 2011

BETWEEN DEBRA LAWSON and DOUGLAS MACGREGOR LIND ("Settlers")
AND WILLIAM EDWARD DOLAN of Queenstown, Contractor and **JOHN MELVILLE GAZZARD** of Queenstown, Teacher and **JACQUELINE SARAH HILDA GILLIES** of Queenstown, Architect and **DAVID JAMES CLARKE** of Arrowtown, Museum Director and **SUSAN MARIE STEVENS** of Gibbston, Retired and **OLIVIA LOUISE PORTER** of Frankton, Project Manager and **GRANT HYLTON HENSMAN** of Frankton, Contractor ("Trustees")

BACKGROUND

- A.** The Settlor has recognised the need for the identification, prioritisation in terms of urgency and importance, conservation, restoration, funding and management of heritage conservation projects in the Region for the benefit of the community.
- B.** The Settlor considers it desirable to establish a trust for the purposes set out in this deed.
- C.** The Trustees are prepared to act as trustees of the Trust Fund.
- D.** By way of initial gift to the Trustees to establish the Trust, the Settlor has paid the sum of \$100.00 (One hundred dollars) to the Trustees on the date of execution of this deed.

TRUST TERMS

1. INTERPRETATION

In this deed unless the context indicates otherwise:

1.1 Definitions:

"Balance Date" means 31 March or any other date adopted from time to time by the Trustees as the end of the Trust's Financial Year;

"Chairperson" means the Trustee appointed in accordance with clause 7.4;

"Concessionary Provisions" means sections CW 41 (Charities: non-business income), CW 42 (Charities: business income), CX 25 (Benefits provided by charitable organisations), DB 41 (Charitable or other public benefit gifts by company) and DV 12 (Maori authorities: donations) and subpart LD (Tax credits for charitable or other public benefit gifts) of the Income Tax Act 2007; section 73(1) of the Estate and Gift Duties Act 1968; and, if the Trustees are registered under the Goods and Services Tax Act 1985, the provisions of that Act relating to non-profit bodies, as defined in section 2(1) of that Act;

"DOC" means Department of Conservation;

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

"NZHPT" means The New Zealand Historic Places Trust;

"Property" means real or personal property of any kind and includes any right or interest in such property and any thing in action;

"QDHS" means Queenstown and District Historical Society;

"QLDC" means Queenstown Lakes District Council;

"Region" means the Queenstown and Arrowtown Wards of the Queenstown Lakes District;

"Secretary" means the person appointed in accordance with clause 7.5;

"Trust" means the trust created by this deed;

"Trust Fund" means any Property, which may be paid to or held under the control of or vested in or acquired by the Trustees for the Trust from any source on or after the date of this deed and whether by way of gift, bequest, devise, purchase, exchange or otherwise; and

"Trustees" means the trustee or trustees for the time being of the Trust and, where the trustees of the Trust have incorporated as a board under the Charitable Trusts Act 1957, either the trustees acting as a board or the trustee or trustees for the time being constituting the board, as the context requires.

- 1.2 **Clauses:** references to clauses are references to this deed's clauses;
- 1.3 **Defined Expressions:** expressions defined in the main body of this deed have the defined meaning in the whole of this deed including the background;
- 1.4 **Gender:** references to one gender include the other gender;
- 1.5 **Headings:** section, clause and other headings are for ease of reference only and do not form any part of the context or affect this deed's interpretation;
- 1.6 **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- 1.7 **No Limitation:** references to anything of a particular nature either before or after a general statement do not limit the general statement unless the context requires;
- 1.8 **Parties:** references to parties are references to parties to this deed;
- 1.9 **Persons:** references to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;
- 1.10 **Plural and Singular:** singular words include the plural and vice versa;
- 1.11 **Statutes and Regulations:** references to any statutory provision include any statutory provision, which amends or replaces it, and any subordinate legislation made under it.

2. NAME OF TRUST

- 2.1 **Name of the Trust:** The name of the Trust is the **WAKATIPU HERITAGE TRUST**.
- 2.2 **Change of Name:** The Trustees may change the name of the Trust by deed to any other name which they may determine from time to time, provided that:
 - 2.2.1 **Incorporation:** the Trustees will be incorporated as a trust board under the Charitable Trusts Act 1957 under the new name; or

- 2.2.2 Not Offensive or Misleading:** if the Trustees will not be incorporated as a trust board, the new name is not offensive or liable to mislead any member of the public.

3. PURPOSES OF TRUST

- 3.1 Exclusively Charitable Purposes:** The Trustees hold the Trust Fund on trust to pay or apply so much of the capital and income of the Trust Fund as the Trustees think fit exclusively for or towards any one or more of the following exclusively charitable purposes, which are declared to be the purposes of the Trust, namely:
- 3.1.1 First Object:** To identify, promote, facilitate, organise, undertake, manage and support the conservation, restoration and development of historic sites, structures and buildings in the Region in accordance with established conservation criteria for the benefit of the community.
 - 3.1.2 Second Object:** To rank the identified conservation projects in order of priority in accordance with urgency and importance.
 - 3.1.3 Third Object:** To establish, implement and manage a system for the purposes of seeking, securing, raising, accepting, receiving, accumulating, investing, and managing funds for the purposes of the Trust.
 - 3.1.4 Fourth Object:** To seek, accept and receive by public subscription or appeal, by raffles and other fund raising activities and by both public and private donations, subsidies, grants, endowments, gifts, legacies, loans and bequests either in money or in kind or partly in money and partly in kind for all or any of the purposes and objects of the Trust and to carry out any specified trust attaching or relating to the same to the intent that donations grants etcetera made to the Trust may be made for the benefit of the general purposes of the Trust or may be made for some purposes within the general objects of the Trust specified in particular cases by the donor or donors, and lender or lenders.
 - 3.1.5 Fifth Object:** To identify and collate information on heritage sites which have no statutory protection.
 - 3.1.6 Sixth Object:** To implement and carry out a management programme under which the Trustees shall:
 - (a) Enhance community involvement in all aspects of the work of the Trust.
 - (b) Provide an independent forum for interested parties (in particular DOC, NZHPT, QLDC, the Lakes District Museum and QDHS) to prioritise key heritage projects, as well as coordinate the efforts and resources of contributing organisations and other stakeholders;

- (c) Co-operate with other special-purpose trusts that share similar values and interests in heritage issues;
- (d) Build community awareness of heritage issues, values, places, sites and conservation criteria,
- (e) Support, in any appropriate manner DOC, NZHPT and QLDC in meeting their statutory obligations in the heritage/conservation context by providing input to local (the Region) discussion, strategies and policies, with particular emphasis on the high-priority projects identified by the Trust.
- (f) To enter into such business arrangements and Agreements as the Trustees in their discretion think fit and apply the income to or for all or anyone or more (to the exclusion of the others) of the trust objects set out in this Deed as the Trustees in their discretion shall determine from time to time.
- (g) To carry on any other charitable object which may seem to the Trustees capable of being conveniently carried on in connection with the above objects or calculated directly or indirectly to advance the object of the Trust or any of them.
- (h) To apply for incorporation of the trust under Part II of the Charitable Trusts Act 1957 under the name "Wakatipu Heritage Trust" or such other name as the Trustees by written resolution may determine or which is approved by the Registrar of Incorporated Societies and upon such incorporation the powers and discretions hereby conferred upon the Trustees shall be conferred and the within Trusts shall devolve upon them as a Trustee.

3.1.7 Incidental Matters: all things incidental to the charitable purposes described in this clause 3.1.

3.2 Change in Law: If, because of any change in the law brought about by the enactment of new legislation and/or the amendment or repeal of existing legislation, or by any change in the official interpretation or official application of any such legislation, it is at any time necessary to amend the terms of this deed in order to achieve and/or preserve the availability of any concession in relation to the Trust under any of the Concessionary Provisions, which would otherwise be available were it not for the change in the law, then, despite clause 12, the terms of this deed will at that time be deemed to be amended to the extent necessary.

3.3 No Limitation: None of the purposes of the Trust will be:

3.3.1 Limited or Restricted: in any way limited or restricted by reference to or inference from the terms of any other clause or the name of the Trust, except where the context specifically or expressly requires it; and

3.3.2 Subsidiary or Ancillary: treated as subsidiary or ancillary to any other purpose of the Trust.

3.4 Purposes Independent: The Trustees are empowered to carry out any one or more of the purposes of the Trust independently of any other purpose of the Trust.

3.5 Purposes Within New Zealand: All the purposes of the Trust must be carried out exclusively within New Zealand.

4. TANGATA WHENUA

4.1 In attaining its purposes the Trust shall recognise the views and expectations of the Tangata Whenua.

5. POWERS OF TRUSTEES

5.1 Promotion of Purposes: The Trustees, in connection with the Trust, will only promote the exclusively charitable purposes of the Trust described in clause 3.

5.2 Extent of Trustees' Powers: In particular and in addition to all other powers conferred by law, but subject to the restrictions contained in this deed:

5.2.1 Powers: the Trustees will have the same powers as if they were the beneficial owner of the Trust Fund; and

5.2.2 Powers Not Limited: the Trustees' powers will not be limited or restricted by any principle of construction or rule of law or statutory power or provision except to the extent that it is obligatory.

5.3 Status of Powers: None of the powers or authorities conferred on the Trustees by this clause or otherwise will be deemed subsidiary or ancillary to any other power or authority. The Trustees 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 Trustees' powers provided that at no time shall this provision be construed so as to prevent the availability of any concession in relation to the Trust under any of the Concessionary Provisions, which would otherwise be available.

6. APPOINTMENT AND REMOVAL OF TRUSTEES

6.1 Number of Trustees: The number of Trustees must be not fewer than five nor more than 7 provided that:

6.1.1 Increase to Minimum Number: if at any time there are fewer than 5 Trustees, the person having the power of appointment of Trustees must increase the number of Trustees to 5 as soon as is reasonably practicable; and

6.1.2 Actions Pending Increase: the remaining Trustees will be entitled to act until the number of Trustees is increased and no act or decision of the remaining Trustees will be called into question on account of the fact that there were fewer than 5 Trustees when that act or decision was carried out or made.

6.1.3 The term of office of each Trustee shall be three (3) years PROVIDED THAT:

- (a) at the expiration of the Trustee's three (3) year term of office the Trustee may seek reappointment as a Trustee in the usual manner according to this Deed of Trust; and
- (b) The maximum period any Trustee shall hold office as a Trustee of the Trust shall be two (2) terms of three (3) years.

6.1.4 QLDC shall have the power to appoint two (2) Trustees to the Trust each three (3) year term.

6.2 Power of Appointment: Except as provided in clause 6.1.4 above the power of appointment of replacement Trustees is vested in those persons who from time to time hold the offices and positions of Chief Executive Officer of the Queenstown Lakes District Council and the Area Manager Wakatipu Area of the Department of Conservation.

6.2.1 Additional Trustees: to appoint at any time or times an additional Trustee or additional Trustees;

6.2.2 Reappoint: to reappoint any retiring or retired Trustee as Trustee; or

6.2.3 Self-Appoint: to appoint that person, or any of them, to be a Trustee.

6.3 Power of Removal: The person having the powers of appointment under clause 6.2 also has the power to remove any Trustee.

6.4 Eligibility of Trustees: The following persons may not hold office as a Trustee:

6.4.1 Youth: an individual who is under the age of 16 years;

6.4.2 Bankruptcy: an individual who is an undischarged bankrupt or who is a discharged bankrupt but is prohibited by the Court from engaging in any form of business activity;

6.4.3 Liquidation, Receivership or Statutory Management: a company, incorporated society or any other body corporate:

- (a) **Winding Up or Liquidation:** which is being wound up or has gone into liquidation;
- (b) **Resolution to Appoint Liquidator:** in respect of which a resolution has been passed appointing a liquidator;
- (c) **Order to Appoint Liquidator:** in respect of which an order has been applied for or made by the court appointing a liquidator;
- (d) **Meeting to Appoint Liquidator:** in respect of which a meeting of shareholders or members has been called at which the appointment of a liquidator will be considered;
- (e) **Receiver or Statutory Manager Appointed:** for which a receiver or statutory manager has been appointed in respect of all or any part of its assets; or
- (f) **Arrangement in Respect of Creditors:** which has made or entered into, or attempted to make or enter into, any

compromise, assignment or other arrangement with or for the benefit of all or any class of its creditors;

6.4.4 Criminal Conviction or Sentence: a person who has been:

- (a) **Crime Involving Dishonesty:** convicted of any crime involving dishonesty, within the meaning of section 2(1) of the Crimes Act 1961, and sentenced for that crime within the last seven years; or
- (b) **Other Offences:** convicted of any offence punishable by a term of imprisonment of two or more years, or sentenced to imprisonment for any offence, unless that person has:
 - (i) **Pardon:** obtained a pardon; or
 - (ii) **Service of Sentence:** served, or otherwise suffered, the sentence imposed on that person;

provided that that person will not be disqualified from appointment as a Trustee, or may continue to hold office as a Trustee, but will be deemed to have taken leave of absence, until the expiry of the time for appealing against the conviction or sentence of imprisonment, and if there is an appeal against conviction or sentence, until the appeal has been determined;

6.4.5 Disqualification from Company Positions: a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under the Companies Act 1993, the Securities Act 1978, the Securities Markets Act 1988 or the Takeovers Act 1993;

6.4.6 Incapacity: a person who is subject to a property order made under the Protection of Personal and Property Rights Act 1988 or whose Property is managed by a trustee corporation under section 32 of the Protection of Personal and Property Rights Act 1988; or

6.4.7 Charities Commission Order: a person who is subject to an order made under section 31 of the Charities Act 2005 disqualifying the person from being an officer of a charitable entity.

6.5 Ineligibility of Person Having Powers of Appointment: If any person having the powers of appointment under clause 6.2 and removal under clause 6.3:

6.5.1 Death or Dissolution: dies or, in the case of a body corporate, is liquidated or otherwise dissolved; or

6.5.2 Eligibility to be a Trustee: is precluded from holding office as a Trustee under clause 6.4;

then the Trustees, but excluding that person if that person is also a Trustee, will have the power to:

6.5.3 Remove Power: remove those powers of appointment and removal from that person; and

- 6.5.4 Revest Power:** revest those powers of appointment and removal in another person who may or may not be a Trustee.

From the date of any such revesting, this clause 6.5 will apply to the person in whom the powers of appointment and removal are revested as if that person were originally named in clause 6.2.

- 6.6 Term of Office:** A Trustee will cease to hold office if that Trustee:

- 6.6.1 Resignation:** resigns by giving 30 days' written notice to the Secretary, who must circulate that written notice to the remaining Trustees within 10 days of receipt;
- 6.6.2 Ineligibility:** is precluded from holding office as a Trustee under clause 6.4;
- 6.6.3 Failure to Attend:** fails to attend three (3) consecutive meetings;
- 6.6.4 Death:** dies while holding office as a Trustee; or
- 6.6.5 Removal:** is removed by the person having the power of removal of Trustees.

- 6.7 Recording:** On every appointment, reappointment, removal or cessation of office of any Trustee, the Trustees must cause an entry to that effect to be recorded in the Trust's minute book.

7. ADMINISTRATION OF THE TRUST

- 7.1 Meetings:** The Trustees must regulate and conduct meetings as follows:

- 7.1.1 Annual General Meeting:** within four months of the end of each Financial Year, the Trustees must hold an annual general meeting;
- 7.1.2 Notice:** the Secretary must give no fewer than 30 days' written notice of the annual general meeting to the Trustees;
- 7.1.3 Business:** the business to be transacted at the annual general meeting will be the:
- (a) receipt of the financial statements;
 - (b) appointment of the auditor (if any); and
 - (c) setting of the Trustees' remuneration;
- and any other business will be treated as special business and will be dealt with in accordance with clause 7.1.4;
- 7.1.4 Special Business:** written notice of any special business must be given to the Secretary no less than 21 days before the annual general meeting and the Secretary must circulate a written agenda including all special business to the Trustees no later than 14 days before the annual general meeting;
- 7.1.5 Other Meetings:** the Trustees may otherwise meet at any times and places, which they may agree, provided that any two or more Trustees may at any time requisition a meeting of Trustees by giving written notice to the Secretary and the Secretary must, within 10 days of receipt of that notice, convene a special general meeting by giving,

subject to clause 7.15, not less than 10 days' notice of the meeting to the Trustees; and

7.1.6 Particulars of Notice: every notice of meeting given by the Secretary to the Trustees must:

- (a) be in writing; and
- (b) state the date, time and place of the meeting;

and every notice of a meeting requisitioned under clause 7.1.5 must state the matters to be discussed at that meeting, but notice of any meeting may be abridged or waived if all the Trustees consent in writing to that abridgment or waiver.

7.2 Quorum: A Quorum at meetings of the Trustees will be comprised of three Trustees.

7.3 Validity of Proceedings: All acts done by any meeting of Trustees or by any person acting as Trustee will be as valid and effectual as if that Trustee or those Trustees:

- 7.3.1 Duly Appointed:** had been duly appointed;
- 7.3.2 Qualified:** were qualified to hold office as Trustee; and
- 7.3.3 Complied With Rules:** had complied with the rules and regulations made in accordance with clause 7.1;

even if it is later discovered that:

- 7.3.4 Defect in Appointment:** there was some defect in the appointment of any of the Trustees;
- 7.3.5 Trustee Disqualified:** any of the Trustees were for any reason disqualified from holding office as Trustee; or
- 7.3.6 Failure to Comply:** there was accidental failure to comply with the rules and regulations made in accordance with clause 7.1.

7.4 Chairperson: The Trustees must appoint a Chairperson of the Trustees from among their number who will hold office at the Trustees' pleasure.

7.5 Secretary: The Trustees must from time to time appoint either one of their number or some other person to be Secretary who shall hold office at the Trustees' pleasure.

7.6 Majority Decisions: Except as otherwise provided, and subject to clause 7.2, all resolutions passed at a meeting of the Trustees may be by a majority of Trustees present at that meeting and any such resolution will be binding on all Trustees. The Chairperson will have a casting as well as a deliberative vote if there is a tie and equality of votes.

7.7 Written Resolution: A written resolution, signed by all the Trustees, will be as valid and effectual as if it had been passed at a meeting of the Trustees. Any such resolution may consist of several documents in like form each signed by one or more Trustees.

- 7.8 Rescission of Resolutions:** The Trustees may from time to time rescind or vary any resolution of the Trustees by the same majority as was necessary to pass the resolution being rescinded or varied.
- 7.9 Minutes:** The Trustees must provide and keep a minute book. The Secretary must prepare and enter a record of all resolutions of the Trustees in the minute book. If confirmed by the Trustees, the Chairperson must sign those minutes as a true and correct record. Every minute purporting to be so signed will be prima facie evidence of the facts stated in those minutes.
- 7.10 Bank Accounts:** The Trustees must keep an account at a bank, which they may determine from time to time. Cheques must be drawn, signed and endorsed by any person whom the Trustees from time to time authorise in writing.
- 7.11 Accounts and Audits:** The Trustees must ensure that:
- 7.11.1 Keep Records and Accounts:** full and correct records and accounts are kept of all their receipts, credits, payments, assets, liabilities, transactions and all other matters necessary for showing the true state and condition of the Trust Fund; and
 - 7.11.2 Financial Statements:** financial statements are prepared as soon as practicable after the end of each Financial Year, those statements must include:
 - (a) **Financial Position:** a statement of financial position;
 - (b) **Financial Performance:** a statement of financial performance;
 - (c) **Cash Flows:** a statement of cashflows; and
 - (d) **Notes:** notes to those statements;
 giving a true and fair view of the financial position of the Trust Fund for that Financial Year and, if the Trustees so resolve, a chartered accountant appointed for the purpose by the Trustees will audit those financial statements; and
 - 7.11.3 Change of Balance Date:** any change to the Balance Date for the Trust has been approved, if required, by the Charities Commission under the Charities Act 2005 or by any other relevant authority.
- 7.12 Execution of Documents:** Subject to clause 7.13, all documents required to be executed by the Trustees will be deemed to be validly executed and binding if those documents have been signed by at least two (2) persons either being Trustees or any other person whom the Trustees from time to time authorise in writing.
- 7.13 Common Seal:** If the Trustees become incorporated as a board under the Charitable Trusts Act 1957, then:
- 7.13.1 Provision and Use of Seal:** the Trustees will provide a common seal for the board, which will be:
 - (a) **Deposited with Secretary:** deposited with the Secretary; and
 - (b) **Use of Seal:** affixed to any document requiring execution by the board under common seal; and

7.13.2 Affixation of Seal: every affixing of the common seal must be:

- (a) **Authorisation:** performed in the presence of and accompanied by the signatures of two (2) Trustees, which will be sufficient evidence of authority to affix the seal; and
- (b) **Seal Register:** recorded in a seal register retained for such purpose.

7.14 Preparation and Filing of Documents and Other Information: The Trustees must cause to be prepared and retained or filed with any relevant person, including:

7.14.1 Commissioner of Inland Revenue: the Commissioner of Inland Revenue, pursuant to any revenue legislation; and

7.14.2 Charities Commission: the Charities Commission, pursuant to the Charities Act 2005;

all necessary tax accounts, returns, reports, declarations, notices, certificates, reconciliations, applications, forms and other information required to be prepared or filed so as to achieve or preserve the availability of any concession in relation to the Trust under any of the Concessionary Provisions.

7.15 Notices: Any notice to be given to the Secretary under this deed must be in writing signed by the person giving the notice and served at the office of the Trust. Any notice or document so served will be deemed to be duly given:

7.15.1 By Hand: if delivered by hand, when so delivered;

7.15.2 By Facsimile: if delivered by facsimile, when receipt is confirmed;

7.15.3 By Post: if delivered by post, on the third working day after posting; or

7.15.4 By E-mail: if sent by e-mail, on the sender's receipt of an e-mail message indicating that the e-mail has been opened at the recipient's terminal.

8. LIABILITY OF TRUSTEES

8.1 Liability for Loss: No Trustee will be liable for any loss to the Trust Fund arising from any act or omission of the Trustee 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.

8.2 Trustee Act 1956: Subject to clause 8.1, despite:

8.2.1 Section 13C: the provisions of section 13C of the Trustee Act 1956; and

8.2.2 Professional Trustees: the likelihood that the Trustees 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.

- 8.3 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.
- 8.4 Receipt of Money:** Subject to clauses 8.1 and 8.2, 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.

9. INDEMNIFICATION OF TRUSTEES

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:

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

10. TRUSTEE REMUNERATION AND EXPENSES

- 10.1 Professional Remuneration:** Subject to clause 10.3, any Trustee being a lawyer, accountant or other person engaged in any profession, business or trade is entitled to be paid all usual professional, business and trade charges for services provided by that person or that person's employee or partner in connection with the Trust including acts, which a Trustee, not being in any profession, business or trade, could have done personally.
- 10.2 General Remuneration:** Subject to clause 10.3, each Trustee is entitled to such remuneration for services provided as may be reasonable having regard to that Trustee's duties and responsibilities and to any remuneration paid to that Trustee in accordance with clause 9.1 for those services.
- 10.3 Proviso:** Any payment to a Trustee referred to in clauses 10.1 and 10.2 must not exceed fair market value for services provided and, where any such payment is a benefit or advantage to which clauses 12.2 to 12.4 apply, no Trustee receiving such payment and no person associated with such Trustee may:
- 10.3.1 Take Part:** take part in any deliberations or proceedings relating to that payment; or
- 10.3.2 Determine or Influence:** in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid.
- 10.4 Expenses:** Each Trustee is entitled to be indemnified against, and reimbursed for, all travelling, hotel and other expenses properly incurred in connection with the Trust.

11. NO PRIVATE PROFIT

Nothing expressed or implied in this deed will permit:

11.1 Trustees' Activities: the Trustees' activities; or

11.2 Business: any business carried on by or on behalf of or for the benefit of the Trustees;

in connection with the Trust, to be carried on for the private profit of any individual.

12. RESTRICTIONS RELATING TO BUSINESS INCOME

12.1 General Restrictions: In any tax year, for the purposes of the Income Tax Act 2007, where any business, within the ambit and scope of the Income Tax Act 2007 and in particular section CW 42 of that Act, is carried on by or for the benefit of the Trust:

12.1.1 Tax Exempt Business Income: the Trustees must not derive directly or indirectly from any such business any amount of income that is not exempt from income tax under section CW 42 of the Income Tax Act 2007; and

12.1.2 Benefits/Advantages to Certain Persons: within the ambit and scope of clauses 12.2 to 12.4, no person, with some control over the business may direct or divert, to their own benefit or advantage, any amount derived from that business.

12.2 Persons who may have Control: For the purposes of clause 12.1.2, a person who may have some control over the business is a person who is, within the ambit and scope of sub-sections CW 42(5) to (7) of the Income Tax Act 2007:

12.2.1 Settlor or Trustee: a settlor or trustee of a trust carrying on the business or of a trust that is a shareholder in a company carrying on the business; or

12.2.2 Director or Shareholder: a director or shareholder of a company carrying on the business; or

12.2.3 Associated Person: a person associated with any person described in clauses 12.2.1 and 12.2.2.

12.3 Relevant Benefits/Advantages: For the purpose of clause 12.1.2, an amount is directed or diverted to the benefit or advantage of a person described in clause 12.2 if that person is given or receives from the business any benefit or advantage, whether or not convertible into money, within the ambit and scope of sub-sections CW 42(6) to (8) of the Income Tax Act 2007, or any income of a kind specified in and not excluded by those sub-sections.

12.4 Control over the Business and Ability to Direct or Divert Amounts: For the purpose of clause 12.1.2, a person described in clause 12.2 has some control over the business and is able to direct or divert amounts from the business to their own benefit or advantage if, by virtue of their position described in clause 12.2 and within the ambit and scope of sub-sections CW 42(5) to (8) of the Income Tax Act 2007, that person is, in any way, whether directly or indirectly, able to determine or materially influence in any way the determination of:

- 12.4.1 **Nature/Extent of Benefit/Advantage:** the nature or extent of any benefit, advantage or income described in clause 12.3; or
- 12.4.2 **Circumstances of Receipt:** the circumstances in which any benefit, advantage or income described in clause 12.3 is, or is to be, given or received.

13. MODIFICATION OF TRUST TERMS

The Trustees may from time to time by resolution carried unanimously modify or amend any term of this deed, but no modification may at any time be made that would:

- 13.1 **Charitable Purposes:** allow the Trust to operate other than for exclusively charitable purposes in New Zealand or to operate for private profit; or
- 13.2 **Concessionary Provisions:** affect the eligibility of the Trust for the benefit of any of the Concessionary Provisions, unless in relation to any such provision the Trustees have unanimously determined that eligibility for the benefit of that provision is not required in the best interests of pursuing the purposes of the Trust.

14. WINDING UP THE TRUST

- 14.1 **Resolution:** The Trustees may wind up the Trust by a unanimous resolution of the Trustees, provided that, in the event there is more than one Trustee:

- 14.1.1 **Resolution at Meeting:** that resolution must be passed at a Trustees' meeting called for that purpose; and

- 14.1.2 **Notice of Meeting:** the Secretary must give not less than 30 days' notice of that meeting to the Trustees.

- 14.2 **Surplus Property:** If, on the winding up of the Trust, any portion of the Trust Fund remains after satisfaction of all the debts and liabilities of the Trustees in connection with the Trust, none of that portion may be paid out or distributed other than for charitable purposes carried out exclusively within New Zealand. Alternatively, any surplus Property remaining after the winding up or dissolution of the Trust may be disposed of at the direction of a Judge of the High Court of New Zealand.

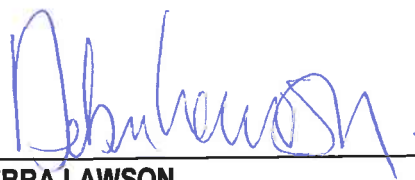
15. GOVERNING LAW

This deed is governed by New Zealand law. The Trustees submit to the non-exclusive jurisdiction of all courts having jurisdiction in New Zealand.


Executed as a deed.

SIGNED by DEBRA LAWSON

as Settlor in the presence of:


DEBRA LAWSON

Witness:



 Signature of witness

Shelley Dawson

 Full name of witness

Governance Team Leader

 Occupation of witness

Queenstown

 Address of witness


SIGNED by DOUGLAS MACGREGOR LIND

as Settlor in the presence of:



DOUGLAS MACGREGOR LIND

Witness:



 Signature of witness

SUSAN JANE GOH

 Full name of witness

COMMUNITY RELATIONS RANGER

 Occupation of witness

36 BEREKSHIRE STREET, ARROWTOWN

 Address of witness

SIGNED by **WILLIAM EDWARD DOLAN** as one
of the Trustees in the presence of:

WILLIAM EDWARD DOLAN

Witness: Sue Geh

Signature of witness

SUSAN JANE GEH

Full name of witness

COMMUNITY RELATIONS MANAGER

Occupation of witness

36 BERRKTHIRE STREET, ARROWTOWN

Address of witness

SIGNED by **JOHN MELVILLE GAZZARD** as one
of the Trustees in the presence of:

JOHN MELVILLE GAZZARD

Witness:

Signature of witness

Shelley Dawson

Full name of witness

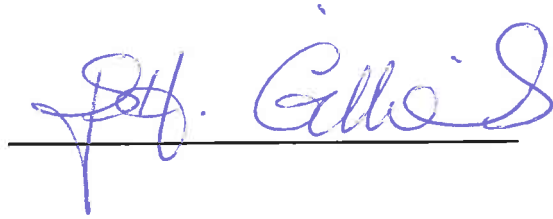
Accommodation Provider. / 1001

Occupation of witness

2 Belfast Terrace, Queenstown

Address of witness

**SIGNED by JACQUELINE SARAH HILDA
GILLIES** as one of the Trustees in the presence
of:



Witness:



Signature of witness

SUSAN JANE GEH

Full name of witness


COMMUNITY RELATIONS RANGER

Occupation of witness

36 BERKSHIRE ST, ARROWTOWN

Address of witness

SIGNED by DAVID JAMES CLARKE
as one of the Trustees in the presence of:



Witness:



Signature of witness

SUSAN JANE GEH

Full name of witness

COMMUNITY RELATIONS RANGER

Occupation of witness

36 BERKSHIRE ST, ARROWTOWN

Address of witness

SIGNED by SUSAN MARIE STEVENS
as one of the Trustees in the presence of:

Susan Marie Stevens

Witness:

S J Geh

Signature of witness

SUSAN JANE GEH

Full name of witness

COMMUNITY RELATIONS RANGER

Occupation of witness

36 BERKSHIRE STREET, ARROWTOWN

Address of witness

SIGNED by OLIVIA LOUISE PORTER
as one of the Trustees in the presence of:

OL Porter

Witness:

S J Geh

Signature of witness

SUSAN JANE GEH

Full name of witness

COMMUNITY RELATIONS RANGER

Occupation of witness

36 BERKSHIRE STREET, ARROWTOWN

Address of witness

SIGNED by **GRANT HYLTON HENSMAN**
as one of the Trustees in the presence of:



Witness:



Signature of witness

SUSAN JANE GEH

Full name of witness

36 BERKSHIRE ST. ARROWTOWN

Occupation of witness

COMMUNITY RELATIONS RANGER

Address of witness