

02 AUG 2007

14.

**TRUST DEED**

**CHRISTCHURCH POLYTECHNIC FOUNDATION**

**ANTHONY HARPER**

LAWYERS  
CHRISTCHURCH  
NEW ZEALAND



SEP RUL

This Deed made the 30th day of April

1999

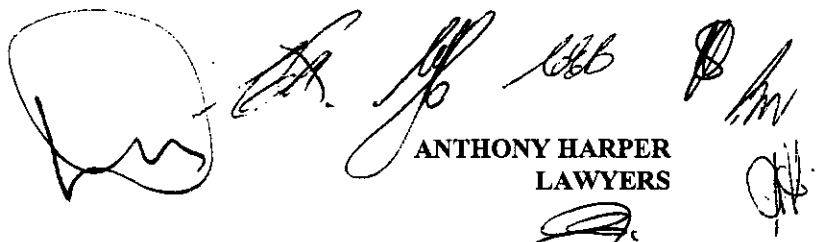
**BY COLIN HARRY RUSSELL** of Christchurch, Craftsman Plumber, **CATHERINE ELIZABETH BROWN** of Southbridge, Company Director, **GRACE SHELLIE HOLLANDER** of Christchurch Office Administrator, **CLIVE GRAHAM COTTON** of Christchurch, Council Chair, **DOUGLAS GEORGE MARSH** of Christchurch, Company Director, **RONALD EARL WILTON** of Christchurch, Retired Banker, **DIANE GAYE GILLAM** of Christchurch, Company Director, **GEORGE WEBSTER MACFARLANE** of Christchurch, Retired Banker and **JOHN WALTER SCOTT** of Christchurch, Polytechnic Chief Executive Officer ("the Trustees")

### BACKGROUND RECITALS

- A By deed of trust dated the 31st day of October 1984 ("the Deed") a trust known as The Christchurch Polytechnic Foundation was settled upon the trustees named in the Deed.
- B Christchurch Polytechnic Foundation was incorporated under the Charitable Trusts Act 1957 on the 3rd December 1984.
- C The Trustees wish to vary the terms of the Deed.
- D The power to vary the terms of the Deed are by clause 45 of the Deed vested in the Trustees who may by unanimous decision vary any of the provisions of the Deed except for clauses 3-5 of the Deed.

### OPERATIVE PART

- 1 The Trustees do hereby unanimously agree that as from the date of this deed of variation of trust:
  - 1.1 Clauses 1, 2 and 6 to 46 (inclusive) of the Deed are deleted from the terms of the Deed.

  
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- 1.2 New clauses 1, 2, 6 to 28 (inclusive) and the Schedule of Powers are adopted and incorporated into the Deed and shall be read and construed such that along with the existing clauses 3 to 5 (inclusive) they form the terms of the Deed.
- 1.3 The full provisions of the Deed as now amended are set out in the Schedule to this deed.

### SCHEDULE

#### Christchurch Polytechnic Foundation Trust Deed

##### Name

- 1 The trust regulated by this deed shall be known as The Christchurch Polytechnic Foundation.

##### Interpretation

- 2.1 In this deed unless the context otherwise requires:

“**Balance Date**” means any date which the Trustees adopt by resolution as the end date of the financial period for which annual financial statements are to be prepared in each year;

“**Designated Gifts**” means a gift which is subject to a trust for a specific purpose or specific purposes that come within the purposes of the Foundation;

“**the Foundation**” means the trust the subject of this deed;

“**Income**” means the net income of the Foundation after payment or deduction of all expenses, costs, charges and reservations paid or made by the Trustees;



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“**Income Year**” means any year or other accounting period ending on a Balance Date;

“**person**” means a company, a corporation, a local authority, a public authority, any incorporated body, any unincorporated body of persons and persons who are trustees of a trust;

“**the Polytechnic**” means Christchurch Polytechnic or its successor;

“**Polytechnic Council**” means the Council of Christchurch Polytechnic or any other governing body for the time being of the Polytechnic;

“**securities**” means any shares, stocks, debentures, debenture stocks, bonds, notes, options or securities of any other kind;

“**Secretary**” means the person for the time being acting as secretary to the Foundation;

“**the Trust Fund**” means all real or personal property paid to or vested in the Foundation and the monies, investments and real or personal property from time to time representing the same and the income arising therefrom;

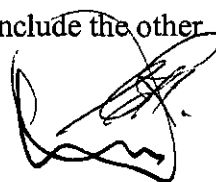



“**Trustee**” means a trustee of the Foundation for the time being.

2.2 In the interpretation of this deed, unless the context requires otherwise:

2.2.1 Reference to any statute, regulation or other enactment in force at the date of this deed shall be deemed to refer to any statute, regulation or other enactment in substitution therefore or as since amended.

2.2.2 Words importing the singular shall include the plural and vice versa.

2.2.3 Words importing one gender shall include the other

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2.2.4 Similar powers appearing in different places are concurrent with and not in substitution for each other.

2.2.5 Each power is exercisable independently of every other power.

2.2.6 The construction in cases of doubt is to favour the broadening of the powers and restricting of the liabilities of the Trustees.

### **Objects of the Foundation**

3 The Trustees shall apply so much of the income and capital of the Foundation as they shall in their absolute discretion think fit for any of the following objects or purposes:

3.1 To promote and support the general educational purposes and activities of the Polytechnic.

3.2 To improve the educational facilities of the Polytechnic.


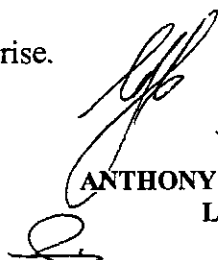


3.3 To provide financial assistance (including the provision of scholarships and bursaries) to students of the Polytechnic on such conditions (if any) as they deem appropriate.

3.4 To support student educational activities of the Polytechnic.

3.5 To support staff education and development projects of the Polytechnic.

3.6 To support innovative educational projects undertaken by staff of the Polytechnic.

3.7 To support any other educational or charitable enterprise.

     
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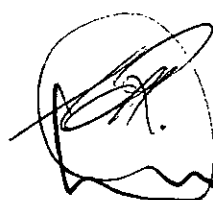
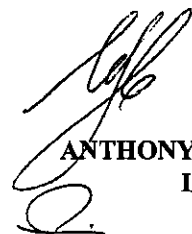



- 4 Without limiting the discretion conferred by clause 3 hereof, the Trustees shall in determining whether to apply funds for any of the purposes listed in paragraphs 3.2 to 3.5 inclusive have regard to whether sufficient funds to support the activity in question are available from other persons, bodies or the Government.
- 5 The objects and purposes listed in clause 3 hereof shall be given the widest possible interpretation and shall include all matters that in the opinion of the Trustees reasonably fall within the ambit of any of such objects or purposes.

### **Treaty of Waitangi**

- 6 In carrying out its purposes the Foundation shall recognise the Articles of the Treaty of Waitangi.

### **Specific Trusts**

- 7.1 If the Trustees accept a Designated Gift they must keep that Designated Gift and any income derived from it separate from the general assets of the Foundation and administer it as a separate specific fund exclusively for charitable purposes and in terms of the purpose for which it was given.
- 7.2 The Trustees shall not use the assets of any separate specific fund to make good any deficit, loss, damage or breach of trust relating to any other separate specific fund. Similarly, the Trustees shall not use the general assets of the Foundation for such purposes.
- 7.3 Each separate specific fund shall bear its own administration expenses plus a fair proportion (determined by the Trustees) of the administration expenses applicable to the general purposes of the Foundation.

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## Receipts

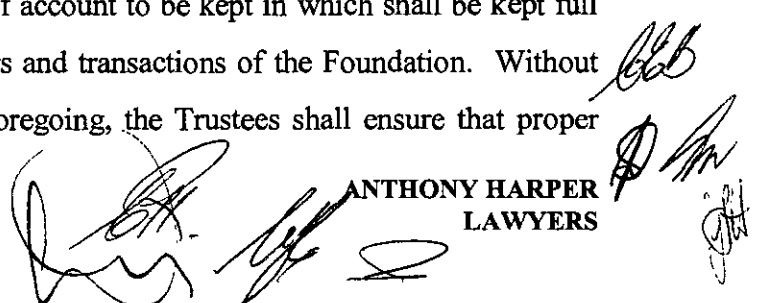
- 8 The receipt of the secretary, treasurer or other person or persons appearing to the Trustees to be authorised to give receipts on behalf of the recipient of any payment made under the terms of this deed, shall be a complete discharge to the Trustees for that payment.

## Powers of Trustees

- 9.1 The Trustees shall have the power and authority in their absolute discretion to deal with, manage and account for the Trust Fund as if they were themselves the absolute owners of such assets.
- 9.2 The Trustees may exercise the powers, authorities and discretions conferred by this deed in addition to, and not so as to limit the powers, authorities and discretions conferred upon trustees generally by law. However, all the Trustees' powers, authorities and discretions shall be subject to any direction to the contrary in any instrument evidencing or conferring a gift accepted by the Trustees whether the gift is a Designated Gift or is generally for the purposes of the Trust Fund.
- 9.3 In addition to the powers implied by the general law of New Zealand the Trustees shall have and at their absolute discretion may exercise the powers, authorities and discretions set out in the attached Schedule of Powers.

## Administration and Accounts

- 10.1 The annual balance date of the Foundation shall be the 31<sup>st</sup> day of December in each year or any other date specified by the Trustees by resolution in writing.
- 10.2 The Trustees shall cause proper books of account to be kept in which shall be kept full true and complete accounts of the affairs and transactions of the Foundation. Without derogating from the generality of the foregoing, the Trustees shall ensure that proper



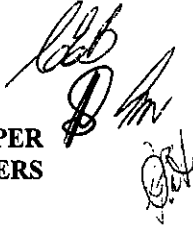

  
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records are kept of all moneys received and expended and particulars in respect of which the receipt and expenditure takes place and all assets and liabilities of the Trust Fund.

- 10.3 The books of account shall be kept at the registered office of the Foundation or at such other place or places as the Trustees shall think fit and shall always be open to the inspection of any Trustee.
- 10.4 The Trustees shall prepare financial statements for each financial year of the Foundation which statements shall comprise a statement of financial position as at the end of the financial year and a statement of financial performance for the year.

### **Delegation**

- 11.1 The Trustees may from time to time appoint any committee and may delegate in writing any of their 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 Trustees exercise or perform the delegated powers or duties in like manner and with the same effect as the Trustees could itself have exercised or performed them.
- 11.2 Any committee or person to whom the Trustees have delegated powers or duties shall be bound by the charitable terms of the trust.
- 11.3 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 Trustees.
- 11.4 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 Trustee.
- 11.5 The Foundation may appoint a person to act as its attorney outside New Zealand for any of the purposes of the Foundation.

    
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## Trustees

12.1 The Trustees shall comprise not less than eight (8) and not more than twelve (12) persons who shall be appointed in the manner as follows:

12.1.1 up to three (3) Trustees shall be persons appointed by the Council of the Polytechnic.

12.1.2 up to eight (8) Trustees shall be persons appointed by the persons then holding office as Trustees.

12.1.3 the Chair of the Polytechnic Council (ex officio) shall hold office as a Trustee for so long as he or she shall be Chair of the Polytechnic Council.

12.2 No more than four (4) Trustees shall hold office as employees, officers or Councillors of the Polytechnic concurrently with their holding office as Trustees. In circumstances where:

12.2.1 any person who is an employee, officer or Councillor of the Polytechnic is appointed to be a Trustee while four (4) other persons who are employees, officers or Councillors of the Polytechnic also hold positions as Trustees then such appointment shall be invalid and such person shall not take office as a Trustee;

12.2.2 any Trustee ("the Trustee in question") becomes an employee, officer or Councillor of the Polytechnic and there are at that time four (4) other Trustees holding positions as employees, officers or Councillors of the Polytechnic the Trustee in question shall immediately cease to be a Trustee and shall tender his or her resignation as a Trustee to the postal address of the registered office of the Foundation.

12.3 Subject to clause 12.4, any Trustee appointed in terms of clause 12.1.1 or 12.1.2 shall

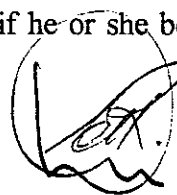
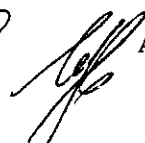




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be appointed for a term of four (4) years calculated from the date on which the resolution approving such appointment is passed. At the end of the term of four (4) years the Trustee so appointed shall be eligible for re-appointment for one further term of four (4) years such that the maximum term during which any trustee appointed in terms of either clause 12.1.1 or 12.1.2 above may hold office shall be not more than eight (8) years.

- 12.4 Notwithstanding the provisions of clause 12.3 a Trustee who has been appointed for a term of four (4) years or whose term as Trustee has been extended for a further term of four (4) years shall continue to hold office as a Trustee until a successor is appointed to succeed him or her as a Trustee and notice to that effect is given to such Trustee and where such appointment is made pursuant to clause 12.1.1 notice to that effect is also given to the postal address of the registered office of the Foundation.
- 12.5 Any Trustee appointed in terms of clause 12.1.3 shall hold office as Trustee for so long as he or she shall concurrently hold office as Chair of the Polytechnic Council ex officio and upon ceasing to hold such position his or her position as a Trustee shall be deemed to be at an end.

### **Vacation of Office by Trustees**

- 13.1 Notwithstanding anything to the contrary herein contained the office of trustee shall be vacated if a Trustee:
- 13.1.1 retires from office by notice in writing to the Trustees or the Secretary for the time being;
- 13.1.2 becomes bankrupt or makes any composition or arrangement with his or her creditors;
- 13.1.3 becomes of unsound mind or a protected person under the Protection of Personal and Property Rights Act 1988 or if he or she becomes physically or mentally

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incapacitated to the extent that in the opinion of all the other Trustees, expressed in a resolution he or she is unable to perform the duties of a Trustee properly;

13.1.4 is absent without leave from three consecutive notified meetings of the Trustees and all the other Trustees resolve to terminate the appointment of that Trustee;

13.1.5 is convicted of an indictable offence;

13.1.6 in the opinion of all the other Trustees expressed in a resolution, is for any other reason unfit to carry out the duties of a Trustee.

### **Trustees' Meetings**


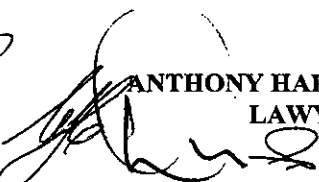
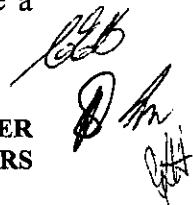
14.1 The Trustees shall by majority vote at the annual general meeting in each year of the Foundation elect a chairperson but such chairperson shall not have a casting vote at trustees' meetings. The Trustee elected as chairperson shall continue to act as chairperson until he or she shall cease to be a Trustee or until the Trustees shall elect a new chairperson.

14.2 The chairperson of the Trustees holding office in accordance with this deed shall preside over meetings of the Trustees but if the chairperson is not present within fifteen minutes after the time appointed for holding the meeting the Trustees present may choose one of their number to be Chairperson of the meeting;

14.3 The Trustees shall appoint a Secretary and shall cause to be kept full and proper minutes of their meetings and proceedings.

14.4 Subject to any express provisions in this deed to the contrary, the Trustees shall meet for the despatch of business, adjourn or otherwise regulate their meetings as they think fit.

14.5 The quorum necessary for the transaction of the business of the Trustees shall be a majority of the Trustees.

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- 14.6 A resolution of the Trustees shall be passed if a majority of the votes cast on the resolution are in favour of it.
- 14.7 A resolution in writing signed by a majority of the Trustees for the time being entitled to receive notice of a meeting of the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Trustees. Any such resolution may take the form of a telegram, telex message, cable or facsimile transmission.
- 14.8 A meeting of the Trustees may be called at any time by any Trustee or by the Secretary at the request of any Trustee. Seven (7) clear days' notice in writing of any meeting of Trustees shall be given to each Trustee except any Trustee for the time being absent from New Zealand.
- 14.9 Subject to the provisions of clause 14.8 any notice of meeting of the Trustees shall specify the object or objects of such meeting. Notice of any meeting may be waived by any Trustee entitled to receive notice of a meeting signing a waiver of notice and such waiver of notice being placed in the minutes.
- 14.10 For the purposes of this Deed the contemporaneous linking together by telephone of the number of the Trustees not less than the quorum, together with the Secretary, whether or not any one or more of the Trustees is out of New Zealand, shall be deemed to constitute a meeting of the Trustees so long as the following conditions are met:
- 14.10.1 All the Trustees for the time being entitled to receive notice of a meeting of the Trustees shall be entitled to notice of the meeting by telephone and to be linked by telephone for the purposes of such meeting. Notice of any such meeting may be given on the telephone and shall not be subject to the provisions as to prior notice and specification of objects appearing in the preceding paragraph 14.10.1;

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14.10.2 Each of the Trustees taking part in the meeting by telephone and the Secretary must be able to hear each of the other Trustees taking part at the commencement of the meeting;

14.10.3 At the commencement of the meeting each Trustee must acknowledge his presence for the purpose of a meeting of the Trustees to all the other Trustees taking part;

14.10.4 A Trustee may not leave the meeting by disconnecting his telephone unless he or she has previously obtained the express consent of the chairperson of the meeting. A Trustee shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone unless he or she has previously obtained the express consent of the chairperson to leave the meeting as aforesaid;

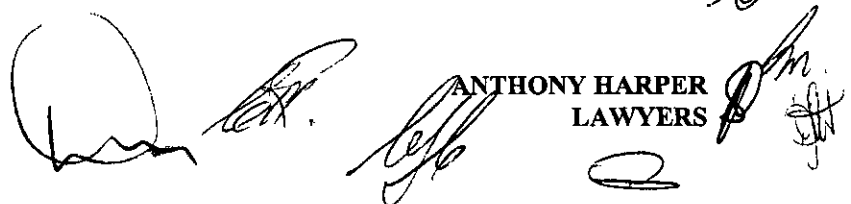
14.10.5 A minute of the proceedings at such meeting by telephone shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified to be a correct minute by the chairperson of the meeting.

14.11 The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting by one or more Trustees shall not invalidate the proceedings of any meeting.

### **Common Seal and Minutes**



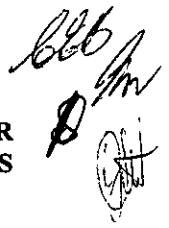
15.1 The Foundation shall have a common seal which shall not be affixed to any document except pursuant to a decision of the Trustees and in the presence of two (2) Trustees who shall sign any such document as witnesses to the affixing of the seal.

15.2 The Secretary or other person appointed by the Trustees shall have the custody of the seal and shall record all decisions taken by the Trustees in a minute book to be kept for that purpose.

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**Interested Trustees**

- 16.1 A Trustee having a personal interest in a matter involving the trust may contract or otherwise deal with the Trustees in his or her personal capacity or in any other capacity as if he or she was not a Trustee. This right shall apply even though a Trustee's interest or duty in a particular matter may conflict with his or her duty to the beneficiaries of the Trust Fund but the Trustee must comply with the following conflict of interest procedures.
- 16.2 It shall be the duty of a Trustee who is in any way directly or indirectly interested in any contract or arrangement or proposed contract or arrangement with the Foundation or in respect of which the Trustees propose to exercise any of their powers, to declare the nature of his or her interest at a meeting of Trustees, but failure to do so shall not disqualify the Trustee or invalidate the contract or proposed contract. A declaration of interest by a Trustee at a meeting of the Trustees at which some or all of the Trustees present are also interested shall be a sufficient declaration for the purposes of this clause 16.
- 16.3 A general notice by a Trustee that he or she is a member and/or an officer of a specified firm or company and is to be regarded as interested in all transactions with or affecting that firm or company shall be sufficient disclosure under this clause 16 as regards such Trustee in any such transaction and after such general notice it shall not be necessary for such Trustee to give a special notice relating to any particular transaction with or concerning that firm or company.
- 16.4 All declarations and notices given by Trustees pursuant to this clause 16 shall be recorded in the Minutes.
- 16.5 A Trustee shall not vote in respect of any contract or arrangement in which he or she is interested and if such a Trustee does so vote the vote shall not be counted nor shall such a Trustee be counted in the quorum present at the meeting.

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- 16.6 Where any proposal under consideration affects the interests of two or more Trustees, such proposal may be divided and considered in relation to each Trustee separately and in such cases each of the Trustees concerned shall be entitled to vote in respect of each resolution except that concerning his or her own interests.
- 16.7 If any question shall arise at any meeting as to the materiality of a Trustee's interest or as to the entitlement of any Trustee to vote and such question is not resolved by the Trustee voluntarily agreeing to abstain from voting, such question shall be referred to the chairperson of the meeting and his or her ruling in relation to any such Trustee shall be final and conclusive. A Trustee shall be deemed to have a personal interest in any matter in which he or she would reasonably be regarded as likely to be influenced materially to prefer interests other than those of the Foundation or any other affected party impartially for reasons of personal advantage or the advantage of business or family associates.

#### **Reimbursement and Remuneration of Trustees**

- 17.1 Each Trustee or committee member shall be entitled out of the income of the Trust Fund to be reimbursed for all reasonable expenses which he or she properly incurs in administering the trust including attending at meetings of the Trustees.
- 17.2 The Trustees may in their discretion by majority decide that any Trustee personally or to or for the benefit of his or her employer shall be remunerated or reimbursed for services provided to the Foundation by way of fees, salary or allowances at rates no greater than current commercial market rates.

#### **Compliance with Income Tax Act 1994 Personal Benefit Clause**

- 18.1 Any income, benefit or advantage shall be applied to the charitable purposes of the Foundation.
- 18.2 No member or person associated with a Trustee shall derive any income, benefit or

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advantage from the trust where they can materially influence the payment of the income, benefit or advantage except where that income, benefit or advantage is derived from:

18.2.1 professional services to the Foundation rendered in the course of business charged at no greater rate than current market rates; or

18.2.2 interest on money lent at no greater rate than current market rates.

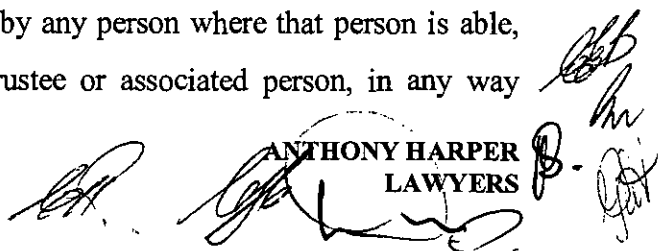
18.3 Notwithstanding anything to the contrary contained or implied in this deed or the Schedule of Powers attached to this deed, in relation to any business carried on by the Foundation:

18.3.1 no payment shall be made to any person:

- (a) who is a trustee of the Foundation; or
- (b) who is a shareholder or director of the company carrying on a business; or
- (c) who is a trustee of a trust that is a shareholder of the company carrying on a business

where that person and any trustee or shareholder or director referred to in any of the foregoing subparagraphs are associated persons (as that term is defined in the Income Tax Act 1994) for work done or services rendered in connection with any such business;

18.3.2 no benefit or advantage (whether or not convertible into money) or any income of any of the kinds referred to in section CC1, subpart CD and sections CE1, CE3, CF1, CG1, CH3 of the Income Tax Act 1994 shall be afforded to, or received, gained, achieved, or derived by any person where that person is able, by virtue of his or her capacity as trustee or associated person, in any way

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(whether directly or indirectly) to determine, or to materially influence in any way the determination of the nature of the amount of that payment, benefit or advantage for that income or the circumstances in which it is or it is to be so received.

**Trustees' Liability**

19 A Trustee shall be liable only for any loss attributable to his or her dishonesty or to his or her wilful commission or omission of an act which he or she knows to be a breach of trust. In particular, no Trustee shall be bound to take or shall be liable for failing to take any proceedings against a co-Trustee for breach or alleged breach of trust for which the first Trustee is not also culpable.

**Trustees' Indemnity**

20 Any Trustee, officer or employee of the Foundation shall be indemnified out of the assets of the Trust Fund against any liability which he or she incurs in successfully defending any civil or criminal proceedings issued because of his or her actions in relation to the Trust Fund. If some of the assets of the Foundation are held on separate specific trusts then such a Trustee, officer or employee may be indemnified out of those assets to the extent that the Trustees in their discretion think just and equitable.

**Trustees' Insurances**

21 The Trustees may arrange for insurances to be effected at the cost of the Trust Fund in respect of the liability of any Trustee, officer or employee of the Foundation incurred in relation to the Trust Fund without wilful default or bad faith of that Trustee.

**Auditor**

22 The accounts of the Foundation shall be audited at the end of each financial year by a Chartered Accountant who shall not be a Trustee and who shall be appointed annually

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by the Trustees

### **Annual Report**

- 23 The Trustees shall ensure an annual report is prepared in respect of the affairs and activities of the Foundation in each year. The annual report shall give brief details of the applications from the Trust Fund and the results of and from such applications and when appropriate those of previous years.

### **Annual General Meeting**

- 24 The Trustees shall hold an annual general meeting in each year within six months of the end of the financial year of the Foundation and at that meeting the annual report and annual accounts shall be presented to and approved by the Trustees.

### **Alterations to Deed**

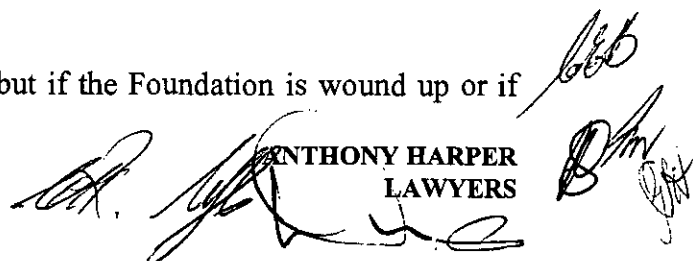
- 25 Subject to the provisions of the Charitable Trusts Act 1957 or any statutory modification or re-enactment thereof and to any other legislation for the time being in force relating to charitable trusts, the Trustees may by unanimous resolution vary any of the provisions of this deed except clauses 3 to 5.

### **Resolution of Disputes**

- 26 The Trustees may at their discretion take any action to settle any matter or dispute affecting the Foundation and may take and act upon the opinion of counsel of not less than 10 years standing in respect of any matter affecting the interpretation of this deed or the administration of the Trust Fund.

### **Dissolution of Foundation**

- 27 The Foundation shall continue in perpetuity but if the Foundation is wound up or if

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the registration of the Foundation is cancelled pursuant to the Charitable Trusts Act 1957 then subject to compliance with the terms of the Income Tax Act 1994 the Trustees shall hold the Trust Fund in trust for the Council of the Polytechnic which shall use the Trust Fund for the educational purposes of the Polytechnic.

### **Charitable Purposes Within New Zealand**






- 28 The Trustees shall ensure that the activities of the Foundation are conducted for the benefit of charitable purposes within New Zealand.

### **SCHEDULE OF POWERS**


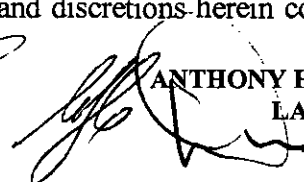


The following powers shall not, except where the context expressly so requires, be construed as limited in any way by their order of appearance or by reference to or inference from any other power. Where there are similar powers in different places they are to be construed as concurrent with and not in substitution for each other.

The Trustees may exercise all or any of the following powers independently of any other power:

- 1 To use the Trust Fund and the income thereon as the Trustees think necessary or proper in payment of the costs and expenses of the Foundation, including the employment of professional advisers, agents, officers and staff as appear necessary or expedient.
- 2 To accept and receive conveyances transfers gifts devises and bequests of real and personal property of every description whatsoever and to hold the same with the proceeds of the sale thereof upon the charitable trusts to which the same are subject and in the event of any such property being subject to reservations trusts liabilities or obligations to nevertheless accept and hold such property subject thereto and further to take such action in respect of the same as the Trustees may think fit.
- 3 To allow all investments or assets at any time forming part of the Trust Fund to remain in the original form in which they are received by the Trustees.


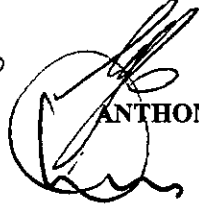
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LAWYERS**   



- 4 To postpone the sale of any real or personal property forming part of the Trust Fund for so long as the Trustees think fit without being liable for any resultant loss to the Trust Fund.
- 5 To raise money and obtain real and personal property for any of the purposes of the Foundation by all lawful means including the conduct of fund raising campaigns.
- 6 To invest the Trust Fund and the income thereon in any form of investment and to change, vary or transpose any investments or assets for the time being forming part of the Trust Fund for others.
- 7 To set apart and appropriate any portions of the Trust Fund as the Trustees may determine as sub-trusts for a specific purpose for the purposes of the Foundation for such periods and upon such terms and conditions as the Trustees shall decide and as may by law be allowed and at the discretion of the Trustees to apply any such sub-trusts together with any accretions thereto for the purposes for which the same are set apart and appropriated.
- 8 To buy and hold land and buildings.
- 9 To apply any moneys for the time being forming part of the Trust Fund in improving erecting enlarging rebuilding or developing property which may for the time being be subject to the trusts hereof.
- 10 To lease or license all or any part of any real or personal property for the time being subject to the trusts hereof for any period upon such terms and conditions and for such consideration as the Trustees shall in their absolute discretion think fit and make allowances to and arrangements with tenants and others and accept surrenders and waive breaches of covenants and determine tenancies and licences and raise out of the capital or income any sum from time to time required and in the Trustees' opinion properly payable thereout for the exercise of any of the powers and discretions herein contained

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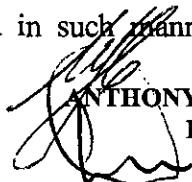

and generally to deal with such property in a proper manner and in due course of management as if beneficially entitled thereto.

- 11 To sell any real or personal property forming part of the Trust Fund in the manner and on the terms and conditions the Trustees think fit, including (without limitation) to allow such part of the purchase price as the Trustees think fit to remain on loan with or without security or to be payable by instalments.
- 12 To make any loans or advances (with or without security) for any of the purposes of the Foundation in such manner and on such terms and conditions as the Trustees shall think fit.
- 13 To determine whether any money is to be considered as capital or income, and which expenses should be paid out of capital and out of income respectively and also to apportion blended funds. Each determination or apportionment shall be finally binding on all persons beneficially interested in the Trust Fund.
- 14 To pay all insurance premiums rates taxes rents and other outgoings in connection with any real or personal property subject to the trusts hereof and to manage the said property and effect such repairs as the Trustees may consider necessary or advisable to such property and where the Trustees are unable to charge such expenditure against income the Trustees shall be at liberty to resort to capital.
- 15 To exercise as the Trustees shall in their absolute discretion think fit all the voting powers attaching to any securities at any time forming part of the Trust Fund and to appoint directors in any company in which it holds securities.
- 16 To surrender and deliver up any securities forming part of the Trust Fund for such consideration and upon such terms and conditions as the Trustees shall think fit to any company reducing its capital and the Trustees may receive such consideration in the form of cash, securities or other assets as may be agreed upon between the Trustees and such company.

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LAWYERS

- 17 To consent to any reorganisation or reconstruction of any company the securities of which form part of the Trust Fund and to consent to any reduction of capital or other dealing with such securities as the Trustees may consider advantageous or desirable.
- 18 To acquire any business of any description or interest therein or otherwise to commence any such business either alone or in partnership or by way of joint venture with any person (whether acting in a fiduciary capacity or otherwise) and to carry on or join in carrying on such business as the Trustees may think fit in such manner and for such period or periods as the Trustees may think fit; and the Trustees shall have absolute and uncontrolled power and discretion in the management and control of any such business and the Trustees shall not be liable for losses thereby caused to the Trust Fund or the income thereof in carrying on any such business in good faith and further the Trustees shall be entitled to a full and complete indemnity from the Trust Fund and every part thereof for and in respect of any liability they may suffer or incur for the debts engagements and liabilities of any such business in carrying on the same in good faith.
- 19 Subject to the terms and conditions on which any business is carried on by the Trustees, the net annual profits of any business shall, at the Trustees' discretion, be distributable as income in the Trustees' hands without having to be first applied in making good any earlier business losses. Any business losses in any year, unless the Trustees decide otherwise, shall be borne by the capital of the Trust Fund and not recouped out of later profits.
- 20 To employ in any such business or withdraw therefrom the whole or any part of the capital or income of the Trust Fund and from time to time to advance to or employ in such business with or without taking security therefore any additional capital or income of the Trust Fund which the Trustees may deem advisable to enable such business to be carried on more effectively.
- 21 To concur in or cause the winding up of the affairs of any such business or the withdrawal of the Trustees therefrom upon such terms and in such manner as the



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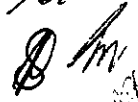

Trustees shall think fit.

- 22 In the sale of any business to a company, to accept payment for all or part of the purchase price in ordinary deferred or preference shares (whether fully paid or partly contributory) or debentures or debenture stock of such company.
- 23 To promote a company or companies for the purpose of acquiring any business or the assets of any business or for any other purpose conducive to the charitable purposes of the Foundation;
- 24 In respect of any company in which the Foundation holds or is the beneficial owner of securities:
- (a) to provide out of the Trust Fund on such terms as the Trustees think fit further capital for the company either by way of advances, loans, deposits or otherwise (with or without security) or by taking further shares in the company;
  - (b) to concur in the winding up, reconstruction or amalgamation of the company or in the modification of its regulations, on whatever terms the Trustees think fit; and
  - (c) generally to act in relation to the company in whatever manner the Trustees consider to be in the best interests of the Foundation.
- 25 To raise or borrow money either bearing or free of interest and either on an unsecured basis or to secure the repayment of money so borrowed and any interest thereon by mortgage or charge over all or any of the investments or assets of the Trust Fund and to apply such money for any of the purposes for which either the income or the capital of the Trust Fund is for the time being applicable hereunder including the investment of money in any manner and no lender shall be concerned to enquire as to whether the necessity for any such borrowing has arisen or as to the purpose for which it is required

- or as to the application of the money borrowed.
- 26 To enter into any contract of indemnity or give any guarantee as the Trustees may think fit and to give security in support of any such guarantee.
- 27 To open and maintain a banking account or banking accounts at such bank or banks as the Trustees shall from time to time determine and to decide who shall be the signatories to such account or accounts.
- 28 To determine whether any moneys shall for the purposes of these presents be considered as capital or income and out of what part of the Trust Fund whether out of income or capital any expenses outgoings or losses shall or ought to be paid or borne.
- 29 To set aside out of the capital or income of the Trust Fund from time to time such sum of money as may in the opinion of the Trustees be sufficient to meet any debt or obligation due or accruing due.
- 30 To set up and maintain any depreciation or replacement funds or any form of reserve for any purpose the Trustees may consider advisable and in this regard to determine in their discretion the amount of any income to be credited from time to time to any of those funds and whether those funds are income or capital.
- 31 To make grants to or engage or contract with such persons as the Trustees in their discretion think fit whether to provide services for the Trustees or otherwise as the Trustees may consider appropriate towards the attainment of the charitable purposes of the Foundation and to impose such conditions on grants or engagement or contracts as the Trustees think fit including the reservation to the Foundation of ownership in and all rights attaching to intellectual property or other benefits or property arising as a result of any research and development or work of any kind sponsored or financed by the Trustees.
- 32 To enter into any arrangements with any Government or authority municipal local or


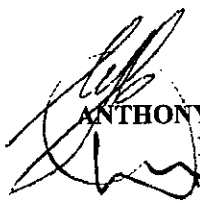




  
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 LAWYERS

otherwise that may seem conducive to the objects of the Foundation or any of them and to obtain from any such Government or authority any rights privileges and concessions which the Trustees may think desirable to obtain and to carry out exercise and comply with any such arrangements rights privileges and concessions.

- 33 To make grants to such persons or corporations as the Trustees may in their discretion think fit to pursue research or otherwise as the Trustees may consider appropriate in pursuance of the charitable purposes of the Foundation and to impose such conditions on such grants or engagement as the Trustees think fit including reservation to the Foundation.
- 34 To employ and/or act upon the opinion or advice of or information obtained from any financial adviser lawyer accountant valuer architect surveyor auctioneer or other expert or professional person so that the Trustees shall not be responsible for any loss depreciation or damage occasioned by acting or not acting in accordance therewith.
- 35 Without being liable for loss, to waive any debts due to the Trust Fund, either absolutely or on such terms as the Trustees think expedient.
- 36 To adopt such means of making known the activities and objects of the Foundation as may seem expedient and in particular but without limiting the generality of the foregoing by advertising in the news media, by publication of books, brochures, pamphlets, circulars and any other printed and illustrative material, by films and such other means as the Trustees may from time to time determine.
- 37 To maintain, manage, improve and develop any property in whatever manner the Trustees think fit and to expend any moneys on such property as may be necessary.
- 38 Generally to do all such other lawful acts and things as are incidental or conducive to the attainment of the charitable purposes of the Foundation and to pay any expenses incurred thereby from the Trust Fund.

  **ANTHONY HARPER  
LAWYERS**  



SIGNED by the said  
**CLIVE GRAHAM COTTON**  
in the presence of:



Dunbar J.P.

Witness

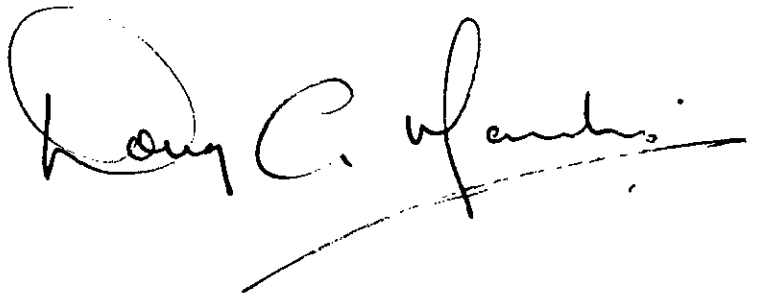
1 Woodlawn Reside

Address

Consultant

Occupation

SIGNED by the said  
**DOUGLAS GEORGE MARSH**  
in the presence of:



Dunbar J.P.

Witness

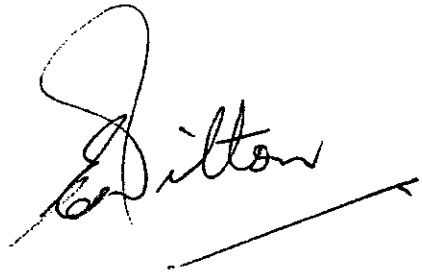
1 Woodlawn Reside

Address

Consultant

Occupation

SIGNED by the said  
**RONALD EARL WILTON**  
in the presence of:



Dunbar J.P.

Witness

1 Woodlawn Reside

Address

Consultant

Occupation



SIGNED by the said  
DIANE GAYE GILLAM  
in the presence of:

[Signature]  
Witness

[Signature]

1 Woodway Rise  
Address

Consultant  
Occupation

SIGNED by the said  
GEORGE WEBSTER MACFARLANE  
in the presence of:

[Signature]

[Signature] J.P.  
Witness

1 Woodway Rise  
Address

Consultant  
Occupation

SIGNED by the said  
JOHN WALTER SCOTT  
in the presence of:

[Signature]

[Signature] J.P.  
Witness

1 Woodway Rise  
Address

Consultant  
Occupation