
The Wellington Loop Trust

Incorporating amendments to Trust Deed of –

- 17 April 2013; and
- 14 August 2013

TABLE OF CONTENTS

Clause No:	Page No:
1 DEFINITIONS AND CONSTRUCTION	1
1.1 Defined terms.....	1
1.2 Construction.....	3
2 CREATION OF THE TRUST	3
2.1 Declaration of trust	3
2.2 Name of trusts.....	4
3 REGISTRATION	4
3.1 Incorporation under the Charitable Trusts Act 1957.....	4
3.2 Registration under the Charities Act 2005.....	4
4 PURPOSES	4
5 DUTIES OF TRUSTEES	5
6 INCOME TRUSTS	6
6.1 Power to pay, apply or appropriate income.....	6
6.2 Provisions relating to payments, applications and appropriations of income	6
6.3 Power to retain income.....	7
7 CAPITAL TRUSTS	7
8 RECEIPTS	7
8.1 Receipt of gifts	7
8.2 Separate specific trusts.....	7
8.3 Receipts for payments.....	8
9 MEMBERSHIP	8
9.1 Trustees may establish a membership.....	8
9.2 Limitations on personal benefit arising from membership rights	8
10 INTERESTED TRUSTEES	8

THE WELLINGTON LOOP TRUST

10.1 Disclosure of interests	8
10.2 Dealing with interested Trustees	9
11 RESTRICTIONS ON PRIVATE PECUNIARY PROFIT AND ON BENEFITS IN BUSINESS ACTIVITY	9
11.1 No private pecuniary profit of any individual and exceptions.....	9
11.2 Prohibition of benefit or advantage in business activity.....	11
12 TRUSTEES' POWERS	11
12.1 General power	11
12.2 Specific powers	11
13 ADVICE OF COUNSEL	12
14 LIABILITY OF TRUSTEES.....	12
15 INDEMNITY	12
16 WINDING UP	12
17 RULES	13
18 ALTERATIONS TO DEED	13
FIRST SCHEDULE: TRUSTEES' SPECIFIC POWERS	14
SECOND SCHEDULE: RULES GOVERNING THE APPOINTMENT, RETIREMENT AND PROCEEDINGS OF THE TRUSTEES	19
THIRD SCHEDULE: RULES GOVERNING THE PROCEEDINGS OF THE ELECTORAL COLLEGE	27

Date: 2007

PARTIES

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(each a *Trustee*, and together, the *Trustees*)

BACKGROUND

- A The Trustees, with a general charitable purpose, wish to declare a charitable trust to give effect to the charitable purposes referred to in this deed.
- B On signing this deed the Trustees declare a trust on and subject to the terms of this deed in respect of \$100 held by them upon the trusts and with the powers set out in this deed.

NOW THIS DEED RECORDS:

1 DEFINITIONS AND CONSTRUCTION

1.1 Defined terms

In this deed, unless the context requires otherwise:

Balance Date means 31 March or any other date which the Trustees adopt by resolution as the date up to which accounts are to be made in each year;

Deputy Chair has the meaning given to that term in *rule 1.8 of the Second Schedule*;

Designated Gift means a gift which is subject to a trust for a specific purpose that comes within the Purposes;

Electoral College has the meaning given to that term in *rule 1* of the *Third Schedule*;

Electoral College Commencement Date means the date determined in accordance with *rule 5.2* of the *Second Schedule*;

Founding Schools means St. Mary's College, The Correspondence School, Wellington College, Wellington East Girls' College, Wellington High School, and Wellington Girl's College;

Greater Wellington Region means the area served by the Wellington Regional Council as determined in accordance with the Local Government Act 2002 and the Local Government (Wellington Region) Reorganisation Order 1989;

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

Independent Chair has the meaning given to that term in *rule 1.7* of the *Second Schedule*;

Initial Trustees means the persons appointed as Trustees under *Part I, Subpart A* of the *Second Schedule*, being the signatories to this deed and any replacement persons appointed under *rule 2* of the *Second Schedule*;

Member means a member of the Trust in accordance with *clause 9*;

Purposes means the purposes of the Trust set out in *clause 4*;

Related Person for the purposes of *clause 11.2* and in relation to any business to which section CW42 of the Income Tax Act 2007 applies, means a person specified in paragraphs (i) to (iv) of subsection (5)(b) of that section, the persons currently specified being:

- (a) a settlor or trustee of the trust by which the business is carried on; or
- (b) a shareholder or director of the company by which the business is carried on; or
- (c) a settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or
- (d) a person associated with a settlor, trustee, shareholder or director already mentioned in this definition;

Special Resolution means a resolution approved by at least 75% of the Trustees entitled to vote and voting on that resolution;

Technical Advisory Group means the group constituted under *rule 13.2* of the *Second Schedule* to provide advice to the Trustees on technical issues concerning the affairs of the Trust;

Teleconference Meeting for the purposes of *rule 23* of the *Second Schedule* means a meeting where the participants are contemporaneously linked by telephone or some other means of instant audio or audio and visual communication;

Trust means the charitable trust created by this deed;

Trust Deed when appearing in the rules set out in the *Second Schedule* or the *Third Schedule*, means this deed;

Trust Fund means the sum of \$100 referred to in Background B of this deed and includes any money, investments or other property paid or given to or acquired or agreed to be acquired by the Trustees after this deed has been signed with the intention that it be held by the Trustees subject to the trusts and other provisions set out in this deed;

Wellington Loop has the meaning given to that term in *clause 4.1*.

1.2 Construction

In the construction of this deed, unless the context requires otherwise:

- (a) a reference to "Trustees" is a reference to the trustees for the time being of the Trust Fund, whether original, additional or substituted;
- (b) a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;
- (c) a reference to an enactment is a reference to that enactment as amended, or to any enactment that has been substituted for that enactment;
- (d) the schedules form part of this deed;
- (e) headings appear as a matter of convenience and shall not affect the construction of this deed;
- (f) if there is a conflict between the rules and the other provisions of this deed the other provisions of this deed shall prevail.

2 CREATION OF THE TRUST

2.1 Declaration of trust

The Trustees declare that they hold the Trust Fund upon the trusts and with the powers set out in this deed.

2.2 Name of trusts

The trusts created by this deed are to be known as the "Wellington Loop Trust" or by such other name as the Trustees may determine by resolution from time to time.

3 REGISTRATION

3.1 Incorporation under the Charitable Trusts Act 1957

If they consider it appropriate the Trustees may apply under the Charitable Trusts Act 1957 for incorporation as a Board under the name "Wellington Loop Trust", or under such other name approved by the Registrar of Incorporated Societies.

3.2 Registration under the Charities Act 2005

If they consider it appropriate the Trustees or the Board (as the case may be) may apply to be registered as a charitable entity under the Charities Act 2005. If and while so registered, the Trustees or the Board (as the case may be) will comply with the requirements of that Act.

4 PURPOSES

The Trust is established to create a collaborative learning environment for schools in the Greater Wellington Region and their students and communities, including by:

- 4.1 establishing, maintaining and promoting a connected education learning network (*the Wellington Loop*):
 - (a) initially between the Founding Schools; and
 - (b) progressively expanding to be available to other primary, intermediate and secondary schools;
- 4.2 developing, supporting and promoting a learning community focussed on the development of effective digital pedagogy;
- 4.3 identifying opportunities for reducing information and communications technology (ICT) support costs for schools;
- 4.4 promoting research into effective collaborative learning practices;
- 4.5 developing and promoting links between the Wellington Loop and other appropriate networks, entities, institutions and persons, including central and local government, libraries and other cultural institutions, tertiary institutions and the business community;

- 4.6 supporting capability building initiatives by or between schools; and
- 4.7 otherwise providing innovative educational opportunities for students and communities of schools through investing in the inherent creativity of those students and communities and advancing their education.

5 DUTIES OF TRUSTEES

The Trustees shall have the following general duties (in addition to any other duties imposed by statute or law):

- 5.1 when exercising powers or performing duties pursuant to this deed and the Trust, a Trustee must act in good faith and in what the Trustee believes to be the best interests of the Purposes;
- 5.2 a Trustee must not:
 - (a) agree to any of the business of the Trust being carried on in a manner likely to create a substantial risk or serious loss to any creditors of the Trust; or
 - (b) cause or allow any business of the Trust to be carried on in a manner likely to create any substantial risk of serious loss to the Trust's creditors; or
 - (c) agree to the Trust incurring an obligation, unless the Trustee believes at that time on reasonable grounds, that the Trust will be able to perform the obligation when it is required to do so;
- 5.3 a Trustee, when exercising powers or performing duties as a Trustee, must exercise the care, diligence and skill that a reasonable person would exercise in the same circumstances taking into account, but without limitation:
 - (a) the nature of this Trust;
 - (b) the nature of the decision; and
 - (c) the nature of the responsibilities undertaken by the Trustees;
- 5.4 notwithstanding *clause 13*, a Trustee, when exercising powers or performing duties as a Trustee, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

- (a) an employee of the Trust whom the Trustee believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
- (b) a professional adviser or expert in relation to matters which the Trustee believes on reasonable grounds to be within the person's professional or expert competence, including the Technical Advisory Group;
- (c) any other Trustee or committee of Trustees upon which the Trustee did not serve in relation to matters within the Trustee's or committee's designated authority,

provided that this clause applies to a Trustee only if the Trustee:

- (a) acts in good faith; and
- (b) makes proper inquiry where the need for inquiry is indicated by the circumstances; and
- (c) has no knowledge that such reliance is unwarranted.

6 INCOME TRUSTS

6.1 Power to pay, apply or appropriate income

The Trustees may pay, apply or appropriate, or decide to pay, apply or appropriate as much of the income arising from the Trust Fund in an Income Year as they think fit for or towards one or more of the Purposes. And if the Trustees provide for more than one of the Purposes they need not treat each Purpose equally.

6.2 Provisions relating to payments, applications and appropriations of income

- (a) The Trustees, by written resolution, may appropriate any investments for one or more of the Purposes in anticipation of a payment or application under *clause 6.1*.
- (b) In any Income Year, the Trustees may pay, apply or appropriate all or part of the income derived or to be derived from the Trust Fund during that Income Year even though, at the time of such payment, application or appropriation, they have not received the income being paid, applied or appropriated.
- (c) If the Trustees pay, apply or appropriate any income for any of the Purposes the recipient of that income shall take an absolute and indefeasible interest in that income as from the date on which it is paid, applied or appropriated.

6.3 Power to retain income

The Trustees need not distribute all of the income arising from the Trust Fund in an Income Year, but may retain or decide to retain all or part of that income to establish or augment any reserve fund, which may be used at any later time for any purpose for which income arising from the Trust Fund may be used.

7 CAPITAL TRUSTS

At any time the Trustees may, or may decide to pay, apply or appropriate as much of the capital of the Trust Fund as they think fit for or towards one or more of the Purposes. And if the Trustees so provide for more than one Purpose they need not treat each Purpose equally. Any payment, application or appropriation of capital may be made either in addition to or in place of any payment, application or appropriation of income.

8 RECEIPTS

8.1 Receipt of gifts

The Trustees may receive solicited and unsolicited gifts of any real or personal property for the Purposes or for any specific purpose that comes within the Purposes.

8.2 Separate specific trusts

- (a) 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 Trust Fund, and administer it as a separate specific trust in terms of the trust under which it was given.
- (b) The Trustees shall not use the assets of any separate specific trust to make good any deficit, loss, damage or breach of trust relating to any other separate specific trust. Similarly, the Trustees shall not use the general assets of the Trust Fund for such purposes.
- (c) Each separate specific trust shall bear its own administration expenses plus a fair proportion (determined by the Trustees) of the administration expenses applicable to the general Purposes.

8.3 Receipts for payments

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.

9 MEMBERSHIP

9.1 Trustees may establish a membership

The Trustees may:

- (a) invite persons, firms and corporations who wish to support or take an interest in the Purposes to become members of the Trust;
- (b) establish different classes of membership;
- (c) fix and charge membership fees (including joining fees and subscriptions) for members or each class of members, as the case may be;
- (d) call members' meetings;
- (e) subject to *clause 9.2*, confer membership rights on members; and
- (f) issue membership certificates or other evidence of membership.

9.2 Limitations on personal benefit arising from membership rights

- (a) No member of the Trust or any person associated with a member of the Trust may determine or materially influence any decision of the Trustees relating to:
 - (i) the payment of any income of the Trust Fund to, or on behalf of, that member or associated person; or
 - (ii) the conferring of any benefit or advantage on, or on behalf of, that member or associated person.
- (b) Any such income paid must be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value).
- (c) Membership shall not confer on any member the right to receive any of the income or capital of the Trust Fund or to control the Trustees in the exercise of their powers.

10 INTERESTED TRUSTEES

10.1 Disclosure of interests

- (a) A Trustee will be interested in a transaction to which the Trust is a party if the Trustee:
 - (i) is a party to, or will derive a material financial benefit from that transaction;

- (ii) has material financial interest in another party to the transaction;
 - (iii) is a director, officer or trustee of another party to, or person who will or may derive a material financial benefit from the transaction, not being a party that is wholly owned by the Trust;
 - (iv) is the parent, child or spouse of another party to, or person who will or may derive a material financial benefit from the transaction; or
 - (v) is otherwise directly or indirectly interested in the transaction.
- (b) As soon as a Trustee becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust, he or she must disclose to his or her co-trustees at a meeting of the Trustees:
- (i) the nature and monetary value of that interest (if the monetary value of the Trustee's interest is able to be quantified); or
 - (ii) if the monetary value of the Trustee's interest cannot be quantified, the nature and extent of that interest.
- (c) A disclosure of interest by a Trustee must be recorded in the minute book of the Trust.

10.2 Dealing with interested Trustees

Subject to *clause 10.1* and to *rule 18* in the *Second Schedule*, each Trustee may act as a Trustee and still contract or otherwise deal with the Trustees in his or her personal capacity or in any other capacity as if he or she had not been appointed as a Trustee. This right to continue to act as a Trustee 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.

11 RESTRICTIONS ON PRIVATE PECUNIARY PROFIT AND ON BENEFITS IN

BUSINESS ACTIVITY

11.1 No private pecuniary profit of any individual and exceptions

- (a) No private pecuniary profit shall be made by any person involved in this Trust, except that:
 - (i) any Trustee or committee member appointed by the Trustees shall be entitled to be reimbursed out of the assets of the

- Trust for all expenses which he or she properly incurs in connection with the affairs of the Trust;
- (ii) the Trust may pay reasonable and proper remuneration to any officer or servant of the Trust in return for services actually rendered to the Trust;
 - (iii) any Trustee is to be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Trustee or by any firm or entity of which that Trustee is a member, employee or associate in connection with the affairs of the Trust;
 - (iv) in each Income Year, each Trustee will be entitled to such remuneration for his or her services actually rendered to the Trust as a Trustee as may be fair and reasonable having regard to his or her duties and responsibilities, but not exceeding the amount recommended by the Trustees (having regard to the usual attendance fees paid to members of school boards of trustees);
 - (v) any Trustee may retain any remuneration properly payable to that Trustee by any company or undertaking with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatever, notwithstanding that that Trustee's connection with that company or undertaking is in any way attributable to that Trustee's connection with the Trust.
- (b) The Trustees, in determining all reimbursements, remuneration and charges payable in terms of this clause, shall ensure that the restrictions imposed by *clause 11.2* of this deed are strictly observed.
 - (c) The Trustees shall be authorised to take out a trustees' indemnity insurance policy or policies in relation to the Trustees and any person employed by the Trustees and to pay the premiums in respect of that policy or those policies out of the Trust Fund.
 - (d) The Trustees shall, in accordance with *rule 24* of the *Second Schedule*, show the amount of any remuneration paid to, and/or charges imposed by, any Trustee or any Trustee's firm and the amount of any premiums paid out of the Trust Fund for any trustees indemnity insurance, separately in the financial statements.
 - (e) Each of the members of the Electoral College shall be entitled to be reimbursed out of the assets of the Trust for fair and reasonable expenditure properly incurred by them in connection with the affairs of the Trust, subject in every case to approval of the Trustees.

11.2 Prohibition of benefit or advantage in business activity

- (a) In the carrying on of any business under this deed, no benefit, advantage or income shall be afforded to, or received, gained,

achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able in any way (whether directly or indirectly) to determine, or to materially influence the determination of:

- (i) the nature or amount of that benefit, advantage or income;
or
 - (ii) the circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.
- (b) A person who is in the course of and as part of the carrying on of his or her business of a professional public practice, shall not, by reason only of him or her rendering professional services to the Trust or to any company by which any business of the Trust is carried on, be in breach of the terms of this *clause 11.2*.

12 TRUSTEES' POWERS

12.1 General power

It is intended that in the exercise of their discretion the Trustees shall have the fullest possible powers in relation to the Trust Fund, and that they may do anything they think necessary, expedient or desirable even though it is something which they would not normally have power to do in the absence of an express power or an order of the Court. However:

- (a) this general power does not authorise the Trustees:
 - (i) to use the assets of the Trust Fund for any purposes other than the Purposes; or
 - (ii) to do anything which may prejudice the charitable nature of the Purposes; and
- (b) 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.

12.2 Specific powers

Without prejudice to the generality of *clause 12.1*, or to any of the Trustees' express or implied powers, the Trustees shall have the powers specified in the *First Schedule* and may exercise them either alone or with any other person(s).

13 ADVICE OF COUNSEL

If the Trustees are in doubt over any matter relating to the administration of the Trust Fund, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a barrister of the High Court of New Zealand of at least 7 years' standing. And they may act upon the barrister's opinion without being liable to any person who may claim to be beneficially interested in respect of anything done in accordance with that opinion. This right to obtain and act upon a barrister's opinion, however, will not restrict the Trustees' right to apply to the High Court of New Zealand for directions.

14 LIABILITY OF TRUSTEES

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 liable for failing to take, any proceedings against a co-Trustee for breach or alleged breach of trust.

15 INDEMNITY

A Trustee shall be entitled to exoneration and indemnity out of the assets of the Trust for any liability which that Trustee incurs in relation to the Trust and which is not attributable to that Trustee's dishonesty or to his or her wilful commission or omission of an act which he or she knows to be a breach of trust.

16 WINDING UP

- 16.1 The Trustees may, by Special Resolution, wind up the Trust if in their opinion, it becomes impossible, impracticable or inexpedient to carry out the Purposes set out in *clause 4*.
- 16.2 On the winding up or dissolution of the Trust, the Trustees must give or transfer all surplus assets after the payment of costs, debts and liabilities:
- (a) to some other charitable organisation or body within New Zealand having similar objects to the Trust; or
 - (b) for some other charitable purpose or purposes within New Zealand, as determined by Special Resolution.
- 16.3 If the Trustees are unable to decide on the recipient or recipients of the surplus assets of the Trust, then all surplus assets after payment of costs, debts and liabilities shall be disposed of in accordance with the directions of the High Court pursuant to section 27 of the Charitable Trusts Act 1957.

17 RULES

17.1 The rules (with any valid alterations) set out in the *Second Schedule* which govern the appointment, retirement and proceedings of the Trustees, subject to the provisions of this deed, will bind the Trustees both before and after their incorporation as a Board under the Charitable Trusts Act 1957.

17.2 The rules (with any valid alterations) set out in the *Third Schedule* shall govern the composition and functions of the Electoral College.

18 ALTERATIONS TO DEED

18.1 Subject to *clause 18.4*, this deed may be altered only by a Special Resolution of the Trustees present and voting at a duly convened and conducted meeting of the Trustees.

18.2 Subject to *clause 18.4*, the secretary of the Trust (or if no person is holding the position of secretary, the chairperson) shall give each Trustee written notice of any proposed resolution for the alteration of this deed at least 14 days before the date of the meeting at which it is to be considered.

18.3 Before resolving to make any alteration to this deed, the Trustees must be satisfied that the proposed alteration does not prejudice the charitable nature of the Trust, and in particular the efficacy of *clauses 4, 11, and 16* in meeting the requirements for any exemption available to charities under the New Zealand revenue laws.

18.4 The *Third Schedule* may only be altered in accordance with the rules set out in that Schedule.

FIRST SCHEDULE: TRUSTEES' SPECIFIC POWERS

The Trustees have power:

1 To raise funds

To raise money for any of the Purposes by all lawful means, including the conduct of fundraising campaigns.

2 To invest

To invest the Trust Fund and the income from it in any form of investment, and to vary any such investment from time to time. Where, for the time being, there is more than one person acting as a trustee of the Trust Fund, and one or more, but not all, of them is or are engaged in a profession, employment or business which is or includes acting as a trustee or investing money on behalf of others, then in exercising any power of investment, that trustee or those trustees (as the case may be) shall not be required to exercise the care, diligence and skill that a prudent person engaged in that profession, employment or business would exercise in managing the affairs of others. Rather, that trustee or those trustees (as the case may be) shall be required only to exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.

3 To retain investments

To retain any investments coming into the Trustees' hands as part of the Trust Fund for as long as the Trustees think proper, even if they are not investments which could be properly made by a trustee.

4 To sell

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) power 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.

5 To postpone sale

To postpone the sale of any real or personal property forming part of the Trust Fund for as long as the Trustees think fit without being liable for any resultant loss to the Trust Fund.

6 To let

To let any real and personal property at such rent and on such terms and conditions (including an option to purchase) as the Trustees think fit and to accept surrenders of any leases and tenancies.

7 To borrow

To borrow any money at whatever rate of interest and upon whatever other terms and conditions the Trustees may think fit. For this purpose the Trustees may give security for repayment over the entire Trust Fund or any part of it, whether or not any part over which the security is given benefits from the borrowing.

8 To carry on business

8.1 To carry on any business anywhere in the world, whether in partnership or otherwise, for as long as the Trustees think fit. They may use any part of the Trust Fund as capital in the business, and may also employ in the business such managers, agents, employees and other persons (including any Trustee other than the Settlor or anyone who for the time being is the sole Trustee of the Trust Fund) as they think fit.

8.2 The Trustees shall be absolutely indemnified out of the Trust Fund for any losses which they may sustain in so carrying on any such business.

8.3 Subject to the terms and conditions on which any business is carried on by the Trustees, the net annual profits from 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 for any year, unless the Trustees decide otherwise, shall be borne by the capital of the Trust Fund and not recouped out of later profits.

9 To accept payment in company securities

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. In exercising this power the Trustees shall not be taken to be exercising a power of investment.

10 To promote a company

To promote a company or companies for the purpose of acquiring any business or the assets of any business.

11 To act in relation to certain companies

In respect of any company in which the Trust Fund holds or is the beneficial owner of shares, notes, stock or debentures:

11.1 to act as a director of the company and to receive and retain fees or other remuneration for so acting without having to account to the Trust Fund unless the Trustees otherwise require;

11.2 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, but only insofar as the Trustees are satisfied on reasonable grounds that the provision of such further capital will contribute to the ability of the Trustees to fulfil the Purposes;

11.3 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

11.4 generally to act in relation to the company in whatever manner the Trustees consider to be in the best interests of the Trust Fund.

12 To subdivide

To subdivide any real property forming part of the Trust Fund and to meet the costs of subdivision out of the Trust Fund.

13 To maintain property

To maintain, manage and improve property which, or any interest in which, forms part of the Trust Fund, in whatever manner the Trustees think fit. For those purposes, the Trustees may pay and apply any of the capital and income of the Trust Fund as they think fit.

14 To develop

To spend any sums out of the capital or income of the Trust Fund the Trustees think fit in developing any real property forming part of the Trust Fund, and to do all things which the Trustees consider necessary or desirable for the proper completion of the development.

15 To purchase property

To purchase as an asset of the Trust Fund any property or interest in property which the Trustees consider will benefit the Trust Fund. In exercising this power the Trustees shall not be taken to be exercising a power of investment.

16 To grant and acquire options

To grant acquire, dispose of and exercise any option to purchase, lease or exchange any interest in real or personal property of any value, whether the option is incidental to, or independent of, any sale, lease, exchange or other disposition. An option may be granted acquired or disposed of on such terms and conditions as the Trustees think fit, and in respect of a grant, may be granted at a price determined at the time of the grant or at such later date as the Trustees think fit. The Trustees shall not be personally liable for any loss arising from their exercise of this power and shall be indemnified accordingly out of the Trust Fund.

17 To make loans and advances

To make any loans or advances (with or without security) for any of the Purposes in such manner and on such terms and conditions as the Trustees think fit.

18 Capital, income and blended funds

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 final and binding on all persons beneficially interested in the Trust Fund.

19 Depreciation or replacement funds

To set up and maintain any depreciation or replacement funds for any purpose the Trustees may consider advisable, and in this regard to determine in their discretion:

19.1 the amount of income to be credited from time to time to any of those funds;

19.2 whether those funds are income or capital.

20 Bank accounts

To open any bank accounts in any name(s) either on the Trustees own behalf or jointly with some other person(s), and to overdraw any such account with or without giving security. The Trustees may also make arrangements with any bank for any one or more of the following persons to operate on any of the Trustees' accounts at that bank:

20.1 the Trustees; and

20.2 any delegate(s) named in writing by all the Trustees.

21 To guarantee obligations

To guarantee the liability of any person or corporation for the Purposes and to give security in support of any such guarantee.

22 To insure

To insure any building or other insurable property to any amount up to its full insurable value, or at the Trustees' option, up to its full replacement value, against destruction or damage by fire, earthquake, fire following earthquake and such other risks as the Trustees think fit. The Trustees may pay the premiums out of income or capital as they think fit.

23 To waive debts

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.

24 To deposit funds

To deposit all or part of the Trust Fund in any currency in a savings or other interest or non-interest bearing account with any bank, trust, company or other financial or investment institution in any jurisdiction in the world. In making any deposit the Trustees shall not be liable for any loss due to devaluation or any foreign exchange or other governmental restriction.

25 To hold the Trust Fund uninvested

To hold any part of the Trust Fund uninvested and in any currency for as long as the Trustees think fit without being liable for any loss due to devaluation or any foreign exchange or other governmental restriction.

26 To protect or enhance assets

To enter into any type of contract whatever to protect, maintain or enhance the value of any assets acquired or held by the Trustees or which they have the right to acquire or hold.

SECOND SCHEDULE: RULES GOVERNING THE APPOINTMENT, RETIREMENT AND PROCEEDINGS OF THE TRUSTEES

PART I: APPOINTMENT AND RETIREMENT

Subpart A: Initial Trustees

1.1 The Initial Trustees

The Initial Trustees as at the date of this deed shall be:

- 1.1 one person appointed by the Principal of St Mary's College, being Mary Cook;
- 1.2 one person appointed by Principal of The Correspondence School, being Neil Andrew Melhuish;
- 1.3 one person appointed by the Principal of Wellington College, being Michael Bruce Pallin;
- 1.4 one person appointed by the Principal of Wellington East Girls' College, being Katherine Mary Gainsford;
- 1.5 one person appointed by the Principal of Wellington High School, being Dominic Paul Killalea;
- 1.6 one person appointed by the Principal of Wellington Girls' College, being Denise Ann Manning Johnson;
- 1.7 an independent chairperson appointed by resolution of the Trustees, who must not currently be involved (whether as a member of any board of trustees, teacher or member of the management personnel) with any of the schools referred to above in this *rule 1* or any other school connected, or able to connect to the Wellington Loop (the *Independent Chair*). Laurence Edward Zwimpfer will be deemed to have been properly appointed as the Independent Chair under this *rule 1.7* as at the date of this deed; and
- 1.8 a deputy chairperson appointed by resolution of the Trustees, who may (at the discretion of the Trustees) be independent (as described in *rule 1.7*) or appointed by the Trustees from one of their number (the *Deputy Chair*). Margaret Dorothy McLeod will be deemed to have been properly appointed as the Deputy Chair under this *rule 1.8* as at the date of this deed.

2 Removal and Replacement of Initial Trustees

- 2.1 Each Initial Trustee may, at any time by notice in writing to all other Trustees or to the secretary of the Trust (or if no person is holding the position of secretary, the chairperson), be removed and replaced:
 - (a) by the Principal of the school which appointed him or her; or

- (b) in the case of the Independent Chair or the Deputy Chair, by resolution of the Trustees.
- 2.2 To avoid doubt, the Independent Chair or the Deputy Chair (as the case may be):
- (a) is not entitled to vote on any resolution made under *rule 2.1(b)* to remove and replace him or her; and
 - (b) shall not form part of the quorum for, and must withdraw from, that part of a meeting of Trustees where such a resolution is discussed.

3 Term of Office of Initial Trustee

- 3.1 Subject to *rules 2.1* and *9*, each Initial Trustee shall hold office until required to retire under *rule 8*.
- 3.2 Each of the Initial Trustees shall, subject to *rule 8*, be eligible for reappointment by the Electoral College.

4 Number of Initial Trustees

The number of Initial Trustees shall not be more than 8, nor less than 4.

Subpart B: Electoral College Appointment

5 Appointment of Trustees by Electoral College

- 5.1 Subject to *rule 5.4*, the Electoral College shall appoint Trustees, in accordance with the procedures set out in the *Third Schedule*, on and from the Electoral College Commencement Date.
- 5.2 The Electoral College Commencement Date shall be 30 September 2010, or any earlier date determined by the Trustees by Special Resolution having regard to the number, type and location of schools able to connect to the Wellington Loop and the purpose of the Electoral College, being to enfranchise all secondary schools in the Greater Wellington Region having an interest in the Purposes to the extent practicable.
- 5.3 When the office of any Trustee becomes vacant under *rule 9* at any time on or after the Electoral College Commencement Date, then subject to *rule 5.4*, the vacancy so created shall as soon as practicable be filled by the Electoral College in accordance with the procedures set out in the *Third Schedule*. Except in the case of a vacancy under *rule 9.1*, or if the Electoral College decides otherwise, every person so appointed shall hold office for the residue of the term for which that person's predecessor would have held office. Any person appointed as a Trustee to fill a vacancy under *rule 9.1* shall hold office until required to retire under *rule 8*.

- 5.4 The Electoral College shall not be bound to make an appointment of a Trustee if the number of incumbent trustees will be more than or equal to the minimum number of trustees provided for in *rule 6*.

6 Number of Trustees

The number of Trustees appointed by the Electoral College shall not be more than 9, nor less than 6.

7 Appointment of Chairperson by Trustees

When the persons holding office as the Independent Chair and the Deputy Chair at the Electoral College Commencement Date cease to hold office as a Trustee, the Trustees shall appoint one of their number to be chairperson and another of their number to be deputy chairperson of the Trustees and shall determine their respective terms of office as chairperson and deputy chairperson.

8 Term of office of Trustees appointed by Electoral College

- 8.1 The term of office of a Trustee is 3 years from the date of appointment by the Electoral College.

- 8.2 The Trustees shall be eligible for re-appointment

Subpart C: Provisions applying to all Trustees

9 Termination of office

A Trustee shall cease to hold office if he or she:

- 9.1 retires from office by giving written notice to the Trustees or to the secretary of the Trust (or if no person is holding the position of secretary, the chairperson);
- 9.2 completes his or her term of office and, where eligible, is not reappointed;
- 9.3 refuses to act;
- 9.4 is absent without leave from 3 consecutive ordinary meetings of the Trustees;
- 9.5 becomes physically or mentally incapacitated to the extent that in the opinion of the other Trustees, expressed in a resolution, he or she is unable to perform the duties of a Trustee properly;
- 9.6 ceases to qualify as an officer of a charitable entity under section 16 of the Charities Act 2005; or
- 9.7 in the opinion of the other Trustees expressed in a Special Resolution, is for any other reason unfit to carry out the duties of a Trustee.

10 Record of changes of Trustees

Upon every appointment, retirement, re-appointment or termination of office of any Trustee the Trustees will ensure that an entry is made in the minute book of the Trust to that effect and that any statutory requirements as to the vesting of the Trust Fund in the Trustees are satisfied.

11 Validity of Proceedings

11.1 Where, for any reason, a Trustee is not properly appointed, re-appointed or is disqualified from holding office, anything done by that Trustee (or by a meeting at which that Trustee was present as a Trustee or committee member) before discovery of the irregularity, shall be as valid as if that Trustee had been duly appointed, re-appointed or had not been disqualified (as the case may be).

11.2 If at any time the Trustees number less than the minimum number of Trustees required by the Trust Deed, anything done by the continuing Trustees in accordance with the provisions of the Trust Deed pending the appointment of a new Trustee or Trustees shall be as valid as if the requirement for a minimum number of Trustees had been met during that period.

12 Appointment of secretary and others

The Trustees may appoint a secretary and any other officers, employees or consultants that the affairs of the Trust may require on such terms and conditions as they think fit, including appointing persons to advise the Trustees on any matter or matters concerning the Trust who may, if the Trustees resolve accordingly, attend and participate in, but not vote at, meetings of the Trustees. The Trustees may remove and replace any persons so appointed.

13 Committees

13.1 The Trustees may appoint sub-committees, ad hoc committees or executive committees as they may from time to time think expedient for carrying out the Purposes. Any such committee may co-opt any other person, whether a Trustee or not, to be a member of that committee. And subject to these rules and to any directions that the Trustees might give, each committee may regulate its own procedure.

13.2 The Trustees may constitute and appoint persons to a Technical Advisory Group for the Trust on such terms and conditions as they think fit and may also remove and replace any persons so appointed.

PART II: ADMINISTRATION PROVISIONS

14 Quorum

A majority of Trustees, including the Independent Chair or the Deputy Chair for so long as either of them holds office, shall constitute a quorum at meetings of the Trustees.

15 Ordinary meetings

The Trustees shall meet as often as they consider desirable for the efficient and proper conduct of the affairs of the Trust, but in any event at least quarterly in each Income Year.

16 Special meetings

A special meeting may be called at any time by 2 or more Trustees.

17 Notice of meetings

17.1 Subject to *clause 18.2* of the Trust Deed, written notice of every ordinary or special meeting, shall be either hand-delivered, posted or sent by facsimile or email to each Trustee at least 7 days before the date of the meeting. The secretary or some other person acting under the direction of the Trustees or, in the case of a special meeting, acting under the direction of those Trustees calling the meeting, shall give the notice of the meeting. No notice shall be required for adjourned meetings except to those Trustees who were not present when the meeting was adjourned.

17.2 Every notice of a meeting shall state the place, day and time of the meeting, and in the case of a notice of a special meeting, shall also state the subject-matter of the meeting.

17.3 The requirement for notice of a meeting may be waived if all of those Trustees who are for the time being in New Zealand give their written consent to such a waiver.

18 Interested Trustee may not vote

A Trustee who is interested in a transaction entered into, or to be entered into, by the Trust may not vote on a matter relating to the transaction, but may:

18.1 attend a meeting of Trustees at which a matter relating to the transaction arises, and be included among the Trustees present at the meeting for the purpose of a quorum;

18.2 sign a document relating to the transaction on behalf of the Trust; and

18.3 do anything else as a Trustee in relation to the transaction, as if he or she were not interested in the transaction.

19 Chairperson

The chairperson (or the Independent Chair for so long as he or she holds office) appointed under *Part I* of this *Second Schedule* shall take the chair at

all the meetings of the Trustees. If the chairperson (or the Independent Chair) cannot be present, or is not present within 10 minutes of the time appointed for any meeting, the deputy chairperson (or the Deputy Chair for so long as he or she holds office) appointed under *Part 1* of this *Second Schedule* shall be the chairperson of the meeting. If neither the chairperson nor the deputy chairperson can be present, or one of them is not present within 10 minutes of the time appointed for the meeting, the Trustees shall, if a quorum is otherwise present, elect one of their number to be the chairperson of the meeting. The chairperson of the meeting shall have a deliberative vote and, in the event of the voting being declared even, a casting vote.

20 **Adjournment**

Subject to *rule 20*, if a quorum is not present within 30 minutes after the time appointed for any meeting the meeting will be adjourned until the same time and place the following week. The chairperson may adjourn any meeting on the adoption of a resolution for its adjournment.

21 **Resolutions**

- 21.1 Except where these rules or the Trust Deed provide otherwise, a resolution is validly made when it is passed by a simple majority of those present and entitled to vote at a duly convened and conducted meeting of the Trustees or of a committee (as the case may be).
- 21.2 The Trustees may vary or cancel any resolution at an ordinary or special meeting.
- 21.3 A written resolution signed by all the Trustees or by all the members of a committee shall be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees or of that committee (as the case may be). Such a resolution may comprise several duplicated documents, each signed by one or more of the Trustees or members of the committee (as the case may be).

22 **Minutes**

- 22.1 The Trustees shall keep a proper record in a minute book of all decisions taken and business transacted at every meeting of the Trustees.
- 22.2 Any minute of the proceedings at a meeting which is purported to be signed by the chairperson of that meeting or by the chairperson of the next succeeding meeting shall be evidence of those proceedings.
- 22.3 Where minutes of the proceedings at a meeting of the Trustees have been made in accordance with the provisions of this rule then, until the contrary is proved, the meeting shall be deemed to have been properly convened and its proceedings to have been properly conducted.

23 **Teleconference Meetings**

For the purposes of these rules a Teleconference Meeting between a number of Trustees or committee members who constitute a quorum, together with the secretary or another person acting as a secretary, shall be deemed to constitute a meeting of the Trustees or the committee members (as the case may be). All the provisions in these rules relating to meetings shall apply to Teleconference Meetings so long as the following conditions are met:

- 23.1 All of the Trustees or committee members (as the case may be) for the time being entitled to receive notice of a meeting shall be entitled to notice of a Teleconference Meeting and to be linked for the purposes of such a meeting. Notice of a Teleconference Meeting may be given on the telephone;
- 23.2 Throughout the Teleconference Meeting each participant and the secretary or person acting as a secretary must be able to hear each of the other participants taking part;
- 23.3 At the beginning of the Teleconference Meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part;
- 23.4 A participant may not leave the Teleconference Meeting by disconnecting his or her telephone or other means of communication without first obtaining the chairperson's express consent. Accordingly, a participant shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the Teleconference Meeting unless he or she leaves the meeting with the chairperson's express consent;
- 23.5 A minute of the proceedings at the Teleconference Meeting shall be sufficient evidence of those proceedings, and of the observance of all necessary formalities, if certified as a correct minute by the chairperson of that meeting and by the secretary or person acting as a secretary.

24 Annual report and financial statements

- 24.1 Within five calendar months after the end of each Income Year, the Trustees shall present a report dealing with the affairs of the Trust, supported by a statement of the Trust's income and expenditure during the previous Income Year and a statement of its assets and liabilities at the end of that Income Year.
- 24.2 The Trustees shall forward copies of the annual report and supporting financial statements to the Electoral College and any other relevant persons with an interest in the Trust as the Trustees consider appropriate.

25 Annual Plan

The Trustees shall prepare as soon as practicable and in any event no later than one month after the commencement of each Income Year an annual plan which shall specify in respect of that Income Year and each of

the immediately following two Income Years the following information, in each case to the extent practicable:

- 25.1 the strategic vision of the Trust, including details of how the Trust will further the Purposes;
- 25.2 the nature and scope of the activities to be undertaken by the Trust, including proposed investments;
- 25.3 an indicative budget, setting out estimated income and expenditure; and
- 25.4 any other matter as the Trustees consider appropriate.

26 Audit

If the Trustees at any time resolve to appoint an auditor then they will ensure that the financial statements of the Trust for each Income Year are audited by a chartered accountant in public practice within 5 months after the end of that Income Year. The person appointed as auditor must not be a Trustee.

27 Control of funds

All money received by or on behalf of the Trust shall be paid immediately to the credit of the Trust in an account or accounts with a Bank or Banks selected from time to time by the Trustees. All cheques and other negotiable instruments, withdrawal slips and receipts for money shall be signed, drawn, accepted, endorsed or otherwise executed (as the case may be) on behalf of the Trust in such manner as the Trustees decide from time to time.

28 Custody and use of common seal

If the Trustees become incorporated as a board under the Charitable Trusts Act 1957 they shall have custody of the common seal, and from time to time by resolution, they may adopt any seal they think fit. The common seal must not be affixed to any document unless the Trustees have already authorised its use on that document. And when a document is to be sealed on the prior authority of the Trustees the seal must be affixed to the document in the presence of two Trustees who must sign the document.

THIRD SCHEDULE: RULES GOVERNING THE PROCEEDINGS OF THE ELECTORAL COLLEGE

1 Definition of Electoral College

The Electoral College shall comprise the Principals of the Wellington Loop member schools member which are not in default of any payment obligation owed to the Trust (or as otherwise determined under *rule 2*).

2 Power to alter composition of Electoral College

2.1 The Electoral College shall have the power from time to time to vary the composition of the Electoral College, including by requiring the Electoral College to instead be comprised of a certain number of persons, each appointed by groups of schools referred to in *rule 1*.

2.2 Without limiting the general power referred to in *rule 2.1*, the Electoral College shall meet every two years to review its performance, functions and criteria. At that meeting the Electoral College shall consider such matters as

- (a) the need for a variation in the composition of the Electoral College; and
- (b) the need for any changes to be made to the *Third Schedule* of this deed to enable the Electoral College to function more efficiently or effectively.

2.3 No resolution under *rule 2.1* to vary the composition of the Electoral College shall be effective unless the increase, reduction or variation (as the case may be) is approved by at least 75 percent of all members of the Electoral College.

3 Procedures

3.1 The procedures for meetings of the Electoral College shall be as set out in *rules 14 to 23* of the *Second Schedule* as if references to the Trustees were references to the Electoral College, provided that:

- (a) any three members of the Electoral College may at any time summon a meeting of the Electoral College;
- (b) the members of the Electoral College shall elect a chairperson of their meetings and determine the term of his or her office; and
- (c) a majority of the members of the Electoral College for the time being shall constitute a quorum at meetings of the members of the Electoral College.

4 Functions and Powers of the Electoral College

On and from the Electoral College Commencement Date, the Electoral College shall have the following functions and powers:

- 4.1 as and when the Trustees die or cease to hold office in accordance with *rule 9* of the *Second Schedule*, the Electoral College shall fill the vacancy by appointing to that office a new person or persons including any retiring Trustee or Trustees, if eligible to be re-appointed. In default of appointment, any retiring Trustee shall, if offering himself or herself for re-appointment and eligible for re-appointment, be deemed to have been re-appointed;
- 4.2 in addition to its power to appoint any Trustees in the place of any Trustee who dies or ceases to hold office, the Electoral College shall have the statutory power of appointment of new Trustees;
- 4.3 the Electoral College shall also have the power to appoint any person at any time as an additional trustee of all or any of the trusts, provided that in making the appointment, the number of Trustees does not exceed the maximum number permitted under *rule 6* of the *Second Schedule*;
- 4.4 where there is any vacancy in the number of Trustees, or where the Electoral College resolves to appoint an additional trustee in accordance with *rule 4.3*, the Electoral College shall seek nominations for trusteeship by notice to all members (in the case of the Greater Wellington Secondary Schools' Principals' Association) and/or in such other manner as the Electoral College considers appropriate, including by advertisements in appropriate publications circulating in the Greater Wellington Region;
- 4.5 the Electoral College shall not appoint any person to be a Trustee unless it has first received from such person a written form of consent incorporating an agreement by that person to be bound by the provisions of the Trust Deed;
- 4.6 the Electoral College shall also have the power to remove any Trustee without having to give any reason. However, this power may not be exercised to remove any Trustee or Trustees, unless:
 - (a) it is exercised in conjunction with the appointment of a sufficient number of individuals (not exceeding the maximum number of Trustees specified in *rule 6* of the *Second Schedule*) to replace the Trustee or Trustees being removed; and
 - (b) the decision to remove the Trustee or Trustees is a unanimous one.

5 **Criteria to be taken into account by Electoral College when appointing Trustees**

In making any appointments of Trustees under *rule 4*, the Electoral College shall ensure that the Trustees as a body have an appropriate range and balance of skills and experience, having regard to the following criteria:

- 5.1 a commitment to collaborative learning amongst schools in the Greater Wellington Region;

- 5.2 experience in governance and financial control;
- 5.3 absence of any clear and irreconcilable conflict of interest;
- 5.4 ability to set strategies and monitor performance;
- 5.5 an understanding and commitment to the Purposes; and
- 5.6 a knowledge or practical understanding or experience in the use of information and communications technology in learning.

6 Alterations to Rules

- 6.1 Subject to *rule 6.2*, the Rules in this *Third Schedule* may be altered only by a resolution passed by not less than 75 percent of all the members of the Electoral College, provided that each member of the Electoral College is given written notice of any proposed resolution for the alteration of this *Third Schedule* at least 14 days before the date of the meeting at which it is to be considered.
- 6.2 Any alteration to the Rules in this *Third Schedule* shall be effective only if the alteration does not conflict with the provisions of the Trust Deed and does not prejudice the charitable nature of the Trust, and in particular the efficacy of *clauses 4, 11 and 16* in meeting the requirements for any exemption available to charities under the New Zealand revenue laws.

THE WELLINGTON LOOP TRUST

Executed as a deed this day of 200

Signed by **Mary Cook**

in the presence of:

Name:

Occupation:

Address:

Signed by **Neil Andrew Melhuish**

in the presence of:

Name:

Occupation:

Address:

Signed by **Michael Bruce Pallin**

in the presence of:

Name:

Occupation:

Address:

Signed by **Katherine Mary Gainsford**

THE WELLINGTON LOOP TRUST

in the presence of:

Name:

Occupation:

Address:

Signed by **Dominic Paul Killalea**

in the presence of:

Name:

Occupation:

Address:

Signed by **Denise Ann Manning Johnson**

in the presence of:

Name:

Occupation:

Address:

Signed by **Laurence Edward Zwimpfer**

in the presence of:

Name:

Occupation:

THE WELLINGTON LOOP TRUST

Address:

Signed by **Margaret Dorothy McLeod**

in the presence of:

Name:

Occupation:

Address: