

# **CHARITABLE TRUST DEED**

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**Manukau Community & Families Trust**

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NEW ZEALAND

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**EXECUTED** this

day of

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## **BACKGROUND**

- A. We, names of trustees ("the Trustees") are the holders of the sum of "**ten dollars (\$10)**" ("the Initial Capital") for the charitable trusts set out below;
- B. The Papatoetoe Baptist Church or the future name that the Papatoetoe Baptist Church shall be known as, ("the Church") wishes to provide direction and resources to enable it to minister to its local community by seeking to meet the social, emotional, physical, spiritual and educational needs of the people in its local community, and the Trustees wish to provide direction and resources which will enable the Papatoetoe Baptist Church to carry out such ministry.
- C. The Trustees wish to function as a separate legal entity from the Church.
- D. The Trustees intend to incorporate themselves as a Trust Board under the provisions of the Charitable Trusts Act 1957.
- E. The Trustees wish to set out and define the Trusts and the conditions upon which they hold the property and assets vested in them in their capacity as Trustees.

The Trustees hereby declare that they hold and stand possessed of the Initial Capital together with any property both real and personal which may at any time become vested in the Trustees (all hereinafter collectively referred to as "the Trust property") upon the trusts detailed below:

### **1. NAME**

**THE** name of the Trust is the **Manukau Community & Families Trust**

### **2. OFFICE**

**THE** registered office of the Trust is **9 Lambie Drive Manukau**

### **3. OBJECTS**

- (a) To provide resources which will enable the Church through the Trust to minister to its local community by seeking to meet the social, emotional, physical, spiritual and educational needs of the people of its community. To establish such service centres, programmes and facilities which will enable the Trustees to provide appropriate community social services.

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- (b) To alleviate the difficulties of those experiencing hardships of whatever kind, including financial hardship and to bring relief through whatever means are available.
  - (c) To initiate, establish and administer community and social services for people of all ages who for any reason are in need of care counselling or assistance.
  - (d) To carry out such other charitable purposes within New Zealand as the Trustees shall determine.

#### **4. POWERS OF TRUSTEES TO CARRY OUT OBJECTS**

**IN** carrying out the exclusively charitable objects of the Trust, the Trustees may exercise the following powers:

- (a) To purchase take on lease or in exchange, hire or otherwise acquire land, buildings, and any personal property or any interest in the same.
- (b) To improve, manage, work, develop and maintain or sell, lease, let, underlet, exchange, surrender, borrow money on, mortgage, charge, dispose of, or otherwise deal with and turn to account all or any of the Trust property for the time being of the Trustees, or in which the Trustees have an interest.
- (c) To lend, invest or deposit money on mortgage or any security or without security, and to erect, construct, alter and maintain any buildings or chattels.
- (d) To receive any grant or gift of money including legacies or property for any of the purposes and objects of the trusts herein declared whether subject to any special trust or not so that the Trustees may nevertheless decline to accept any gift or donation or to take over any property which has annexed to it any condition or obligations not approved by the Trustees.
- (e) To employ staff to enable the effective delivery of community care and social services.
- (f) To raise and disburse funds make grants and loans always provided that it is within the policy guidelines agreed to by the Church.
- (g) To acquire or realise assets subject to the approval of the Church officers.
- (h) To engage in business activity, hold shares in companies, make investments and support the aims and objectives of its community services by any and all lawful and appropriate means providing always that the charitable status of the Trust is observed in accordance with the Charitable Trusts Act 1957.
- (i) To exercise all powers conferred on trustees by the Trustee Act 1956 and any amendment or re-enactment thereof.
- (j) To enter into licence agreements.

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- (k) To delegate any of its powers to committees consisting of such persons (whether Trustees or not) as the Trustees shall think fit for the purpose of the administration of the trusts hereby declared.
  - (l) To appoint employees or agents of the Trustees.
  - (m) To commission advisors and experts to advise the Trustees.

## **5. APPOINTMENT OF TRUSTEES**

- (a) The Trustees shall comprise up to “**five (5)**” trustees but no less than “**three (3)**” who shall be elected by the Church bi-annually.
- (b) It shall be lawful for any Trustee to resign from the Board on giving one month's notice in writing.
- (c) The members of the Church may by a majority decision decide that it is undesirable that any particular Trustee shall continue to hold the office of trustee and shall give him/her notice thereof in writing whereupon that person shall immediately cease to be a trustee.
- (d) Any vacancy shall be filled as soon as convenient by the Church but so nevertheless that the Trustees for the time being shall during any vacancy have the same powers and authorities and discretions and may act in all respects as if they comprised the maximum number of Trustees. Subject to Clause 5(a) the Church shall have power to add to the number of trustees whether or not a vacancy has occurred.

## **6. ADMINISTRATION**

- (a) The Trustees shall hold a meeting every calendar year as the Annual Meeting of the Trust and at the meeting shall elect from among their number a Chairperson for the ensuing year, or until removed by a majority decision of the Trustees.
- (b) The Trustees shall appoint a Treasurer who shall report to each meeting of the Trustees as to the income and expenditure of the Trust Property and who shall present an annual financial statement to the Board in **September** each year.
- (c) The Trustees shall at the Annual Meeting appoint an auditor approved by the Church who shall audit the accounts of the Trust once every year and such auditor shall have access at all reasonable times to the books and accounts of trust.

- (d) The Trust and shall make a report to the Board on the accounts and state whether the same exhibit a true and fair record and view of the results and state of affairs of the Trust.
- (e) The Trustees will formally report annually to the Church by providing a comprehensive statement of accounts for the past year duly audited and a written report of the Trust's activities for the past year within three (3) months of the end of the financial year of the Trust.  
The Trustees will give other reports to the church as and when requested by the church.
- (f) A resolution in writing signed by all Trustees for the time being within New Zealand 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 all Trustees.
- (g) The Trust shall have a Common Seal which shall be affixed to documents in the presence of any two (2) Trustees for the time being and in accordance with a resolution passed by the Trustees authorising such execution.
- (h) A minimum of three (3) Trustees or fifty percent (50%) of the number of trustees whichever is the greater shall form a quorum.
- (i) At every meeting of the Trustees the Chairperson shall have a deliberative as well as a casting vote. Should the Chairperson fail to appear at any meeting within ten (10) minutes of the time fixed for commencement of such meeting then the Trustees may appoint one of their number to be Chairperson of such meeting.
- (j) A Trustee shall hold office for a term of two (2) years and shall be eligible for re-election or re-appointment on expiry of any term. Trustees shall be re-elected pursuant to the provisions of Clause 5(a) of this Deed.
- (k) The office of Trustee shall be vacated in each of the following cases, in addition to death, that is to say if a Trustee:
  - (i) By notice in writing to the Trustees resigns his/her office;
  - (ii) Refuses to act;
  - (iii) Becomes of unsound mind (if necessary as certified by a qualified medical practitioner) or becomes a protected person under the Protection of Personal and Property Rights Act 1988;
  - (iv) Becomes bankrupt or enters into a composition with creditors;
  - (v) Is absent without leave from three (3) consecutive ordinary convened meetings of the Trustees;
  - (vi) Is not re-elected or re-appointed on expiry of a term of office.

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- (l) The Trustees shall meet at such times as they may deem appropriate for the purposes of conducting the business of the Trust property.
  - (m) Any two (2) Trustees may at any time summon a special meeting of the Trustees for any cause deemed by them to be sufficient.
  - (n) Notice in writing of every special meeting shall be delivered or sent through the post to each Trustee by some other person (including a Trustee) acting under the directions of the Trustees or under the direction of the persons summoning the meeting one day at least before the date of the meeting. No notice shall be necessary for adjourned meetings except to Trustees who are not present when the meeting was adjourned.
  - (o) Every notice of meeting shall state the place day and hour of the meeting and every notice of a special meeting shall further state the matter to be discussed at that meeting. Notice of any general or special meeting may be waived by all Trustees having signed a waiver of notice and such waiver being placed in the minutes.
  - (p) If a quorum shall not have assembled within ten (10) minutes after the time appointed for any meeting the Trustee or Trustees present may adjourn the meeting. Any meeting may be adjourned by the Chairperson upon the adoption of a resolution for its adjournment.
  - (q) Any resolution of the Trustees may be rescinded or varied from time to time by the Trustees at any general or special meeting following not less than seven (7) days notice.
  - (r) The Trustees shall appoint a Secretary. The Secretary who may also be a Trustee shall give notice of all meetings and shall keep the minutes of all meetings pursuant to subclause (s).
  - (s) The Trustees may at any meeting appoint two (2) or more Trustees of their body to be a committee for making any inquiry or for supervising or transacting any business but every act and proceeding of a committee shall except in cases of urgency be submitted to a meeting of the Trustees for approval.
  - (t)
    - (i) A minute book shall be provided and kept by the Board and all proceedings of the Board shall be entered in the minute book.
    - (ii) Any such minute if purporting to be signed by the Chairperson of the meeting at which the proceedings were had or by the Chairperson of the next succeeding meeting shall be evidence of the proceedings.
    - (iii) Where minutes have been made in accordance with the provisions of this rule of the proceedings at any meeting of the Board then until the contrary is proved the meeting shall be deemed to have been duly held and convened and all proceedings recorded therein to have been duly conducted.
  - (u) Upon the appointment of an additional Trustee or Trustees and upon the occurrence of a vacancy in the office of Trustee the Trustees shall record the

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appointment or vacancy in the minute book and will in a similar manner record in the minutes all appointments of Trustees.

- (v) All acts done by any meeting of Trustees or of a committee of Trustees or by any person acting as a Trustee shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Trustee or person acting as aforesaid or that they or any of them were for any reason disqualified be as valid as if such person had been duly appointed and was qualified to be a Trustee.

## **7. LIABILITY OF TRUSTEES**

- (a) The Trustees are expressly authorised to exercise the powers of investment herein conferred upon them notwithstanding that the Trust Property may be subject to any liability or liabilities and the Trustees shall not be liable for any loss occurring on the realisation of such investments.
- (b) No Trustee of this Deed shall be liable for any loss not attributable to dishonesty or to the wilful commission by the Trustees of an act known to the Trustees to be a breach of trust and in particular no Trustee shall be bound to take any proceedings against a co-Trustee or former Trustee for any breach or alleged breach of trust committed by such co-Trustee or former Trustee.
- (c) Every Trustee shall be chargeable only for such money as he/she shall actually have received although he/she may have joined in any receipt for money received by any other of them and shall not be answerable for the acts of any other Trustee nor for any loss which may arise by reason of any trust funds being lawfully deposited in the hands of banker, solicitor or agent or for the sufficiency or insufficiency or deficiency of any security upon which any trust money or any part thereof may be invested or for any loss in the execution of any trust unless the same shall happen through his/her own neglect or default.
- (d) In the carrying on of any business or in any involvement in a partnership or company pursuant to their powers hereunder the Trustees shall have absolute and uncontrolled power and discretion in the management and control of such business partnership or company AND without derogating from or in any way limiting the generality of the provisions of clause 3 hereof in carrying out the provisions of this Deed as to any such business partnership or company the Trustees shall not be liable for losses thereby caused to the Trust Property or the income thereof AND FURTHER the Trustees shall be entitled to a full and completed indemnity from the Trust Property and every part thereof for any personal liability they may incur for or in connection with the debts engagements and liabilities of the said business partnership or company notwithstanding that the whole of the Trust property may not have been employed therein.

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## **8. LIABILITIES AND DISCRETIONS OF TRUSTEES**

**ALL** trusts powers and discretions by this Deed conferred upon or vested in the Trustees shall be deemed to have been conferred upon and shall be exercisable by the Trustee or Trustees for the time being of the trust hereby created in the like manner and to the like extent as if such Trustee or Trustees had been named as Trustee or Trustees herein and no Trustee shall be liable or answerable for any loss suffered by or occasioned to the Trust Property by the exercise of any such power or discretion.

## **9. AUTHORITY TO BUY FROM AND SELL TO TRUSTEES**

**A** Trustee or any one of the Trustees may provided all the terms of such sale or purchase are approved by the Church buy from or sell property of any kind to the Trustees.

## **10. NO PRIVATE PECUNIARY PROFIT**

**NO** private pecuniary profit shall be made by any person from the Trust Property, except that:

- (a) Any Trustee may receive full reimbursement for all expenses properly incurred by that Trustee in connection with the affairs of the Trust;
- (b) The Trustees may pay reasonable and proper remuneration to any officer or servant of the Trustees (whether a Trustee or not) in return for services actually rendered to the Trustees;
- (c) Any Trustee may 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 Trustees;
- (d) Any Trustee may retain any remuneration properly payable to that Trustee by any company or under-taking with which the Trustees 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 Trustees.
- (e) The Trustees, in determining all reimbursements, remuneration and charges payable in the terms of this clause, shall ensure that the restrictions imposed by the following clause are strictly observed.

## **11. RECIPIENT NOT TO INFLUENCE BENEFITS**

**NOTWITHSTANDING** anything contained or implied in this Deed, any person who is:

- (a) A settlor or Trustee of the Trust Property; or

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- (b) A shareholder or director of any company carrying on any business of the Trustees; or
  - (c) A Settlor or Trustee of any trust which is a shareholder of any company carrying on any business of the Trustees; or
  - (d) An associated person (as defined by the Income Tax Act 1994) of any such settlor, trustee, shareholder or director.

shall not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence in any way the determination of the nature or the amount of any benefit or advantage or income or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person.

A person who in the course of and as part of the carrying on of his/her business of a professional public practice shall not, by reason only of his/her rendering professional services to the Trustees or to any company by which any business of the Trustees is carried on, be in breach of the terms of this clause.

## **12. INTERESTED TRUSTEE**

**ANY** trustee who is or may be in any other capacity whatever interested or concerned directly or indirectly in any property or undertaking in which the Trust is or may be in any way concerned or involved shall disclose the nature and extent of the Trustee's interest to the Board, and shall not take any part whatever in deliberations of the Board concerning any matter in which that member is or may be interested other than as a Trustee of the Trust.

## **13. TRUSTEES LENDING**

**THE** trustees shall not lend money nor property or assets at less than the current commercial rates, having regard to the nature and terms of the loan or lease to any person (as defined in the Income Tax Act 1994):

- (a) who is a member of the Trust Board; or
- (b) who is a shareholder or director of any company by which any business of the Trust Board is carried on; or
- (c) who is a settlor or Trustee of a Trust that is a shareholder of any company by which any business of the Trust Board is carried on; or
- (d) if that person or that company and the settlor or Trustee or shareholder or director referred to in any one of the foregoing paragraphs of this proviso are associated persons (as that term is defined in the Income Tax Act 1994).

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#### 14. APPLICATION OF FUNDS

**ALL** the assets of the Trust shall be applied exclusively within New Zealand towards the exclusively charitable objects aims and purposes set out in this Deed.

#### 15. VARIATION OF OBJECTS AND ALTERATIONS TO PROVISIONS OF TRUST DEED

**THE** powers provisions and objects set forth in this Deed of Trust may be varied by deed executed by all the Trustees for the time being PROVIDED HOWEVER no variation shall be made which would enable any part of the Trust property (whether income or capital) to be used for purposes which are not charitable according to the law of New Zealand **AND** no addition or alteration shall be made to clauses 3,5,10,11,12, 13,14 and 16 without the approval of the Church and the Inland Revenue Department.

#### 16. WINDING UP

**IT** shall be lawful for but not obligatory upon the Trustees to realise the Trust Property if and when the Trust Property shall no longer be used or be required for the purposes and objects declared in clause 3 hereof and the nett proceeds arising from such sale shall be applied, with the prior approval of the church to such charitable purposes within New Zealand as the Trustees may determine or in default of such determination as may be determined by a Judge of the High Court of New Zealand on application by the Trustees or any Trustee and shall not be paid or distributed amongst the Trustees

**{delete surplus trustee signature spaces or cut & paste for more}**

**SIGNED** by \_\_\_\_\_ )  
 in the presence of: \_\_\_\_\_ ) \_\_\_\_\_

Witness' Signature \_\_\_\_\_

Witness' Name \_\_\_\_\_

Witness' Occupation \_\_\_\_\_

Witness' Address \_\_\_\_\_

**SIGNED** by \_\_\_\_\_ )  
 in the presence of: \_\_\_\_\_ ) \_\_\_\_\_

Witness' Signature \_\_\_\_\_

Witness' Name \_\_\_\_\_

Witness' Occupation \_\_\_\_\_

Witness' Address \_\_\_\_\_

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**SIGNED** by \_\_\_\_\_ )  
in the presence of: \_\_\_\_\_ )

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

**SIGNED** by **[enter full name of trustee]** )  
in the presence of: \_\_\_\_\_ )

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

**SIGNED** by **[enter full name of trustee]** )  
in the presence of: \_\_\_\_\_ )

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

**SIGNED** by **[enter full name of trustee]** )  
in the presence of: \_\_\_\_\_ )

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

**SIGNED** by **[enter full name of trustee]** )  
in the presence of: \_\_\_\_\_ )

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

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**SIGNED** by [enter full name of trustee] )  
in the presence of: ) \_\_\_\_\_

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

**SIGNED** by [enter full name of trustee] )  
in the presence of: ) \_\_\_\_\_

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

**SIGNED** by [enter full name of trustee] )  
in the presence of: ) \_\_\_\_\_

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

**SIGNED** by [enter full name of trustee] )  
in the presence of: ) \_\_\_\_\_

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_

**SIGNED** by [enter full name of trustee] )  
in the presence of: ) \_\_\_\_\_

Witness' Signature \_\_\_\_\_  
Witness' Name \_\_\_\_\_  
Witness' Occupation \_\_\_\_\_  
Witness' Address \_\_\_\_\_