

## New Life Foundation (New Zealand) Trust

### THIS DEED WITNESSES

#### 1. NAME OF TRUST

1.1 The trust created by this deed shall be known as the New Life Foundation (New Zealand) Trust

#### 2. DEFINITIONS AND INTERPRETATIONS

2.1 Definitions:

In this deed, unless the context otherwise requires:

**"charitable purposes"** means every purpose which in accordance with the law of New Zealand for the time being is charitable, whether such purpose involves the relief of poverty, the advancement of education or religion, or any other object or purpose beneficial to the community, and shall include any trust established solely and exclusively for charitable purposes.

**"clause"** is, unless otherwise qualified, a reference to a clause of this deed.

**"company"** includes a corporation or other body corporate and a body of persons (whether incorporated or not).

**"New Life Foundation (Tanzania)"** means the New Life Foundation (T) Limited, a duly incorporated company having its registered office at Moshi in the United Republic of Tanzania, Mainland. Clause 3 of the memorandum of Association of New Life Foundation (T) Limited states charitable objectives and provides that the income and property of the company shall be applied solely to those purposes with no benefit directly or indirectly to the members of the company.

**"person"** and words importing a person or persons include a company, firm, organisation or trust and any state, government or governmental agency.

**"property"** means any real or personal property of any kind or nature and includes any right or interest therein.

**"Trust"** means the trust established by this deed.

**"Trustees"** means the trustees for the time being of the Trust, whether original, additional or substituted.

**"Trust Fund"** means the sum of \$10.00 referred to in the introduction to this deed, the property from time to time representing that sum, any further property which may in the future be acquired by the Trustees from any source whatever for the purposes of the Trust, the moneys and investments from time to time representing such property, and, unless inconsistent with the context, the income received from such property.

2.2 Interpretation:

In this deed:

(a) except as otherwise expressly provided by this deed, the powers or discretions as to the administration of the Trust or as to the distribution of the income and the capital of the Trust Fund vested in the Trustees by any clause shall not in any way be limited or restricted by the interpretation of any other clause;

(b) unless the context otherwise requires:

(i) words importing the singular include the plural and vice versa;

(ii) words importing one gender include the other genders;

(iii) words denoting natural persons include companies;

(iv) references to a statute shall be deemed to be references to that statute as from time to time amended or re-enacted or substituted;

(c) headings have been inserted for guidance only and shall not be deemed to form part of the context of this deed.

#### 3. DECLARATION OF TRUST

3.1 The Settlor directs and declares, and the Trustees declare and acknowledge, that the Trustees shall hold the Trust Fund upon the trusts, and with and subject to the powers and discretions, contained or implied in this deed.

#### 4. CHARITABLE PURPOSES

**4.1 Purposes:** The Trustees shall hold the Trust Fund upon trust to pay or apply in New Zealand the income and the capital of the Trust Fund in such amounts, at such times, and subject to such terms and conditions, as the Trustees may decide for all or any of the following purposes to:

(a) Represent and promote the activities that are charitable according to the law of New Zealand, of the New Life Foundation (Tanzania) being: (i) Relief of poverty, (ii) Advancement of education & (iii) Advancement of religion.

(b) Management of the New Life Foundation (Tanzania) child sponsorship programme, the distribution of regular child reports and communication and transfer of sponsorship monies.

(c) Host visits by New Life Foundation (Tanzania) staff and representatives to New Zealand and organize church and school visits.

(d) Co-ordinate New Zealand aid team visits to the New Life Foundation in Tanzania.

(e) Promote such other charitable purposes as the Trustees may decide.

**4.2 Means of achieving purposes:** The Trustees may, in order to achieve the purposes of the Trust, in addition to all other powers vested in the Trustees:

(a) (b) (c) (d)

#### 5. POWERS AND DISCRETIONS OF TRUSTEES

**5.1 Powers:** To achieve the objects of the Trust the Trustees shall have in the administration, management and investment of the Trust Fund all the rights, powers and privileges of a natural person, and, subject always to the trusts imposed by this deed, may deal with the Trust Fund as if the Trustees were the absolute owners of and beneficially entitled to the Trust Fund, and accordingly, in addition to any specific powers vested in the Trustees by law, in dealing with the Trust Fund or acting as Trustees of the Trust the Trustees may do any act or thing or procure the doing of any act or thing or enter into any obligation whatever, including, without limitation, exercising unrestricted powers to borrow and raise money, and to give mortgages, other securities and guarantees.

**5.2 Discretions:** Except as otherwise expressly provided by this deed, the Trustees may exercise all the powers and discretions vested in the Trustees by this deed in the absolute and uncontrolled discretion of the Trustees, at such time or times, upon such terms and conditions, and in such manner as the Trustees may decide.

**5.3 Investment discretion:** In exercising their powers of investment the Trustees may acquire any property, or retain or deal with any property which from time to time comprises the whole or part of the Trust Fund notwithstanding that any act or omission by the Trustees in the exercise of those powers and discretions would be, or could be, contrary to the principles governing the investment of trust funds set out in the Trustee Act 1956. This clause expresses a "contrary intention" for the purposes of section 13D of that Act.

## **6. APPLICATION OF TRUST FUND**

6.1 The Trustees may in any year:

- (a) use or apply, or decide not to use or apply, all or any of the income of the Trust Fund for all or any of the purposes of the Trust;
- (b) use or apply any capital of the Trust Fund for all or any of the purposes of the Trust without first using or applying the whole or any portion of the income of the Trust Fund for that year;
- (c) set aside reserves or accumulations for future use or application.

## **7. TRUSTEES**

**7.1 Signatories to be first Trustees:** The persons named in this deed as Trustees shall be the first Trustees of the Trust.

**7.2 Number of Trustees:** The number of Trustees shall not be less than five and not more than twelve. Should a vacancy reduce the number of Trustees below five, the vacancy shall be filled as soon as practicable in accordance with the terms of this deed.

**7.3 Period of office of Trustees:** Trustees shall hold office for a period not exceeding two years from the respective dates of their appointment. Trustees may be reappointed to office.

**7.4 Cessation of office of Trustee:** Any person shall cease to be a Trustee if:

- (a) he or she resigns as a Trustee by giving notice in writing to the Trust; or
- (b) he or she fails or neglects to attend three consecutive meetings of the Trustees without leave of absence, unless it appears to the other Trustees at their first meeting after the last of such absences that there is a proper reason in each instance for such non-attendance; or
- (c) he or she becomes of unsound mind, becomes a person in respect of whose affairs an order under the Protection of Personal and Property Rights Act 1988 is made, or otherwise becomes unfit or unable to act as a Trustee; or
- (d) he or she becomes insolvent or commits an act of bankruptcy; or
- (e) he or she dies or
- (f) by 75% of the other Trustees; or
- (g) the term of his or her appointment expires.

The Trustee concerned shall cease to hold office in a case where sub-paragraph (b) applies from the date of the first meeting of Trustees after that Trustee's third consecutive absence without leave, and in cases where sub-paragraphs (c) and (d) apply from the date of the event mentioned.

**7.5 Resignation of Trustee:** A Trustee may resign by giving notice in writing to the other Trustees or to the Secretary of the Trust. Upon the receipt of such notice the Trustee so resigning shall cease to be a Trustee of the Trust, except as to the acts and deeds necessary for the proper vesting of the Trust Fund in the continuing or new Trustees, which acts and deeds shall be done and executed at the expense of the Trust Fund.

**7.6 Removal of Trustee:** Notwithstanding anything contained or implied in this deed, a Trustee may at any time be removed as a Trustee of the Trust by the Settlor.

**7.7 Effect of removal of Trustee:** Upon the removal of a Trustee from office, that person so removed shall cease to be a Trustee of the Trust, except as to the acts and deeds necessary for the proper vesting of the Trust Fund in the remaining Trustees which acts and deeds shall be done and executed at the expense of the Trust Fund.

**7.8 Appointment of Trustee:** The power of appointment of new or additional Trustees shall subject to endorsement by the directors of New Life Foundation (Tanzania) be vested in the Trustees then in office.

**7.9 Advisory Trustee:** An Advisory Trustee may be appointed and removed in the same manner as a Trustee.

## **8. MANAGEMENT OF THE TRUST**

### **8.1 General:**

- (a) The Trustees shall have the absolute management and entire control of the Trust Fund.
- (b) The Trustees may from time to time appoint, remunerate and dismiss officers or employees of the Trust.
- (c) Any individual, whether or not a Trustee, may be appointed as an officer or employee of the Trust.

### **8.2 Meetings:**

- (a) The Trustees shall meet to conduct business at such intervals as the Trustees may decide but not less frequently than two times in each year. The Trustees may invite to such meeting whatever other person or persons as the Trustees may decide will assist with their deliberations.
- (b) Except as expressly provided otherwise by this deed any matter requiring decision at a meeting of the Trustees shall be decided by a simple majority of the Trustees personally present and voting on the matter.
- (c) In the event of an equality of votes the Chairman shall have a second or casting vote.
- (d) Except as expressly provided otherwise by this deed a resolution in writing signed by all the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and constituted. Any such resolution may consist of several like documents each signed by one or more Trustees. Any such document sent by a Trustee by telex, telegram or facsimile shall be deemed to have been duly signed by that Trustee.
- (e) Any Trustee may at any time give notice convening a meeting of the Trustees. Such notice shall be given by letter posted to each Trustee then within New Zealand at least fourteen days before the date of the proposed meeting. The notice shall state the time and place of the meeting and, in sufficient terms, the nature of the business to be transacted.

- (f) The quorum for a meeting of Trustees shall be a majority of the Trustees then holding office.
- (g) The contemporaneous linking together of the Trustees by telephone or other electronic means of communication ("telephone") shall constitute a meeting of the Trustees and the provisions of this clause as to meetings of the Trustees shall apply to such meetings provided the following conditions are met:
  - (i) Each Trustee then in New Zealand shall be entitled to notice of such a meeting by telephone and to be linked by telephone for the purposes of the meeting;
  - (ii) Each of the Trustees taking part in the meeting by telephone must be able to hear each of the other Trustees taking part during the whole of the meeting;
  - (iii) At the commencement and conclusion of such meeting each Trustee must acknowledge the presence of that Trustee for the purpose of a meeting of the Trustees being held;
  - (iv) A Trustee may not withdraw from such a meeting unless that Trustee has previously obtained the express consent of the Chairman of the meeting to do so;
  - (v) A Trustee shall be conclusively presumed to have been present and to have formed part of the quorum of such a meeting at all times during the meeting by telephone unless that Trustee has previously obtained the express consent of the Chairman to withdraw from such a meeting. A minute of the proceedings of any 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 Chairman of the meeting.

### **8.3 Chairman and Deputy Chairman:**

- (a) The Trustees shall, subject to the approval of the directors of the New Life Foundation Tanzania, appoint one Trustee to act as Chairman, either from year to year, or for such period as the Trustees may decide.
- (b) The Trustees may also appoint one Trustee to act as Deputy Chairman either as the need arises or from year to year or for such term of years as the Trustees may decide. In the absence of the Chairman the Deputy Chairman shall have and may exercise all the powers of, and shall perform all the duties, of the Chairman.
- (c) Secretary: The Trustees shall appoint a Secretary who may be honorary, or may be a full-time or part-time employee of the Trust.

**8.4 Minutes:** Minutes of the proceedings of all meetings of the Trustees shall be recorded in a book to be kept for that purpose by the Secretary and shall be signed by the Chairman of the meeting at which the minutes are confirmed. Every such minute purporting to be so signed shall be prima facie evidence of the matters recorded.

### **8.5 Delegation of powers:**

- (a) The Trustees may delegate to any person or committee, whether or not a Trustee or Trustees, such of the powers of the Trustees as the Trustees may decide;
- (b) Any person or committee acting under delegated power shall act in accordance with the terms of this deed and, in the absence of proof to the contrary, shall also be presumed to be acting within the terms of the delegation;
- (c) The Trustees may revoke wholly or partly any delegation of the powers of the Trustees at any time;
- (d) Subject to any directions given by the Trustees, any person or committee to which any powers of the Trustees have been delegated may conduct that person's or the committee's affairs as that person or the committee may decide;
- (e) The Trustees may, in delegating the powers of the Trustees, provide restrictions or rules by or within which such delegated powers are to be exercised.

**8.6 Bank account:** The Trustees shall keep an account or accounts at such bank or banks as the Trustees may decide. Cheques, withdrawals and authorities shall be signed or endorsed, as the case may be, by such person or persons (including in all instances at least two Trustees) as the Trustees may decide.

**8.7 Accounts and audit:** The Trustees shall cause true accounts for each year to be kept in such manner as the Trustees may decide of all receipts, credits, payments, assets and liabilities of the Trust Fund and all such other matters necessary for showing the true state and condition of the Trust. The accounts of the Trust shall be audited at least once in each year by a chartered accountant (not being a Trustee) appointed in that capacity by the Trustees.

## **9. LIABILITY AND INDEMNITY OF TRUSTEES**

**9.1 No liability of Trustees, with exceptions:** No Trustee shall be liable for any loss to the Trust Fund not attributable to that Trustee's own dishonesty, or to the wilful commission or omission by that Trustee of an act known by that Trustee to be a breach of trust. No Trustee shall be bound to take any proceedings against a co-Trustee for any breach or alleged breach of trust committed by such co-Trustee.

**9.2 Indemnity of Trustees:** Each Trustee shall be entitled to a full and complete indemnity from the Trust Fund for any personal liability which that Trustee may incur in any way arising from or in connection with that Trustee acting or purporting to act as a Trustee of the Trust, provided such liability is not attributable to that Trustee's own dishonesty, or to the wilful commission or omission by that Trustee of an act known by that Trustee to be a breach of trust.

## **10. INTERESTED TRUSTEE**

10.1 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 anyway concerned or involved shall disclose the nature and extent of that Trustee's interest to the other Trustees, and shall not take any part whatever in any deliberations of the Trustees concerning any matter in which that Trustee is or may be interested other than as a Trustee of the Trust.

## **11. NO PRIVATE PECUNIARY PROFIT FOR ANY INDIVIDUAL, AND EXCEPTIONS**

**11.1 No private pecuniary profit:** No private pecuniary profit may be made by any person from the Trust, 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 Trust may pay reasonable remuneration to any officer or servant of the Trust (whether a Trustee or not) in return for services actually rendered to the Trust;
- (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 Trust;

(d) 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.

**11.2 Trustees to comply with restrictions:** 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.

## **12. RESTRICTIONS ON BENEFITS TO AND INFLUENCE BY INTERESTED PERSONS**

**12.1 Recipient not to influence benefits:** Notwithstanding anything contained or implied in this deed, any person who is:

(a) a Trustee of the Trust; or

(b) a shareholder or director of any company carrying on any business of the Trust; or

(c) a settlor or trustee of any trust which is a shareholder of any company carrying on any business of the Trust; or

(d) an associated person (as defined by the Income Tax Act 2004) 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.

**12.2 Professional account and influence:** A person who 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 his 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.

## **13. ALLOCATION OF RECEIPTS**

**13.1 Allocation of payments between capital and income:** If any dividend or distribution is received which in the opinion of the Trustees has been paid or made out of profits other than trading profits of the financial year in respect of which the dividend or distribution has been paid or made, the Trustees may decide how much of that dividend or distribution ought to be treated as capital and how much as income of the Trust Fund. Such decision shall be made by the Trustees after considering the nature of the profit used to pay or make the dividend or distribution, and the account to which the dividend or distribution has been debited in the books of the person making such payment or distribution. The Trustees shall not be liable to any person in respect of the payment of any moneys in accordance with any decision made by the Trustees under this clause.

**13.2 No apportionment in respect of date of payment:** There shall be no apportionment as between capital and income of the Trust Fund of rents, interest, dividends, or other periodic payments for the period current to the date of commencement of the Trust or for any other period current at the date upon which any interest created under the terms of this deed commences or determines.

## **14. APPOINTMENT AND REMOVAL OF CUSTODIAN TRUSTEE**

14.1 The Trustees may at any time by deed appoint any appropriate corporation to be the custodian trustee of the Trust Fund, or any part of the Trust Fund, upon such terms as the Trustees may decide, or otherwise to act pursuant to the provisions of Section 50 of the Trustee Act 1956, and the Trustees may at any time by deed revoke any such appointment.

## **15. INCORPORATION**

15.1 The Trustees may at any time apply for incorporation under Part II of the Charitable Trusts Act 1957 under the name the "New Life Foundation (New Zealand)". Upon incorporation the powers and discretions conferred upon the Trustees by law or by this deed shall be conferred upon the Trustees as a trust board.

## **16. OFFICE OF THE TRUST**

16.1 The office of the Trust shall be at such place as the Trustees from time to time may decide.

## **17. SEAL**

17.1 Upon incorporation under the Charitable Trusts Act 1957 the Trust shall have a common seal which shall be affixed by the authority of the Trustees previously given to any document requiring execution by the Trustees. Every such affixing shall be attested by two Trustees and shall be sufficient evidence of authority to affix the seal.

17.2 No person dealing with the Trustees shall be bound or concerned to see or inquire as to the authority to affix the seal, or to inquire as to the authority under which any document was sealed or in whose presence it was sealed.

## **18. WINDING UP OF TRUST**

18.1 If at any time the Trustees decide that for any reason it is no longer practicable or desirable to carry out the purposes of the Trust then the Trustees may, by a unanimous resolution decide to wind up the Trust and to vest the assets of the Trust in such one or more charitable bodies in New Zealand for their charitable purposes in such manner, upon such terms, and in such proportions as the Trustees may decide, provided that if the Trust is then incorporated under the Charitable Trusts Act 1957 the assets of the Trust shall be disposed of in accordance with the provisions of that Act.

## **19. ALTERATION OF TERMS OF DEED**

19.1 The Trustees may, by a unanimous resolution revoke, vary, or add to any of the provisions of this deed, provided such revocation, variation, or addition is consistent with the charitable purposes of the Trust.

## **20. NOTICE**

21.1 Any Notice to be given to the Trust may be given in writing by:

(a) delivering or posting a copy to the registered office of the Trust; or

(b) delivering a copy to the Chairman or Secretary of the Trust.