
The Digital Wings Trust

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Date: 1 June 2017

PARTIES

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Helen Margaret Leahy
Samuelu Sefuiva
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Potaua David Biasiny-Tule
Belinda Gorman
Terry Stewart Chapman
Pamela Jane Fleming
Timothy Leslie Findlay

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

BACKGROUND

The Trustees, with a general charitable purpose, wish to declare a charitable trust ("Trust") to give effect to the charitable purposes referred to in this deed, which in accordance with the law of New Zealand are charitable purposes for the benefit of the people of New Zealand ("Charitable Purposes")

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 ("the Trust Deed").

DEFINITIONS

Defined terms:

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.

Digital Wings is a programme initiated by Remarkit Solutions Limited (Remarkit) to facilitate the redistribution of electronic equipment from corporate entities to community organisations to enhance educational and employment opportunities.

Digital Capability means the skills and/or competencies required for living, learning and working in a digital society.

Digital Disadvantage refers to people who do not have access to digital technologies nor the skills to use these technologies effectively in their lives.

Digital Technologies mean computer equipment and online services.

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

ICT means information and communication technologies, including computers, laptops, monitors, tablets, iPads, mobile phones etc.

Related Party means any Trustee or any spouse of a Trustee that is financially interested whether as a shareholder, partner, director, employee or beneficiary.

Underserved Communities means communities that are disadvantaged as a result of inadequate services or facilities.

PART 1 - ESTABLISHMENT PURPOSE AND POWERS OF THE TRUST

1.0 Declaration of Trust

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

2.0 Name of the Trust

2.1 The trust created by this deed is to be known as "The Digital Wings Trust" or by such other name as the Trustees may determine by resolution from time to time.

3.0 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 "The Digital Wings 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.

4.0 Purpose of the Trust

The charitable purpose of the Trust is to:

4.1 enhance digital opportunities and advance education, employment, health and wellbeing of people living in underserved communities;

4.2 promote access to digital technologies for people who are digitally disadvantaged;

4.3 grow and develop the digital capability of people living in underserved communities, in collaboration with other organisations;

4.4 promote opportunities for corporates and other organisations to donate surplus ICT equipment for re-use by community, whānau and hapū organisations;

4.5 consider applications from community, whānau and hapū organisations for digital technology equipment, and make recommendations to Remarkit;

4.6 support research and evaluation of The Digital Wings programme outcomes;

4.7 engage in any other activities consistent with the charitable purpose of the Trust.

5.0 General and specific powers of Trust

In addition to the powers implied by the general law of New Zealand or contained in the Trustee Act 1956, the powers which the Trustees may exercise in order to carry out its Purposes are as follows:

5.1 to use the funds of the trust as the Trustees thinks necessary or proper in payment of the costs and expenses of the Trust;

5.2 to carry on any business consistent with the Purposes;

5.3 to invest surplus funds in any way permitted by Law for the investment of Trust Assets and upon such terms as the Trustees thinks fit;

5.4 to do all things as may from time to time be necessary or desirable to enable the Trustees to promote, give effect to and to attain the Purposes.

6.0 Transactions with Related Parties

The Trustees may:

6.1 enter into any contract, agreement or other arrangement with any Related Party to provide management, administration or other services for the Trust;

6.2 enter into any other transaction with any Related Party in relation to the Trust, provided that the Trustees in good faith are of the opinion that the particular transaction is on reasonable commercial terms and is in the best interest of the Trust.

7.0 Trustees' indemnity and liability

The Trustees shall not be Liable for:

7.1 Any Losses except Losses arising from their own dishonesty, wilful default or wilful breach of trust or gross negligence;

7.2 Any act or acts or attempted act done in exercise of or pursuant to any Trust power or discretion vested in them by this Deed;

7.3 Any omission or omissions or non-exercise in respect of any trust, power or discretion of the Trustee under this Deed.

7.4 The Trustees and every other person acting on behalf of the Trustees shall be indemnified out of Trust Assets against all Liabilities and expenses incurred by them in the exercise or attempted exercise of the trusts, powers and discretions vested in the Trustees pursuant to this Deed and in respect of any matter or thing done or omitted to be done in any way relating to this Deed and the Trust. This indemnity shall extend to any payments made to any person whom the Trustees bona fide believe to be entitled thereto though it may be subsequently found that the person was not in fact entitled. The Trustees shall have a Lien or charge on the Trust Assets and may retain and pay out of any moneys in the Trust all sums and amounts necessary to give effect to this indemnity.

7.5 The Trust may at the request of a Trustee or Trustees maintain and pay for trustee indemnity insurance for the benefit of each and every Trustee. The Liability of the Trustees in connection with this Deed or at Law shall at all times be Limited to the Trust Assets.

8.0 Delegation by Trustees

8.1 The Trustees may, from time to time, appoint any committee and may delegate any of its powers and duties to any such committee or to any person, and the committee or person, as the case may be, may without confirmation by the Trustees exercise or perform the delegated powers or duties in Like manner and with the same effect as the Trustees could have exercised or performed them.

8.2 Any committee or person to whom the Trustees have delegated powers or duties shall be bound by the terms of this Trust Deed.

8.3 Every such delegation shall be in writing approved by the Chair

9.0 Common Seal

9.1 Any documents required to be signed under the common seal shall be attested by any two Trustees.

10.0 Accounts and Audit

10.1 The Trustees shall keep proper records and accounts relating to the Trust including a record of all sums of money received and expended by or on behalf of the Trust.

10.2 At the end of each financial year the Trustees shall prepare accounts for the Trust and if required will have those accounts audited by an independent qualified accountant who shall be appointed annually by the Trustees.

11.0 Alteration to the Deed

11.1 The Trustees may from time to time by amending deed or instrument alter, rescind or add to any of the provisions of this Deed subject to:

11.2 At Least 14 days' notice of intention to move any amendment to this Deed being given to all Trustees; and

11.3 The alteration, rescindment or addition being not prejudicial to the Legal charitable status of the Trust

11.4 An amendment to this Deed shall be made by a two-thirds majority of trustees at a general meeting.

12.0 Winding up of the Trust

12.1 The Trust shall terminate and be wound up and dissolved if:-

- a. the Trustee resolve by a two-thirds majority that the Trust shall be wound up; or
- b. the Trust is wound up by the operation of Law.

12.2 Every resolution to wind up the Trust shall specify an effective termination date of the Trust and thereafter the Trustees shall realise or dispose of the Trust Assets as soon as reasonably practicable in accordance with this clause.

12.3 The Trust Assets or the proceeds resulting therefrom shall be applied by the Trustees upon a winding up in the following order of priority and manner:-

- a. First in meeting all costs, expenses and Liabilities of the Trust including the costs and expenses or winding up the Trust and setting aside any amount that the Trustees consider necessary or desirable in respect of any contingent liability of the Trust
- b. Secondly, in the payment or distribution (by instalments if the Trustees consider appropriate) of the balance to or for the benefit of such Charitable Purpose or Charitable Purposes as the Trustees shall determine.

PART 2 - PROCEEDINGS OF TRUSTEES

13.0 Appointment and Removal of Trustees

13.1 There shall be a minimum of 5 and a maximum of 11 Trustees of this Trust.

13.2 Trustees shall be appointed by the Trustees in the manner set out in this Deed.

13.3 Nominations for the position of Trustee shall be encouraged from persons who are likely to best assist in the fulfilment of the Purposes.

13.4 Trustees shall be appointed in line with the specific skills, attributes, culture, experience, knowledge and commitment deemed desirable by Trustees for advancing the purposes of The Digital Wings Trust, specifically:

- a. Community ICT sector
- b. Community Health, PHO sector
- c. Youth and Community Education
- d. Employment
- e. Whānau Ora, Māori development
- f. Communications and media
- g. Business and Corporate sector
- h. Pasifika development.

13.5 Trustees shall be appointed by majority vote of the Trustees

13.6 Trustees shall hold office from the time at which their appointment is announced until the subsequent Annual General Meeting.

13.7 Trustees are appointed for two years from the Annual General meeting following their initial appointment and may be reappointed by a decision of the Trustees.

13.8 The appointment of a trustee shall be vacated if a trustee:

- a. Resigns
- b. Dies
- c. Becomes bankrupt
- d. Becomes of unsound mind
- e. Becomes for any reason unable in the reasonable opinion of the remaining Trustees to perform the duties of a trustee satisfactorily, including (if the Trustees determine) failing to participate in the business of the Trust over a period of at least four months without having previously obtained special leave
- f. Is convicted of an indictable offence.

14.0 Appointment of Chair and Deputy Chair

14.1 The Trust shall have a chair, deputy chair and treasurer ("the Officers") all of whom shall be Trustees of the Trust.

14.2 The Officers shall be elected by the Trustees annually.

14.3 Any retiring Officers shall have the right to stand for re-election.

14.4 If the chair is unable for any reason to perform the chair's duties then the deputy chair shall become acting chair during the relevant period of inability.

14.5 If any Officer (other than the chair) is unable for any reason to perform that Officer's duties, the Trustees shall appoint another Trustee to become the acting Officer during that relevant period of inability.

15.0 Proceedings of Trustee Meetings

15.1 Subject to this Deed the Trustees may meet together for the dispatch of business and may adjourn or otherwise regulate their meetings as they think fit.

15.2 At any meeting of the Trustees the chair shall preside or in his or her absence the deputy chair shall preside. In the absence of both the chair and the deputy chair the Trustees may elect one of their members to preside.

15.3 At all meetings of Trustees:

- a. No business shall be transacted unless the requisite quorum, which is 5 Trustees present (whether personally, by proxy or connecting to the meeting remotely in accordance with clause 19), is present at the commencement of business
- b. ALL decisions at a general meeting shall be reached by consensus. However, if a consensus cannot be reached on any decision, it shall, subject to clause 11 and 12, be put as a motion to be decided by a majority of votes.
- c. If the voting is tied, the motion shall be Lost
- d. A declaration by the chair or in their absence the deputy chair that the resolution has been carried shall be conclusive evidence of that fact.

15.4 Where any Trustee has been engaged by the Trust to carry out consultancy or other services for the Trust that will result in the Trustee receiving a financial benefit for such services then that Trustee shall not be entitled to vote on any resolution related to the services provided.

15.5 An act or decision of the Trustees shall not be invalid by reason only of:-

- a. A fault, default or irregularity in or in connection with the appointment of a Trustee;
- b. A vacancy in the number of the Trustees including a vacancy arising because of the failure to appoint a Trustee;
- c. The accidental omission to give notice to or the non-receipt of notice by any Trustee;

15.6 The Trustees shall keep a minute book and shall cause minutes to be kept therein of all meetings, resolutions and decisions made by them. Minutes purporting to be signed by the chair of the Trustees of a meeting shall be receivable as prima facie evidence of the matters contained in such minutes

16.0 Convening of meetings

16.1 The Trustees shall hold at Least one Annual General Meeting each year but otherwise shall hold such meetings in any calendar year as they shall decide.

16.2 The chair shall convene the meetings of the Trustees.

16.3 The chair shall convene any meeting of the Trustees if the chair receives a written request from at Least three Trustees to hold a meeting. At, least seven days prior notice of meetings of Trustees shall be given to all Trustees.

17.0 Resolution in Lieu of Meeting

17.1 A resolution in writing signed or assented to by Letter, email or other written or auditable electronic manner, by the majority of Trustees shall be as valid and effective as if it had been passed at a meeting of Trustees duly called and constituted.

17.2 Any such resolution may consist of several documents in Like form either signed or purporting to have been despatched by any one or more of the Trustees.

18.0 Proxies

18.1 A Trustee may exercise the right to vote either by being present in person or by proxy.

18.2 Only an existing Trustee may be appointed as a proxy.

18.3 A proxy for a Trustee is entitled to be heard at a meeting of Trustees as if the proxy were the Trustee.

18.4 A proxy must be appointed by notice in writing signed by the Trustee stating the particular meeting for which the proxy is valid, and a copy of which must be produced before the start of the meeting.

18.5 No proxy is effective unless it is produced not Less than 24 hours before the start of the meeting.

19.0 Remote attendance at a meeting of Trustees

19.1 Trustees shall be deemed to be present at the meeting if they connect remotely so long as each Trustee taking part in a meeting by telephone or other means of communication can throughout the meeting be able to hear each of the Trustees, and contemporaneously communicate with each of the Trustees taking part in the meeting.

20.0 Service of Notices

20.1 Notices shall be deemed served by one party upon another party:

- a. If posted, 2 days following posting;
- b. If delivered personally, at the date of service;
- c. If sent by electronic device, on the day following the date of transmission.

Executed as a deed this 1st day of June 2017

Signed by

in the presence of:

Name:

Occupation:

Address:

Signed by

in the presence of:

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