

CERTIFICATE OF INCORPORATION

SPORT WAITAKERE TRUST 1720678

This is to certify that SPORT WAITAKERE TRUST was incorporated under the Charitable Trusts Act 1957 on the 31st day of October 2005.

Neville Harris

Neville Harris
Registrar of Incorporated Societies
31st day of October 2005



SHEENA VALERIE DORLING
PETER JAMES GARELJA
TIMOTHY GRANT LIVINGSTONE
BRENT EDWARD McANULTY
NICO ALFRED SCHOUTEN
MEGAN NANCY TUNKS
DIRK JACOBUS VENTER

("the Trustees")

TRUST DEED
SPORT WAITAKERE TRUST

I, NICO ALFRED SCHOUTEN, am a trustee of the Sport Waitakere Trust and certify that this Trust Deed is a true copy of the Deed which was adopted at a meeting of the trustees on Tuesday the 30th day of August 2005.


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Signed

Date: 14-10-05
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1. TRUST FUND

The Trustees declare that they hold all money and other property settled upon trust for those charitable purposes referred to in clause 4 of this Deed together with all other money and property which may be added to it by way of capital or income ("Trust Fund").

2. NAME OF THE TRUST

The Trust shall be known as the "Sport Waitakere Trust" or such other name as the Trustees may, by amendment to this Deed, determine from time to time.

3. OFFICE OF THE TRUST

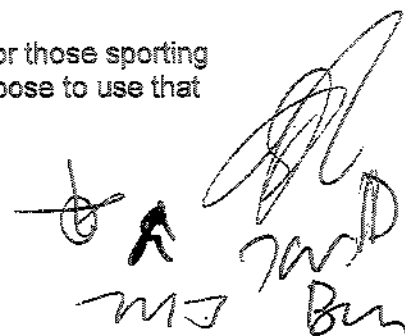
The registered office of the Trust shall be situated at Sport House, the Trusts Stadium, Central Park Drive, Waitakere City, or such place as determined by the Trustees from time to time.

4. OBJECTS OF THE TRUST

4.1 The objects of the Trust ("the Objects") are:

- (a) Those of a charitable trust (as those words are understood under the Charitable Trusts Act 1957 or elsewhere by the law applicable to New Zealand) for the advancement of education and in particular to provide financial and other assistance to and for the promotion of sport and recreation in educational institutions located in Waitakere City (the "District");
- (b) To assume the administration of the Sport Waitakere business from the Waitakere Regional Sports Trust;
- (c) To provide support to community sport and recreational groups and organisations in the District by the provision of advice, training, guidance and funding to assist in the improvement of and access to, governance, management and administration of the said groups and organisations in the District;
- (d) To provide guidance and support to schools, and educational institutions by assisting in the co-ordination of, and upskilling of teachers, trainers and coaches in the delivery of, sport and physical recreation programmes and activities in the District;
- (e) To raise awareness of the benefits of a healthy lifestyle by the promotion and co-ordination of physically active and healthy lifestyle programmes and activities in the District;
- (f) To operate and administer a sport house facility for those sporting and recreation bodies within the District which choose to use that facility;

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- (g) To work alongside similar organisations for the benefit of the District and the wider Auckland region; and
- (h) To undertake such other activities and provide such other assistance, whether by way of financial assistance/support or otherwise as the Trustees see fit of a charitable nature for the benefit of the District.

- 4.2 **District:** For the purposes of this Deed, District means the geographical area defined by the boundaries of the Waitakere City Council, or such other geographical area as determined by the Trustees.
- 4.3 **No Limitation:** The Objects of the Trust shall not, except where the context expressly requires it, be in any way limited or restricted by reference to or inference from the terms of any other clause of this Deed.
- 4.4 **Objects Independent:** The Trustees shall be empowered to carry out any one or more of the Objects of the Trust independently of any other object of the Trust.
- 4.5 **Carried out within New Zealand:** All the Objects of the Trust are to be carried out exclusively within New Zealand except where a trust beneficiary is provided with funds in New Zealand for study outside of New Zealand.

5. POWERS OF TRUSTEES

- 5.1 **General:** The Trustees shall act on the Trust's behalf. In addition to all other powers conferred by law, the Trustees shall have the same powers as a natural person acting as a beneficial owner of the Trust Fund. Such powers shall not be limited or restricted by any principle of construction or rule of law or statutory power or provision, except to the extent set out in this Deed. The Trustees shall exercise their powers either alone or jointly with another person or persons.
- 5.2 **Promotion of Objects:** The Trustees shall promote the Objects of the Trust described in clause 5 of this Deed. The Trustees shall act on behalf of and in the interests of the Trust.
- 5.3 **Advertise and Inform:** The Trustees shall have the power to make known and further the Objects of the Trust by advertising the manner in which the Trust Fund, or any part of it, has been, is being or will be applied, through established media and by advertising in any medium. The Trustees may also disseminate information of any nature relating to the Trust by written publication or otherwise.
- 5.4 **Collect Funds:** The Trustees shall have the power to collect funds and raise money by all lawful means (including by gaming machines) and receive, accept, encourage and enlist financial and other contributions, subscriptions, sponsorships, donations, legacies, endowments or bequests from any source. The Trustees may also

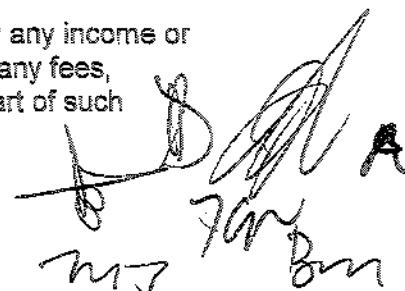
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conduct fund raising campaigns in order to further the exclusively charitable Objects of the Trust.

- 5.5 **Receive Grants and Subsidies:** The Trustees shall have the power to receive from the New Zealand Government or any council, board, territorial authority, or body under the jurisdiction of such governmental authority or from any national or international organisation, any grant, subsidy or payment of any kind in order to further the Objects of the Trust.
- 5.6 **Specified Trust:** The Trustees shall have the power to carry out any specified trust attaching or relating to any contribution, subscription, sponsorship, donation, legacy, endowment, bequest, grant, subsidy or payment received, to the extent such specified trust confirms with the Objects of the Trust.
- 5.7 **Apply Funds:** The Trustees shall have the power to apply any money forming part of the Trust Fund to the promotion and advancement and development of the Objects of the Trust.
- 5.8 **Invest Funds:** The Trustees shall have the power to invest any money forming part of the Trust Fund in any of the ways authorised by law for the investment of trust funds including, (if the Trustees think fit), on mortgage of land either by the Trustees alone or together with any person or persons as a contributory mortgagee.
- 5.9 **Acquire Property:** The Trustees shall have the power to acquire any real or personal property or interest in such property (whether in New Zealand or elsewhere) whether by purchase, lease, hire, exchange or otherwise and on such terms and conditions as the Trustees think fit.
- 5.10 **Sell and Reinvest:** The Trustees shall have the power to sell, join in, call in or convert all or any part of any real or personal property forming part of the Trust Fund in such manner and subject to such terms and conditions as the Trustees think fit. The Trustees may also reinvest the proceeds of such sale, calling in or conversion in such manner as they think fit.
- 5.11 **Postpone Sale:** The Trustees shall have the power to postpone the sale of any real or personal property forming part of the Trust Fund for so long as the Trustees think fit, even if such property is wasting, speculative or declining in nature.
- 5.12 **Lease:** The Trustees shall have the power to let, lease or bail to any person or persons any freehold or leasehold property or any plant or chattels or interest in any such property forming part of the Trust Fund, either from year to year or for any term or period, and for such rental, and subject to such covenants and conditions as the Trustees think fit. The Trustees may also accept surrenders of lease and tenancies and generally manage any lease or bailment as the Trustees think fit.
- 5.13 **Pay Debts:** The Trustees shall have the power to apply any income or capital of the Trust Fund in, for, or towards payment of any fees, costs, disbursements, debts or other liabilities or any part of such

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liabilities, owing by or in respect of the Trust Fund or incurred in connection with the trusts of this Deed. Such power shall apply whether or not the liabilities are charged upon the Trust Fund or on any part of it, and whether or not the Trustees are contractually or otherwise legally liable for the payment of the fees, costs, disbursements, debts or other liabilities.

- 5.14 **Acquire or Carry on Business:** The Trustees shall have the power to establish, acquire, carry on, or join in carrying on, or franchise any business or venture of any nature or any interest in such business or venture, from any person, or to commence, enter into, or to form any entity whether incorporated or not to enter into, or carry on or be engaged or concerned in any business or venture in support of the Trust's charitable objects. This power applies whether or not such business or venture was carrying on at the time of execution of this Deed and may be applied for such period or periods, and in such manner as the Trustees think fit, either alone or in partnership or otherwise with any other person or persons. This power includes the power to do or join in doing all things which the Trustees consider necessary, expedient or desirable in connection with such business or venture including without limitation:
- (a) employing or contracting such managers, employees, contractors, agents and others as the Trustees think fit, always subject to clause 14.4 below;
 - (b) using and employing part of the capital or income of both, of the Trust Fund;
 - (c) advancing to or employing any additional capital or income of the Trust Fund which the Trustees consider advisable to effectively carry on the business;
 - (d) managing or joining in the management; or
 - (e) withdrawing money from such business or venture.
- 5.15 **Establish Reserve Fund:** The Trustees shall have the power to establish and subscribe to any depreciation or reserve fund for any purpose the Trustees deem advisable and to determine in their discretion whether that fund is income or capital.
- 5.16 **Join in Partition:** The Trustees shall have the power to consent to and join in the partition of any assets in which the Trust Fund is interested and to take a transfer of a divided or undivided share or interest in any such assets.
- 5.17 **Maintain Property:** The Trustees shall have the power generally to maintain, manage, repair, improve or develop any real or personal property, or any interest, which forms part of the Trust Fund in such manner as the Trustees think fit.
- 5.18 **Directorships:** The Trustees shall have the power in respect of any company or companies in which the Trustees hold or are entitled to or propose to hold shares or debenture to appoint any person to act as a

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director of any company and of necessary to transfer to such person a sufficient number of shares to be held by them in trust for the Trustees to qualify such person as a director.

- 5.19 **Borrow:** The Trustees shall have the power to borrow or raise any moneys on mortgage or overdraft or otherwise, with or without security, from any person or person as such rate of interest and on such terms and conditions as the Trustees think fit, always subject to clause 14.4 below. The Trustees shall also have the power to sign any mortgage, deed, charge, arrangement or other document in connection with such borrowing.
- 5.20 **Guarantee:** The Trustees shall have the power to enter into, or join in entering, any guarantee by the Trustees alone or together with any person or persons, the giving of which the Trustees consider is in the interests (direct or indirect) of the Trust Fund or the promotion of the exclusively charitable objects of the Trust. The Trustees also have the power to authorise any company in which the Trustees hold shares to enter into such a guarantee or to enter into any other arrangement which the Trustees consider is in the interests of the Trust Fund or the promotion of the exclusively charitable objects of the Trust Fund.
- 5.21 **Give Security:** The Trustees shall have the power to give security, whether alone or together with any other person or persons, the giving of which the Trustees shall consider to be in the interests (direct or indirect) of the Trust Fund or of the promotion of the Objects or the exclusively charitable objects of the Trust. The Trustees also have the power to authorise any company in which the Trustees hold shares to give such security.
- 5.22 **Settle Accounts:** The Trustees shall have the power to agree and settle accounts with all persons liable to account to the Trustees and to compromise questions relating to the Trust Fund and to grant receipts, discharges and releases from such accounts.
- 5.23 **Appoint Agents:** The Trustees shall have the power to instruct and pay any person to transact all or any business or do any act required to be transacted or done in the execution of the trusts of this Deed including the receipt and payment of money. The Trustees shall not be responsible for any default of any such person appointed in good faith or for any loss occasioned by such person's instruction.
- 5.24 **Delegate:** The Trustees shall have the power to delegate any of its powers to any Trustee or Trustees, or person or persons (including a committee or an employee), provided that such delegation shall be recorded in writing by the Trustees.
- 5.25 **Make Policies, Rules etc:** The Trustees shall have the power to make policies, rules, guidelines and other determinations in governing the Trust.
- 5.26 **Bank Accounts:** The Trustees shall have the power to open or maintain such current or other accounts at such banks or other institutions and in such manner as the Trustees from time to time determine.

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- 5.27 **Amalgamate or Merge:** The Trustees shall have the power to amalgamate or merge the Trust with any other exclusively charitable trust or organisation and to transfer all or part of the Trust Fund to such amalgamated or merged trust.
- 5.28 **Insure:** The Trustees shall have the power to insure against loss or damage by any cause of any insurable property forming part of the Trust Fund, and to insure against any risk or liability against which it would be prudent for a person to insure if they were acting for themselves, for such amounts and on such terms as the Trustees may from time to time think fit.
- 5.29 **Contributions:** The Trustees shall have the power to make payment and contribute to any charitable or other trust having substantially similar objects as the Objects of this Trust.
- 5.30 **Statutory Authorisation:** The Trustees shall have the power to do all or any of the things which they are authorised to do by the Trustees Act 1956.
- 5.31 **General:** The Trustees shall have the power to do all such other things as in the opinion of the Trustees are incidental or conducive to the attainment of the Objects of the Trust.
- 5.32 **Exercise Powers Independently:** None of the powers conferred on the Trustees by clause 5 or otherwise shall be deemed subsidiary or ancillary to any other power and the Trustees shall be entitled to exercise all or any of them independently of each other.

6. PUBLIC DONATIONS

Any donations or gifts of money within the meaning of section DJ 4 or section KC 5 of the Income Tax Act 1994 made to the Trustees for the Objects of the Trust shall be placed in a fund established and maintained by the Trustees exclusively for those Objects carried out within New Zealand.

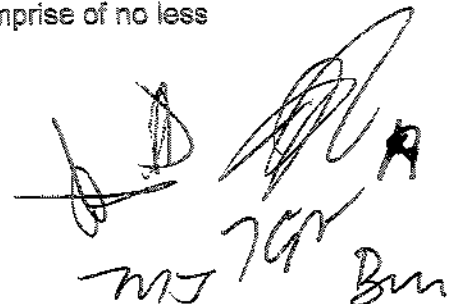
7. ADMINISTRATION OF THE TRUST

- 7.1 The Trust shall be governed by a Board of Trustees comprising the Trustees for the time being of the Trust.
- 7.2 No person shall be appointed or remain in office as a Trustee who is a paid employee of the Trust or a paid employee of any council, trust or other organisation which provides funds to the Trust.

8. COMPOSITION OF BOARD OF TRUSTEES

- 8.1 **Board of Trustees:** The Board of Trustees shall comprise of no less than five (5) and no greater than nine (9) trustees.

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8.2 Term of Office: Under this deed:


- (a) subject to clause 8.2(c), the term of office of every Trustee shall be three years, unless they resign or are removed in accordance with this Deed. Trustees may apply to be reappointed for a further term or terms provided they do not exceed nine years of service;
- (b) the terms of office of the Trustees shall be rotated so that at least two of the Trustees' term of office expires each year;
- (c) the inaugural Trustees shall determine by agreement, or failing such agreement, by lot, which Trustees shall cease to hold office prior to the term of office which they would otherwise have been entitled to, in order that the rotation of Trustees in clause 8.2(b) be effected; and
- (d) in the event that a Trustee seeks reappointment at the expiration of his or her term of office, in accordance with clause 8.2(a), any such further appointment shall be contingent upon a formal resolution approving and making such further appointment, carried by a two thirds majority of all of the other existing Trustees.

8.3 Appointment of Trustees: With the exception of the Inaugural Trustees under this Deed (clause 8.5), and any Trustees seeking to be reappointed for a further term under the provision of 8.2(d), the Trustees shall be appointed following recommendation by the Trust's Board Appointments Committee, consisting of the Chairman and two others (one of whom should be a Trustee), as set out in clause 8.4 below.

8.4 Board Appointments Committee: When a vacancy for Trustee arises, or the Board of Trustees believes it is necessary or prudent to appoint a Trustee, the Board Appointments Committee will:

- (a) undertake a thorough search by publicly advertising, writing directly to relevant stakeholder organisations as well as identifying suitable candidates itself;
- (b) shortlist suitable candidates by using the prepared recruitment profile;
- (c) conduct interviews;
- (d) make a recommendation of their preferred candidate to the Board of Trustees for ratification before the appointment is confirmed. If agreed to by the Board, reference checks will then be undertaken (with the candidate's consent); and
- (e) ensure the successful candidate undertakes the induction programme on appointment to the Board of Trustees, as set out in Sport Waitakere's Board Induction Policy.

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- 8.5 **Inaugural Trustees:** Each of the settling trustees of the Trust shall be deemed to be the trustees of the Trust from the date this Deed is executed.
- 8.6 **Chairperson:** The Trustees shall annually determine from amongst their number who shall be the chairperson of the Board of Trustees. The chairperson shall hold office for a period of one (1) year from their appointment, or such other period as determined by the Trustees.
- 8.7 **Eligibility to be a Trustee:** The following persons shall not be eligible for appointment, or to remain in office, as a Trustee:
- (a) **Bankrupt:** a person who has been adjudged bankrupt who has not obtained a final order of discharge or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled, or to any order under section 111 of the Insolvency Act;
 - (b) **Conviction:** a person who has been convicted of any offence punishable by a term of imprisonment of two or more years unless that person has obtained a pardon or has served the sentence or otherwise suffered the sentence imposed on them;
 - (c) **Behaviour:** a person who, in the opinion of the majority of the other Trustees, has committed a serious breach of Sport Waitakere's Protocol for Board Members, or has brought Sport Waitakere into disrepute;
 - (d) **Imprisonment:** a person who has been sentenced to imprisonment for any offence unless that person has obtained a pardon or has served the sentence or otherwise suffered the sentence imposed on them;
 - (e) **Disqualified Director:** a person who is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under section 199K or section 199L or section 199N of the Companies Act 1955 or under section 382 or section 383 or section 385 of the Companies Act 1993;
 - (f) **Property Order:** a person who is subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1988;
- and if any of the above events occur to an existing Trustee, they shall be deemed to have vacated their office upon such event.
- 8.8 **Vacancies of Trustees:** Where a Trustee ceases to hold office under this Deed, the Board Appointments Committee may recommend to the Board of Trustees that such vacancy be filled by an eligible person.
- 8.9 **Resignation:** Any Trustee may resign from the Trust by giving no less than 30 days' written notice to the remaining Trustees and such notice shall take effect from the date specified in the notice or, if there is no

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date specified, upon the expiry of 30 days from the date the letter was sent.

- 8.10 **Removal from Office:** The Trustees shall remove any one or more of their number if any of the circumstances in clause 8.7 occur or if they resolve to do so by unanimous vote of the Trustees other than the Trustee being removed.
- 8.11 **Ceasing to Hold Office:** In addition to the power to remove Trustees (under clause 8.10), the vacation of office on certain events occurring (clause 8.7) and the right of a Trustee to resign from office (under clause 8.9), the following circumstances shall also result in a vacancy in a Trustee's term of office:
- (a) **Failure to Attend:** A Trustee who fails to attend three consecutive meetings of the Board of Trustees without prior written notice and reasonable explanation (as determined by the other Trustees) shall be deemed to have vacated their office; or
- (b) **Death:** Upon the death of a Trustee their position shall be deemed to be vacant.
- 8.12 **Recording:** Upon every appointment, reappointment, removal or cessation of office of any Trustee, the Trustees shall record such fact by resolution in the minute book of the Trust.

9. MEETINGS OF THE TRUSTEES

- 9.1 **Time & Place for Meetings:** The Trustees shall meet at such places and times, and in such manner, as they determine, subject to two days' notice to all Trustees. The Chairperson shall chair Trustee meetings, or in his/her absence any other Trustee as determined by the Trustees.
- 9.2 **Facsimile/Email Resolutions:** A resolution in writing, signed or assented to by facsimile, or other form of visible or other electronic communication by the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees. Any such resolution may consist of several documents in like form each signed by one or more Trustees.
- 9.3 **Meetings by Tele-Conference etc:** A meeting of the Trustees may be held where one or more of the Trustees is not physically present at the meeting, provided that:
- (a) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
- (b) notice of the meeting is given to all the Trustees in accordance with the procedures agreed from time to time by the Trustees

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and such notice specifies that Trustees are not required to be present in person at the meeting;

- (c) if a failure in communications prevents clause 10.3(a) from being satisfied and such failure results in the quorum not being met, the meeting shall be suspended until condition (a) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated or adjourned.

- 9.4 Any meeting held where one or more of the Trustees is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Trustee is present at such place. If no Trustee is present at such place the meeting shall be deemed to be held at the place where the Chairperson of the meeting is located.

10. ADMINISTRATION

- 10.1 **Quorum:** A quorum of four (4) Trustees is required for all meetings of the Trustees.
- 10.2 **Voting:** Each Trustee present at a meeting shall be entitled to one (1) vote.
- 10.3 **Majority Decisions:** Except as otherwise provided in this Deed, all resolutions passed at a meeting of the Trustees shall be by a majority of Trustees present at the meeting and any such resolution shall be binding on all Trustees. The Chairperson shall have a deliberative (or original) vote as well as a casting vote in the event of a tie or equality of votes.
- 10.4 **Conflicts of Interest:** If any Trustee has or may have a conflict of interest (as determined by the Trustees), the Trustee shall declare their interest in the Minute Book and shall not take part whatever in any deliberations of the Trustees concerning any matter in which that Trustee is or maybe interested, other than as a Trustee of the Trust. S/he shall not vote on such matter and shall leave the meeting for any such vote, unless stated otherwise in this Deed.
- 10.5 **Minutes:** A minute book shall be provided and kept by the Trustees. Minutes of the proceedings of all meetings of the Trustees shall be prepared and entered in the minute book, and if confirmed at a subsequent meeting of the Trustees, shall be signed by the Chairperson as a true and correct record.
- 10.6 **Bank Accounts:** The Trustees shall keep an account or accounts at such bank or banks or financial institutions as they shall from time to time determine. Cheques and other debits from the account or accounts shall be signed by such person or persons as the Trustees shall from time to time authorise in writing, or as authorised under Sport Waitakere's Delegated Authority Policy.
- 10.7 **Accounts and Audit:** The Trustees shall keep full and correct records and accounts of all of their receipts, credits, payments, assets,

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liabilities and transactions and all other matters necessary for the showing the true state and condition of the Trust. As soon as practicable after the end of each financial year (being the year or any other accounting period ending on 30 June or any other date adopted from time to time by the Trustees as the end of the Trust's financial year) ("Financial Year"), the Trustees shall ensure that financial statements are prepared including a statement of position, a statement of financial performance and notes to those statements giving a true and fair view of the financial position of the Trust for that Financial Year. Such financial statements may be audited by a chartered accountant appointed for that purpose by the Trustees, as the Trustees determine.

- 10.8 **Execution of Documents:** Subject to clause 10.9, all documents required to be executed by the Trustees shall be deemed to be validly executed and binding if those documents have been entered into and executed by the authority of the Trustees previously given and signed by at least two (2) Trustees or any other person appointed by the Trustees for that purpose.
- 10.9 **Affixing Seal:** The Trustees shall have a common seal which shall be held by a Trustee or other person nominated by the Trustees, and shall be affixed by the authority of the Trustees previously given to any document requiring execution by the Trust. Every such affixing shall be performed in the presence of, and accompanied by the signatures of, either:
- (a) any two (2) Trustees; or
 - (b) the Chairperson and the Chief Executive.
- 10.10 **Tax Returns:** The Trustees shall ensure that all necessary tax accounts, returns, reports, declarations, notices, certificates, reconciliations and other information required by the Inland Revenue Departments are prepared and filed so as to allow the Trust to retain its agreed status for taxation purposes.
- 10.11 **Notices:** Any notice to be given to the Trustees under this Deed shall be in writing signed by the person or persons giving the notice and served at the registered office of the Trust. Any such notice or document shall be deemed to be duly given:
- (a) **By hand:** if delivered by hand, when so delivered;
 - (b) **By facsimile:** if delivered by facsimile, when receipt is confirmed;
 - (c) **By email:** if delivered by email, when receipt is confirmed;
 - (d) **By post:** if delivered by post, on the third working day after posting.

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11 STAFF

- 11.1 **Appointment:** The Trustees shall appoint a Chief Executive who may employ such staff as he or she considers appropriate to work for the Trust, consistent with the relevant policies and determinations of the Trust.
- 11.2 **Attendance at Trustees' Meetings:** Staff employed under clause 11.1 may be required to attend meetings of the Trustees but shall not be entitled to vote.

12 TRUSTEES' LIABILITY

- 12.1 **Liability for Loss:** No Trustee shall be liable for any loss to the Trust Fund arising:
- (a) **Investment:** by reason of any improper or imprudent investment made by any Trustee in good faith;
 - (b) **Agent:** from the negligence or fraud or delay of any agent instructed by any Trustee in good faith;
 - (c) **Mistake:** by reason of any mistake or omission made by any Trustee in good faith;
 - (d) **Delay:** by reason of any delay caused by any Trustee;
 - (e) **Deposit of Funds:** by reason of all or part of the Trust Fund being lawfully deposited in the hands of any banker or solicitor;
 - (f) **Security:** by reason of the insufficiency or deficiency of any security upon which all or part of the Trust Fund may be invested;
 - (g) **General:** by any other act of any Trustee;
- unless attributable to that Trustee's own dishonesty or to the wilful commission or omission of any act known by that Trustee to be in breach of trust.
- 12.2 **Trustee Act 1956:** Subject to clause 12.1, the care, diligence and skill to be exercised by the Trustees shall not be that required by sections 13B or 13C of the Trustee Act 1956 but shall at all times be the care, diligence and skill required that a prudent person of business would exercise in managing the affairs of others, even though the Trustees may from time to time include persons whose profession, employment or business is or includes acting as a trustee or investing money of behalf of others.
- 12.3 **Proceedings:** No Trustee shall be bound to take, or be liable for their failure to take, any proceedings against another Trustee or Trustees for any breach or alleged breach of trust committed by such other Trustee or Trustees.

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- 12.4 **Receipt of Monies:** Subject to clauses 12.1 and 12.2, a Trustee shall be chargeable only for such monies as shall actually have been received by that Trustee. For the purpose of this subclause, a Trustee shall be deemed to have received monies even if not actually paid to that Trustee if those monies have been credited in any account, reinvested, accumulated, capitalised, carried to any reserve, sinking or insurance fund, or otherwise dealt with on that Trustee's behalf.

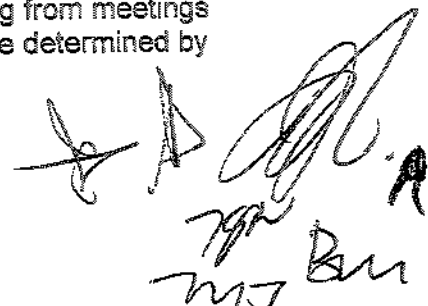
13. RESTRICTIONS ON BENEFIT FROM THE TRUST

- 13.1 **No determination of Income:** Where the Trustees carry on or engage in any business by, or on behalf of, or for the benefit of, the Trustees upon the trusts of this Deed, no person as defined in section CW 35 of the Income Tax Act 2004, shall by virtue of that capacity and within the ambit and scope of that section in anyway (whether directly or indirectly) determine, or materially influence the determination of, the nature or the amount of any benefit or advantage (whether or not convertible into money) or any income of the kinds referred to in sections CA 1(2), CB 1 to CB 21, CB 28, CC 1, CC 3 to CC 8, CD 1, CE 1, CE 8, CF 1, CG 3, CQ 1 and CQ 4 of the Income Tax Act 2004 able to be received, gained, achieved, afforded or derived by that person, from that business or the circumstances in which that benefit or advantage or income is to be so received, gained, achieved, afforded or derived.
- 13.2 **No Non – Exempt Derivation:** Nothing in this Deed shall authorise the derivation of income to which section CW 35 of the Income Tax Act 2004 applies and which is excluded from exemption from income tax by that section of the Act.

14. TRUSTEES' REMUNERATION AND EXPENSES

- 14.1 **Professional Remuneration:** A Trustee being a lawyer, accountant or other person engaged in any profession, business or trade shall be entitled to be paid all usual professional, business and trade charges for business transacted, time expended and all acts done by him or her or any of their employees or partners in connection with the trusts of this Deed, including acts which a Trustee not being in any profession, business or trade could have done personally, subject to prior approval by a majority of the other Trustees by resolution.
- 14.2 **General Remuneration:** A Trustee may be entitled to such remuneration for his or her services as a Trustee, as determined by the Trustees by resolution, as may be reasonable having regard to his or her duties and responsibilities as a Trustee.
- 14.3 **Expenses:** A Trustee shall be entitled to be indemnified against, and reimbursed for, all travelling, accommodation and other expenses properly incurred by them in attending to and returning from meetings or in connection with the trusts of this Deed as may be determined by the Trustees from time to time by resolution.

AIS

Handwritten signatures and initials, including a large signature and the initials 'A', 'M', 'B', and 'A'.

14.4 **Commercial Rates:** The Board shall not lend money nor lease or sell property or assets at less than current commercial rates, and shall ensure that receipts by way of interest or rent or payment shall not be at less than current commercial rates to any person:

- (a) who is a Settlor, Trustee or member of the Board;
- (b) who is a shareholder or director of any company by which any business of the Board is carried on;
- (c) who is a settlor or trustee of a trust that is a shareholder of any company by which any business of the Board is carried on; or
- (d) where that person and that settlor or trustee or shareholder or director referred to in (a) to (c) above are associated persons.

15 INDEMNITY

Each Trustee shall be indemnified out of the Trust Fund for and in respect of any loss or liability which such Trustee may sustain or incur by reason of the carrying out or omission of any function, duty or power of the Trustees under this Deed, unless such loss or liability is attributable to such Trustee's dishonesty or to the wilful commission or omission by such Trustee of an act known by such Trustee to be a breach of trust.

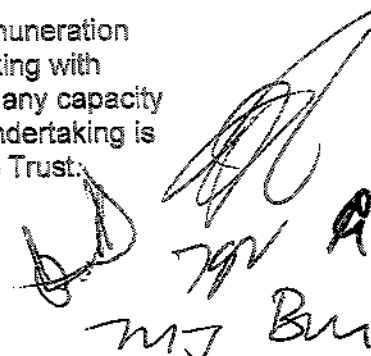
16 NO PRIVATE PECUNIARY PROFIT

16.1 All funds and assets of the Trust shall be applied within New Zealand towards furthering the exclusively charitable objects, aims and purposes.

16.2 No private pecuniary profit shall be made by any person involved in the Trust, except that:

- (a) any Trustee, Officer or Member may receive full reimbursement for all expenses properly incurred in connection with the affairs of the Trust;
- (b) the Trust may pay reasonable and proper remuneration to any Trustee, officer or servant of the Trust in return for services actually rendered to the Trust;
- (c) any Trustee, officer or member may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that person or by any firm or entity of which that person is a member, employee or associate in connection with the affairs of the Trust; and
- (d) any Trustee, officer or member may retain any remuneration properly paid to them by any company or undertaking with which the Trustee, officer or member has acted in any capacity whatever, notwithstanding that that company or undertaking is in any way attributable to their connection with the Trust.

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 A
 MJ
 BM

17 INCORPORATION

The Trustees shall ensure the Trust remains registered as an incorporated Trust under and in compliance with the Charitable Trusts Act 1957.

18 ALTERATIONS TO THIS DEED

The Trustees may, from time to time, by resolution carried by a two thirds majority of the Trustees alter, revoke or amend any or all of the terms of this Deed, provided that no such alteration, revocation or amendment shall be made which detracts from the Objects of the Trust, or which may affect the charitable nature of the Trust. Any such amendments must be registered, to be effective.

19 LIQUIDATION/DISSOLUTION

19.1 **Resolution:** The Trust may be wound up or dissolved upon a unanimous resolution of all the Trustees at a meeting of the Trustees called for that purpose. There shall be no less than thirty (30) days' notice given of such meeting to the Trustees.

19.2 **Surplus Property:** On the winding up of the Trust or its dissolution by the Registrar of the High Court under the Charitable Trusts Act 1957, all surplus assets after the payment of costs, debts and liabilities shall be given to such exclusively charitable organisations within New Zealand involved with sport and recreation activities within the District as the Trustees decide, or, if the Trustees are unable to make such decision, shall be disposed of in accordance with the directions of the High Court under section 27 of the Charitable Trusts Act.

20 GOVERNING LAW

The Trust shall be governed by and construed in accordance with the laws of New Zealand

A17

[Handwritten signatures and initials]
A
MJB

EXECUTION OF DEED:

SIGNED by
SHEENA VALERIE DORLING
in the presence of:

} S.V. Dorling

[Signature]
.....
Witness

Amanda Wilson
.....
Witness Name

Administrator
.....
Occupation

Waitakere City
.....
Address

SIGNED by
PETER JAMES GARELJA
in the presence of:

} P.J. Garelja

G. Kidd
.....
Witness

Glenns Kidd
.....
Witness Name

Principal's Personal Assistant
.....
Occupation

Waitakere City
.....
Address

SIGNED by
TIMOTHY GRANT LIVINGSTONE
in the presence of:

} T.G. Livingstone

[Signature]
.....
Witness

Amanda Wilson
.....
Witness Name

Administrator
.....
Occupation

Waitakere City
.....
Address

SIGNED by
BRENT EDWARD McANULTY
in the presence of:

} *Bresnahan*

M. J. Tunks
.....
Witness

Shona Hill
.....
Witness Name

Consultant
.....
Occupation

Auckland
.....
Address

SIGNED by
NICO ALFRED SCHOUTEN
in the presence of:

~~*[Signature]*~~

M. J. Tunks
.....
Witness

Amanda Wilson
.....
Witness Name

Administrator
.....
Occupation

Waitakere City
.....
Address

SIGNED by
MEGAN NANCY TUNKS
in the presence of:

} *M. Tunks*

M. J. Tunks
.....
Witness

Amanda Wilson
.....
Witness Name

Administrator
.....
Occupation

Waitakere City
.....
Address

SIGNED by
DIRK JACOBUS VENTER
in the presence of:



[Handwritten signature]
.....
Witness

Amanda Wilson
.....
Witness Name

Administrator
.....
Occupation

Waitakere City
.....
Address

SW Achievements for Aug 2004- Oct 2005

Governance

1. Board focussed on the work of a Regional Sports Trust

Separation of Businesses

- SW extracted from WRST

Strategic and Business Plans

Community consultation, plans written and submitted to SPARC. Organisation and team now have a framework and direction. The project idea and plans are an innovative way to work and the team have fully endorsed it.

AIM

To increase levels of physical activity in Waitakere City by 5 % by June 2007.

VISION

To be recognised as an innovative Regional Sports Trust in New Zealand and to make a measurable difference to the health and physical activity levels of Waitakere City people.

MISSION

To act as a catalyst by collaborating with organisations and people who encourage active lifestyles to increase the level and frequency of physical activity of people living in Waitakere City.

VALUES

Being Leaders

Entrepreneurial and Engaging

Focus and Fun

Innovation and Integrity

Teamwork and Trust

2. Informed effective leadership on governance Issues

Committees established to research and work on key issues.

- Appointments committee (Board and CEO)
- CEO Appraisal
- Audit and Risk Management committee
- Policy writing
- Funding committee

3. Policy framework in place to guide good governance

- An up to date set of Board policies written and confirmed including Organisational Risk Management based on best practice model from KPMG Risk Management pilot.
- Policies ensure there is a clear separation of governance and management.

4. Quality people with a variety of skills committed to leading Sport Waitakere

Skill and Gap Analysis

Skill and gap analysis of board completed. Identified gaps on board and recruitment now completed.

Board Members are:

- Nick Schouten (Chairman)
- Tim Livingstone (Deputy Chairman)
- Val Dorling
- Peter Gareija
- Brent McAnulty
- Megan Tunks
- Dr Dirk Venter

Induction Programme

A full induction programme has been adopted for new Board members.

Professional Development

Board have attended several workshops both as a group or as individual members.

Management

1. Consultants used for expertise

- Organisational - Strategic and business planning
- HR – organisational structure, recruitment
- Harbour Sport CEO – to assist with the Recovery Plan
- Financial – set up separate financial statements for SW and TTS. Monitored the monthly accounts

2. Staff capability adequate to our current needs and future demands

- Lynette Adams employed in permanent position of CEO from 1 July. Lynette has a background in Sport Administration and previously worked at Counties Manukau Sport.
- Staff capability assessment completed and with consultation, roles were altered to meet the needs of Sport Waitakere.
- All staff have an employment agreement, an updated job description and personnel file.
- All staff have a structured plan to work to and have welcomed this direction. Staff meet formally with manager monthly to update progress on the plan.

- All staff have completed a formal Performance Review with career and professional development needs for the upcoming year identified
- 3 days planning have taken place to focus the team and develop the 2005/6 Business Plan.

- Recruitment of new staff to deliver on the Strategy.

Kaiwhakahaere – for He Oranga Poutama programme, Active Movement (U5) Sport Development Manager has been employed and will commence on 3 January.

3. Retain experienced staff and reduce staff turnover

Team have been closely monitored and nurtured over this change period. To date no one has resigned and there is a general feeling of progress, personal growth and accomplishment. The team has expressed their commitment to working in projects and are looking forward to moving on from the past.

Currently the team meet fortnightly. This has encouraged better communication, team building, sharing of best practice and opportunities for training.

Professional Development needs were identified and the team have had many opportunities to participate. There is a wish to develop a culture of continual learning and the team are strongly encouraged to source and participate in Professional Development.

Examples of PD that staff have attended are:

- Risk Management Workshop
- Training by the WCC Traffic Management Officer
- LEAP – Auckland Rec Assoc Conference
- Certificate of Compliance
- Employment Relations Act seminar
- Institute of Directors course
- Leadership and Team Building (Unitec)
- Planning Days
- Auckland RST Alliance Meetings
- First Aid Course
- Project planning
- SPARC forums
- Health Conferences
- Meetings with SPARC staff – Cath Clark, Diana O'Neill, Debbie Curgenvin, Dave Adams

Salaries have been reviewed on the SPARC remuneration survey and staff are in line with the norm.

Credibility

- Improved relationships and performance with stakeholders
- Stakeholder relationship plan has been developed and stakeholders have been prioritised. An analysis of the relationships with stakeholders occurs at each Board meeting.

An update of where we are at with the key stakeholders follows:

General

We invited stakeholders to attend meetings to explain who we are and how we wish to work. We also consulted with a select group of the community to give us input into our strategic plan.

SPARC

Our relationship has improved immensely. We have continued to receive support through the Business Improvement Unit for writing of our strategic plan, business plan, HR and attending Professional Development.

We have had visits from several staff members and Sarah Sandley (board member)

Four (of 5) of our Board members and the CEO attended the SPARC "One Step Ahead" conference.

We have won the Active Movement position and have had our He Oranga Poutama reinstated.

Waitakere City Council

- Several Meetings have taken place with CEO and Directors of WCC
- SW completed an indepth financial audit and the findings were accepted as satisfactory
- SW submitted both written and verbal submissions to the Annual Plan.
- CEO contributed to the LTCCCP
- CEO sits on the Community Sport Funding Sub- Committee which funds sports organisations with grants or loans if they are within the set criteria
- Several presentations to the Finance and Operations Committee to update this council committee as to our developments
- Working closely with Leisure Services to encourage an application to the Active Communities fund
- Meeting held with Director of Quality Assurance to discuss in detail the SPARC Capability Audit of SW
- All major reports submitted on time. Subsequent meetings and feedback on these reports have been very positive.

Health

- Health West is the major PHO in Waitakere City. They hold the GRx Area Manager contract and are also paid by SPARC for some of the Patient Support calls. Sport Waitakere holds the Patient Support contract. Sport Waitakere was concerned that

with 2 GRx Patient Support agencies the residents of Waitakere City were not receiving a seamless nor consistent service. There was also duplication of resources particularly around the database. It was agreed that Sport Waitakere would relinquish the contract and in turn Health West would contract Sport Waitakere to set up suitable programmes for Green Prescription Patients. A new Move for Health programme designed for Green Prescription Patients, started in October.

Rosemary Hamilton's role at Sport Waitakere as GRx Patient Support effectively became redundant. SW has negotiated a transfer to HealthWEST for Rosemary which she has accepted.

Maori

- SW consulted with Maori on the strategic plan.
- SW has asked Te Taumata Runanga (council standing committee) for guidance when recruiting for HOP.
- SW followed due process in the recruitment of the HOP and have gained some valuable relationships for that with Waipareira Trust.

Pacific Island

Committee formed to run Pasifika Games which is made up of community and council representatives. A presentation has been made to the Pacific Advisory Board on Pasifika Games. A full debrief on the Pasifika Games has led us to new networks which we will be tapping in to next year.

Sporting Community

SW consulted with an advisory group on the strategic plan.

Courses have been completed and we are working with NZRL and local league clubs to initiate a Bartercard team from this region.

Schools

- SW consulted with an advisory group on the strategic plan
- We have fully participated with the SPARC Active Schools Initiative.
- SW are re-engaging with Secondary schools. Full compliance with Sportfit requirements and involvement in the Activate Conference.
- Wellbeing in Schools project (funded by WDHB, and delivered by Sport Waitakere/Harbour Sport National Heart Foundation and Educating NZ) has been launched and is underway. The project is motivated by the rising obesity rates and the objective is to deliver healthy activity and food programmes into schools. Harbour Sport has employed Daniel Kane who delivers the physical activity component into the schools. There are 30 schools involved in the project, 10 from Waitakere.

Auckland RST Alliance

Sport Waitakere has attended all CEO meetings; CEO and Board meetings; and programme team meetings and has received the full support of the Alliance.

Auckland Regional Sport and Physical Activity Strategy

SW has attended all the meetings and contributed to the strategy. The strategy is complete with the new Trust set up and the implementation phase underway. A strategy Director has been recruited. RSTA chairs are the trustees of this Board.

Stakeholder Management

Relationship Management Plan written and monitored. Board monitor at each meeting if the relationship has improved. Staff report at the monthly 1 on 1's, stakeholders they have worked with in the month.

Don Oliver Youth Scholarship Foundation.

SW sees this organisation aligning to our goals and would like to add benefit to ensure both parties work closely together. SW submitted and were accepted with 2 proposals

1. To organise the fundraising dinner
2. To provide administration services to the DOYSF

Develop stronger relationships, understanding and meeting customers needs and expectations

Evaluation feedback collected from all events and programmes in the form of surveys and debriefs. All the team have implemented this as best practice.

Improved awareness and branding of Sport Waitakere highlighting positive achievements

Media

- SW continue to pay for a fortnightly column in the Western Leader written by the CEO to highlight the activities of Sport Waitakere and regional initiatives.
- A marketing and communications plan has been developed. Events Manager has media included in her portfolio and has developed strong relationships with the Western Leader and Flava FM.
- Events Manager has developed a Corporate Identity Kit which has complied everything we use our brand on. We also use our "designer" to help with consistency around the brand and key messages. "Building the Brand" is a project led by CEO has been included in the 2005/6 Business Plan.
- A website review occurred and Sport Waitakere's website went live in December www.sportwaitakere.co.nz

Accountability

1. Board and CEO regularly monitoring performance against plans

- Regular performance evaluations of all personnel involved at Sport Waitakere
- Board completed a formal self evaluation, analysed the results with recommendations actioned
- The Board undertake an informal review after each Board Meeting to ensure that the Board is being effective.
- All staff including CEO have completed a formal performance review.
- Job descriptions and employment agreements have been reviewed and updated for compliance. New employment agreements have a 3 month probationary clause added.

2. Policies and Procedures provide a framework to guide the operations of Sport Waitakere

- Policy and procedure manual has been finalised and shown to staff. There is one hard copy and a copy for access on the server. Key policies are discussed at staff meetings.
- A breach of policy file has been set up to track any variances by staff. This is to ensure policies and procedures are practical and to assist performance management.
- The policy and procedure manual was regarded as an area of excellence in the SPARC Capability Audit.

Finance

Ensure Sport Waitakere achieves financial compliance through guidelines

Financial Systems

Review of financial systems has been completed. Financial policies and procedures have been implemented and the systems have been tightened up to ensure compliance.

Annual Budget

Annual Budget and Capital Expenses completed and adhered to as much as possible. All extra expenses were out of our control.

Raising funds has been complicated by the governance structure due to their only being one Trust Deed (WRST) which has been primarily used for stadium purposes. This situation is being rectified. SW managed to gain some extra funds for IT expenditure.

Financial Reporting

Monthly Management accounts are available at Board meetings which include P and L, Balance Sheet and Cashflow forecasts.

Full statutory accounts were prepared by external auditors Hayes Knights.

WCC completed a full financial (and non financial) audit and the overall comment is highlighted below.

Overall, the organisation seems to be moving in a positive direction. A number of positive changes have taken place including Governance policies and framework, change management personnel, improvement financial controls, initiative relating to staff performance and future planning. The challenge to the Board and Management relates to the effective implementation of the changes identified.

Financial Overview

SW contracts its own financial controller on a parttime basis. SW administrator completes the daily financial operations which is checked by SW Financial Controller.

Other Achievements

SPARC Capability Audit

The focus for Sport Waitakere was to "pass the audit" and thus secure the future of the organisation. Energy was directed to the target of Operation 550. Without this pass, the future of Sport Waitakere would be in doubt. The Acting CEO, Sarah Dunning worked tirelessly with the Board on governance issues and the General Manager focussed more on the daily operations. After the audit in March the Acting CEO left the organisation and the General Manager continued.

The results were astounding for Sport Waitakere with an 80% improvement from the previous audit.

The areas of excellence are described below:

At the time of its reassessment, Sport Waitakere described itself as a new organisation that had virtually rebuilt itself from scratch over the past 12 months. The work that has been undertaken by the Board, management and staff supports this view. Initiatives of particular note include:

- ***Developing a thoughtful and comprehensive Strategic Plan that will guide the organisation's future development***
- ***Developing and adopting policies and procedures relating to most aspects of the organisation's operation***
- ***Engaging in ongoing dialogue with key stakeholders and rebuilding stakeholder confidence in the organisation***
- ***Stabilising the organisation's staffing situation and planning for its future staffing requirements.***

In summary, in the past 12 months Sport Waitakere has significantly improved its capability across a wide range of areas. The challenge it now faces is to use this improved capability to deliver tangible sustained benefits to its local community.

Team Culture

With all the changes and uncertainty it has been heartening to see the team "hang on in". They have not only been through a lot of organisational change but their roles have changed – some completely. There is an expectation now for them to step up and change the way that they work and they are responding well to this next challenge.