

DEED GOVERNING THE KING'S COLLEGE FOUNDATION

MATTHEW GEORGE WILLIS  
SHAN NICOLA WILSON  
ELIZABETH DIANNA YOUNG  
ISILELI TUIVANUAVOU TUPOU  
CAROLLYN JOY CHAPLIN  
MICHAEL JOHN HARPER  
SIMON THOMAS LAMB  
MURRAY ALAN REID

Board of Management

and

SHAN NICOLA WILSON  
Chair of Board of Governors

- Deleted: CRAIG
- Deleted: MICHAEL
- Deleted: ASHBY
- Deleted: BRADLEY
- Deleted: THOMAS
- Deleted: FENNER
- Deleted: PETER JOCK FERGUSON  
RICHARD JULIAN KIDD  
RAYMOND CLAUDE KINGSTON  
LAWRENCE STEPHEN MAYNE  
PETER FRANCIS ROSE  
PETER WEBSTER WILSON
- Deleted: PETER JOCK FERGUSON
- Deleted: Chairman

Deleted: SIMPSON GRIERSON

## CONTENTS

CLAUSE	PAGE
1. NAME OF FOUNDATION	3
2. DEFINITIONS AND INTERPRETATION	3
3. PURPOSES	5
4. MEMBERSHIP	6
5. CLASSES OF MEMBERSHIP	7
6. CESSATION OF MEMBERSHIP	10
7. MANAGEMENT OF FOUNDATION	11
8. BOARD OF MANAGEMENT	12
9. OFFICERS	14
10. PROCEEDINGS OF BOARD OF MANAGEMENT	15
11. POWERS OF BOARD OF MANAGEMENT	18
12. DUTIES OF THE FOUNDATION AND THE BOARD OF MANAGEMENT	20
13. STANDING COMMITTEES	20
14. GENERAL MEETINGS	21
15. ACCOUNTS	24
16. NO DISTRIBUTION TO MEMBERS	25
17. INCORPORATION AND COMMON SEAL	25
18. LIABILITY	25
19. BY-LAWS	26
20. WINDING UP	26
21. RESETTLEMENT OF TRUST FUND	27
22. VARIATION OF DEED	27
23. GOVERNING LAW AND JURISDICTION	28

## SCHEDULES

### SCHEDULE 1 TRUSTEE DUTIES

Deleted: 4

Deleted: 5

Deleted: 8

Deleted: 9

Deleted: 10

Deleted: 12

Deleted: 13

Deleted: 12

Deleted: 17

Deleted: 13

Deleted: 18

Deleted: 14

Deleted: 20

Deleted: 15

Deleted: 21

Deleted: 16

Deleted: 21

Deleted: 17.→ INDEMNIFICATION → 26¶  
18

Deleted: ¶  
18

Deleted: 22

Deleted: 19

Deleted: 22

Deleted: 20.→ AMENDMENT OF DEED → ERROR! BOOKMARK  
NOT DEFINED.¶

Deleted: ¶

Deleted: ¶  
This DEED is made on this 26 May 2010¶  
¶

DEED DATED

2025

PARTIES

1. MATTHEW GEORGE WILLIS, SHAN NICOLA WILSON, ELIZABETH DIANNA YOUNG, ISILELI TUIVANUAVOU TUPOU, CAROLLYN JOY CHAPLIN, MICHAEL JOHN HARPER, SIMON THOMAS LAMB AND MURRAY ALAN REID (Board of Management)

Deleted: by CRAIG MICHAEL ASHBY, BRADLEY THOMAS FENNER, PETER JOCK FERGUSON, RICHARD JULIAN KIDD, RAYMOND CLAUDE KINGSTON, LAWRENCE STEPHEN MAYNE, PETER FRANCIS ROSE and PETER WEBSTER WILSON ("Board of Management")<sup>11</sup>

BACKGROUND

- A. The King's College Foundation (Foundation) was constituted by declaration made on 17 September 1980 by the Board of Governors of King's College; namely, Frederick Reed Alan Hellaby, company director, Kenneth Sydney Turtill, retired, William Desmond Sutcliffe, architect, John McIntosh Ewen, retired, John Hamilton Wallace, Queen's Counsel, all of Auckland, for the purpose of providing financial and other assistance to or for the benefit of the College.
- B. The Foundation has faithfully pursued its purpose and, in recognition of changes that had occurred, the declaration constituting the Foundation was amended and substituted in its entirety with the approval of a unanimous resolution at a general meeting of members held on 12 October 1998, by deed dated 4 November 1998.
- C. The Board of Management (as it was comprised preceding the date of this deed) reviewed the deed of trust constituting the Foundation and;
- (i) after detailed consideration over an 18-month period as to the future direction of the Foundation, in the context of the desirability of (amongst other things), growing and building significant endowment capacity for, and otherwise the best overall interests of, the College; and
- (ii) after considerable discussion by that board with the Board of Governors; and
- (iii) with the unequivocal support of the Headmaster of the College,
- resolved to, and did, recommend to the members of the Foundation the adoption of a new deed of trust;
- (iv) affirming the original purpose of the Foundation;
- (v) making certain changes to the composition of its Board of Management;
- (vi) modernising its terms; and
- (vii) making such other changes and amendments as it thought desirable in the context of the future direction of the Foundation.
- D. By resolution of members passed at the annual general meeting of the Foundation held on 11 June 2025 the Foundation has adopted this deed, as so recommended, as the deed constituting the Foundation with effect on and from 11 June 2025 in substitution for the previous deeds dated 26 May 2010 and 4 November 1998.
- E. The Board of Governors approved that resolution prior to it being passed.

Deleted: of the Foundation

Deleted:

Deleted:

Deleted:

Deleted: unanimous

Deleted: 26 May 2010

Deleted: 26 May 2010

Deleted: deed

OPERATIVE PART:

1. NAME OF FOUNDATION

1.1 The Foundation shall be known as “King’s College Foundation”.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions: In this deed, unless the context otherwise requires:

Act means the Trusts Act 2019.

AGM means Annual General Meeting

**Bequest** means a testamentary gift.

**Board of Governors** means the Board of Governors of the College.

**Board of Management** means the governing body of the Foundation (as constituted by this deed).

**Capital Endowment Fund** means that part of the Trust Fund comprising gifts, distributions or resettlements to the Foundation for any purpose that is a Charitable Purpose specified by the donor of each gift and approved by the Board of Governors, including Income of any year attributable to such part of the Trust Fund that is not utilised for the specified purposes in any year.

**Charitable Purpose** means the following purposes:

- (i) any purpose for the advancement of education in New Zealand; and
- (ii) such other purposes within New Zealand that are charitable under the laws of New Zealand from time to time and in particular fall within the definition of “charitable purpose” in Section 5 of the Charities Act 2005.

Charities Services means that part of the Department of Internal Affairs that administers the Charities Act 2005.

Civil Union Partner means a person who has entered into a civil union with another person pursuant to the Civil Union Act 2004;

**College** means King’s College, Auckland.

**De facto Partner** means a person who is in a “de facto relationship” as that term is defined in section 29A of the Interpretation Act 1999.

**Donation** includes:

- (a)** a gift in cash or kind made by any person;

Deleted:

Formatted: Heading 4,1.1 Heading,Fourth Level,h4,sub-sub-sub para,(i),i,H4,D Sub-Sub/Plain,h4 sub sub heading,bullet,bl,bb,h41,KJL:3rd Level,4,(Alt+4),H41,(Alt+4)1,H42,(Alt+4)2,H43,(Alt+4)3,H44,(Alt+4)4,H45,(Alt+4)5,H411,(Alt+4)11,H421,(Alt+4)21,H431,(Alt+4)31,H46

Formatted: Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5 cm + Tab after: 3 cm + Indent at: 3 cm

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

(b) a distribution by a trust out of the Income or capital of the trust.

Deleted: income

**Executive Director** means the executive director of the Foundation from time to time.

**Foundation** means King's College Foundation.

**Foundation Associates** means any one or more or all of:

- (a) the King's College Trustees;
- (b) the College;
- (c) the Board of Governors;
- (d) the King's College Old Collegians Association Incorporated;
- (e) the Association of Friends of King's College Incorporated;
- (f) the group known as Floreat Semper Fellowship;
- (g) any other body or appeal determined by the Board of Management to be associated with, or for the benefit of, the College.

**Income** means the yield on the Trust Fund as determined in accordance with the accounting policy adopted from time to time by the Board of Management after obtaining appropriate professional advice and as approved by the Board of Governors.

**King's College Trustees** means the trust board incorporated under the Charitable Trusts Act 1957.

**Members** means those persons who are members of the Foundation as provided for in clause 5.

Moved down [9]: person and words importing a person or persons include an incorporated entity, a partnership, trust or other unincorporated association or body of persons and any state, local authority, government or governmental agency

**Pledge** means an undertaking in writing made in accordance with clause 5.11 by a person to make a Donation to the Foundation.

Deleted: .¶

**Preserved Capital Fund** means the Trust Fund other than the Capital Endowment Fund and the Special Purpose Fund.

**Special Purpose Fund** means that part of the Trust Fund comprising:

- (a) Donations or Bequests to or for the benefit of the Foundation for specified Charitable Purposes approved by the Board of Governors and the Board of Management which are accumulated in the Foundation pending utilisation for the specified purpose;
- (b) Donations or Bequests to or for the benefit of the Foundation for specified Charitable Purposes approved by the Board of Governors and the Board of Management upon terms (including as to investment management) stipulated by each donor and accepted by the Board of Management pending utilisation for the specified purposes,

in each case, including the Income attributable to it.

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

**Tax Concession** means any tax concession under the laws of New Zealand directly or indirectly benefiting charitable entities, including exemption of a charitable entity's Income from income tax and any tax concessions in respect of contributions to a charitable entity.

**Trust Fund** means the Capital Endowment Fund, the Preserved Capital Fund and the Special Purpose Fund or, if the context requires, any one or more of such funds.

**Year** means calendar year.

**2.2 Interpretation:** In this deed, unless the context indicates otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing one gender include any other gender;
- (c) references to "writing" or "in writing" are to all modes of written word including electronic means of communication by written word;
- (d) a reference to this deed is a reference to this deed as from time to time amended;
- (e) a reference to a statute is a reference to that statute as from time to time amended, re-enacted or substituted;
- (f) a reference to a section, clause or sub-clause is, unless otherwise specified, a reference to a section, clause or sub-clause in this deed;
- (g) person and words importing a person or persons include an incorporated entity, a partnership, trust or other unincorporated association or body of persons and any state, local authority, government or governmental agency;
- (h) headings have been inserted for guidance only, and shall not be deemed to form part of the context of this deed; and
- (i) the phrase "at any time" means at any time and from time to time.

Deleted: the

Moved (insertion) [9]

Deleted: (g)

Deleted: (h)

**3. PURPOSES**

**3.1 Purpose:** The Trust Fund shall only be used for Charitable Purposes.

**3.2 Public Benefit:** The Charitable Purposes are to be pursued for public benefit and not for private profit.

**3.3 Other Trusts:** The Foundation may act as trustee of any other trust created by deed, will or otherwise so long as such other trust has Charitable Purposes similar to that of the Foundation. The provisions of the other trust, with regard to the purpose and application of the trust funds of that trust, are to apply to any funds transferred to the trusteeship of the Foundation.

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

**3.4 Tax Concession:** To maintain the Foundation’s eligibility for the benefit of any Tax Concession for which it would otherwise be eligible, unless in relation to any such concession, the Board of Management has determined that eligibility for the benefit of that concession is not required in the best interests of the Foundation in relation to the advancement of its purposes.

**3.5 Geographical Limitation:** The Board of Management must ensure that the Trust Fund is distributed and applied to advance the Trust’s Charitable Purposes in New Zealand. This does not preclude the Board of Management from undertaking any activity or applying any part of the Trust Fund outside of New Zealand, or in a manner that may benefit any community or communities outside of New Zealand, if the Board of Management considers that the relevant activity or application of the Trust Fund is an appropriate means by which to advance the Trust’s Charitable Purposes in New Zealand and the activity or application of the Trust Fund is undertaken for that purpose.

**3.6 Means of Achieving Purpose:** In the pursuit of such Charitable Purposes, the Foundation may undertake any activity, as the Board of Management thinks fit, including but not limited to, applying and using the Trust Fund for the benefit of the College including, without limitation, providing financial assistance:

- (a) for the employment of teachers and other staff;
- (b) for the carrying out of educational and research projects;
- (c) for the grant of scholarships, bursaries, endowments and educational allowances to teachers, other staff and to students of the College;
- (d) to enable academic specialists to visit the College;
- (e) for the acquisition by the College of library books, works of art and plant and equipment required for educational purposes;
- (f) for the development of new teaching methods and the cultural environment of the College; and
- (g) for the acquisition of land or other facilities for the College and for the construction or maintenance of buildings and other facilities to be used by the College.

**3.7** Notwithstanding the generality of the provisions in clause 3.6, the Capital Endowment Fund, any funds received by the Foundation from other trusts as provided for in clause 3.3 and the Special Purpose Fund shall be applied solely and exclusively for their specified Charitable Purposes and strictly in accordance with any terms and conditions upon which they are received and held by the Foundation.

4. MEMBERSHIP

**4.1 Constitution of Membership:** The Foundation shall comprise the following who qualify for membership:

Deleted: 3.2  
Deleted: a  
Deleted: p  
Deleted: shall apply  
Deleted: and use it exclusively  
Deleted: to provide

Deleted: 3.3  
Deleted: 3.2  
Deleted:

Deleted:  
Deleted: governing the (38744861.1) Draft 09/05/2025

(a) natural persons who shall, from acceptance for membership, be Members for life; and

**Deleted:** members

(b) incorporated and unincorporated bodies which shall, upon acceptance for membership, be Members for such term and upon such conditions as the Board of Management specify.

**Deleted:** members

**Deleted:** shall

**4.2 Joint Membership:** A natural person and his or her spouse, De facto Partner or Civil Union Partner at the time of application for membership, may become joint Members and any person who is a Member at any time may apply in the prescribed form to the Foundation for the person's spouse, De facto Partner or Civil Union Partner to be accepted as a joint Member of the Foundation with that person, provided that any person who was at any time a Member jointly with another person shall not except in the case of the death of the other person be so entitled to apply in respect of any subsequent spouse, De facto Partner or Civil Union Partner unless a further qualifying Donation is made.

**Deleted:** m

**Deleted:** or

**Deleted:**

**Deleted:** members

**Deleted:** member

**Deleted:** or

**Deleted:** member

**Deleted:**

**Deleted:** member

**Deleted:** or

**Deleted:** M

**Deleted:** member

**4.3 Application for Membership:** Any person wishing to become a Member of the Foundation shall apply for membership in the prescribed form and shall specify:

(a) the class of membership sought; and

(b) the manner in which qualification for that class of membership shall be achieved.

**Deleted:** will

**4.4 Decline of Applications:** Without having to specify any reasons for its decision, the Board of Management may decline to accept:

**Deleted:** a

(a) any application for membership;

(b) any Donation;

(c) any Pledge; or

(d) any notification of an intention to make a Bequest.

**4.5 Nomination of Representative:** A Member, being a person other than a natural person, shall by notice in writing to the Board of Management nominate a natural person who shall have been approved by the Board of Management to represent such Member and the person nominated shall alone represent, act and exercise the membership rights of such Member. Where a Member has made such a nomination the Member may at any time by notice by writing to the Board of Management alter such nomination.

**Deleted:** member

**Deleted:** so

**Deleted:** member

**Deleted:** member

**Deleted:** member

## 5. CLASSES OF MEMBERSHIP

**5.1 Classes:** Subject to clause 5.5, the membership of the Foundation shall comprise of three classes; namely "Members", "Fellows" and "Directors".

**5.2 Members:** A person who:

(a) makes a Donation of \$5,000 or more but less than \$15,000;

**Deleted:** : or

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025



- (b) makes a Pledge of \$5,000 or more but less than \$15,000; or
  - (c) gives notice to the Board of Management of an intention to make a Bequest of \$10,000 or more but less than \$30,000,
- shall qualify as a Member of the Foundation.

**5.3 Fellows:** A person who:

- (a) makes a Donation of \$15,000 or more but less than \$40,000;
- (b) makes a Pledge of \$15,000 or more but less than \$40,000; or
- (c) gives notice to the Board of Management of an intention to make a Bequest of \$30,000 or more but less than \$80,000,

shall qualify as a Fellow of the Foundation.

**5.4 Directors:** A person who:

- (a) makes a Donation of \$40,000 or more;
- (b) makes a Pledge of \$40,000 or more; or
- (c) gives notice to the Board of Management of an intention to make a Bequest of \$80,000 or more,

shall qualify as a Director of the Foundation.

**5.5 Additional Classes:** The Board of Management may at any time introduce;

- (a) whether or not in respect of a determined period of time;
- (b) otherwise on such terms and conditions (including as to quantum of Donation, Pledge or intention to make a Bequest); and
- (c) with such nomenclature,

as it may determine, one or more additional classes of membership of the Foundation.

**5.6 Amendment to Level of Contribution Required:** The Board of Management may at any time increase the level of Donation, Pledge or Bequest required for any one or more classes of membership. Where the Board of Management does so, the provisions of this deed specifying an amount of Donation, Pledge or Bequest for membership shall be amended with effect from such future date as shall be specified by the Board of Management and where such amendment is deemed to be made it shall apply only to applications for membership made after the date of the deemed amendment.

**5.7 Prior Members:** Any person who qualified for membership prior to 26 May 2010 shall retain the class of membership that the person qualified for under the trust deed applicable at the time the person became a Member and, for the avoidance of doubt:

**Deleted:** : or

**Deleted:** or

**Deleted:** and

**Deleted:** l

**Deleted:** c

**Deleted:** r

**Deleted:** member

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

(a) a person who qualified for membership prior to 31 March 1981 shall be classified as a Founding Member, Founding Fellow or Founding Director as the case may be; and

(b) a person who qualified for membership after 31 March 1981 and before 26 May 2010 shall retain the class of membership applicable to that person under the rules for membership applying at the time the person became a Member.

Deleted: member

**5.8 Additional Member:** Subject to clause 4.4, a person whose Donation or Pledge exceeds the qualifying amount for the nominated class of membership may make application to the Foundation to have another person or persons accepted as a Member or Members in the class or classes of membership for which the excess is a qualifying amount.

Deleted: member or members

**5.9 Third Party Members:** Subject to clause 4.4, any person may make a Donation or Pledge or give notice of an intention to make a Bequest in accordance with this deed provided that the value of the intended Bequest shall be not less than twice the value of the balance of the gift that would be required to enable the person to qualify for membership in his or her desired classification of membership.

Deleted: p

Deleted: m

**5.10 Combination of Gifts:** A person may elect to qualify for membership by a combination of two or more of a Donation, a Pledge and an intended Bequest provided that the value of the intended Bequest shall be not less than twice the value of the balance of the gift that would be required to enable the person to qualify for membership in his or her desired classification of membership.

Deleted: g

**5.11 Pledges:** A person may make a Pledge to qualify for membership provided that the Pledge is:

(a) in the prescribed form;

(b) for a minimum amount necessary to qualify for the person's desired class of membership; and

(c) due for payment in full or by instalments within seven years from the date of the Pledge.

**5.12 Donations to Foundation Associates:** The Board of Management may, in its discretion, accept membership at any time a person who makes or who has made a Donation to any Foundation Associate of the value (as determined by the Board of Management) of at least the amount required at the time of the Donation to qualify for membership of the Foundation. Where such a Donation is or was of an amount required that would have qualified the donor for a class of membership at the time the Donation was made, the Board of Management may accept the donor, or any third party specified by the donor for membership in accordance with clause 5.9, as a Member of the Foundation in the appropriate class of membership for the amount of the Donation as if the Donation had been made to the Foundation at the time it was made to the Foundation Associate.

Deleted:

Deleted:

Deleted: for

Deleted: member

**5.13 Membership Progression:** A member may at any time progress to a higher class of membership by:

Deleted: p

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

- (a) making an additional Donation and/or Pledge of an amount that would, in combination with the value (as determined by the Board of Management) of prior Donations and/or Pledges qualify the Member for membership at the appropriate higher class of membership in accordance with clause 5.14; and
- (b) giving notice to the Board of Management of an intention to make, or increase the quantum of, a Bequest of an amount that would qualify the Member for membership at the appropriate higher class of membership in accordance with clause 5.15.

**5.14 Additional Donation or Pledge Required for Progression:** The value (as determined by the Board of Management) of the additional Donation or Pledge, as the case may be, required under clause 5.13(a) shall be calculated in accordance with the following formula:

$$a = \frac{b \times c}{d} \text{ where:}$$

'a' is the qualifying amount for such higher class of membership at the time of the additional Donation or Pledge by the Member;

'b' is the value (as determined by the Board of Management) of the Member's prior Donations or Pledges (excluding any amount in respect of which the Member has nominated some other person in accordance with clause 5.9);

'c' is the qualifying amount for the higher class of membership at the time of the additional Donation or Pledge by the Member; and

'd' is the qualifying amount for such higher class of membership at the time the Member qualified for his or her existing class of membership.

**5.15 New Bequests:** The value of the intended Bequest or the increase in the quantum of the Bequest referred to in clause 5.13(b) shall not be less than the value that would qualify the Member for the higher class of membership at the time of the notice to the Board of Management to make a Bequest or to increase the quantum of a Bequest provided that where the Member has previously made a Donation or Pledge to the value of the intended Bequest or increase in quantum of the Bequest shall be not less than twice the amount calculated in accordance with the formula in clause 5.14 on the assumption that the Member was making an additional Donation or Pledge.

## 6. CESSATION OF MEMBERSHIP

**6.1 Resignation of Member:** A Member may resign from membership by delivering notice in writing to that effect to the Secretary at the office of the Foundation and, upon the delivery of such notice, the Member shall cease to be a Member.

**6.2 Cessation of Membership:** Unless the Board of Management otherwise determines, a Member of the Foundation shall cease to be a Member if:

- (a) not otherwise qualifying as a Member, the Member's Pledge is not honoured within six months of the due date;

Deleted: member

Deleted: member

Deleted: r

Deleted: p

Deleted: member

Deleted: member's

Deleted: member

Deleted: member

Deleted: member

Deleted: be

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted: member's

Deleted: or

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

(b) the Board of Management receives notice from a Member who had qualified for membership as a result of a notice to the Board of Management of an intention to make a Bequest to the Foundation that he or she intends to revoke, or has revoked the Bequest; or

(c) in the case of a Member who qualified for membership as a result of giving notice of an intention to make a Bequest, the Board of Management is not satisfied as to the continued ability of the Member to make such a Bequest,

provided that if the Foundation has received Donations from such a Member, the Board of Management may re-admit the Member to the class of membership for which the Donations received were a qualifying amount at the time the last Donation was actually made.

**6.3 Expiry of Fixed Term Membership:** Where a Member was admitted to membership for a fixed term, the Member shall cease to be a Member on the expiry of the fixed term provided that the Member shall be eligible to apply for membership again in accordance with the deed.

**6.4 Gifts Remain Property of Foundation:** All property comprised in any Donation, Pledge, Bequest or otherwise, made by a Member prior to the cessation of his, her or its membership, shall remain the absolute property of the Foundation.

## 7. MANAGEMENT OF FOUNDATION

**7.1 Management of Foundation:** The control, management and conduct of the affairs of the Foundation shall be vested in the Board of Management.

**7.2 Purposes:** The Board of Management shall not expend any money of the Foundation for any purpose other than:

(a) in the ordinary course of the day-to-day administration and operations of the Foundation;

(b) the cost of any insurance cover as provided for in clause 18.4;

(c) the investment and management of the Trust Fund; or

(d) for the Charitable Purposes for which the Trust Fund is held.

**7.3 Utilisation:** The Board of Management may utilise the Trust Fund other than for the purposes specified in clause 7.2 provided that:

(a) any such other use must be for Charitable Purposes;

(b) all Income attributable to the gifts comprised in the Capital Endowment Fund shall, be distributed for the particular purpose or purposes specified for those gifts upon such terms and conditions specified by the donor of each gift provided that in the event that the specified purpose or purposes ceases or cease to exist or the Income available for any particular specified purpose or purposes is insufficient to enable the specified purpose or purposes to be

Deleted: member

Deleted: ,

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted: f

Deleted: t

Deleted: m

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted: r

Deleted: p

Deleted: F

Deleted: member

Deleted: provided that the

Moved (insertion) [3]

Deleted: (b)

Deleted: <#>for the purposes for which funds are held in the Capital Endowment Fund and the Special Purpose Fund.

Deleted: 7.2

Deleted: utilisation of any of the funds belonging to the Foundation ...

Deleted: 7.1 shall require the prior approval of the Board of Governors ...

Deleted: (a)

Deleted: unless the Board of Governors otherwise requests,

Deleted: to the College

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

met, the Board of Management may in its discretion elect to apply the relevant Income towards some other specified purpose under the Capital Endowment Fund;

(c) the whole or any part of the Special Purpose Fund shall be distributed as and when requested by the Board of Governors or the Headmaster of the College for the particular specified Charitable Purpose for which the fund has been accumulated;

(d) the Preserved Capital Fund and all Income attributable to the Preserved Capital Fund may only be distributed in accordance with the purposes set out in clause 6;

(e) any funds and Income attributable to such funds received by the Foundation as trustee from other trusts as provided for in clause 3.3 may only be distributed in accordance with the purpose and application of the trust funds of such other trust; and

(f) if the King's College Trustees advise the Board of Management that a threat exists to the independence and future viability of King's College and a resolution is passed by three-quarters of the Members of the Foundation present at a general meeting approving the utilisation of the whole or any part of the capital of the Preserved Capital Fund, the Board of Management may in its discretion utilise the whole or such part of the Preserved Capital Fund as is approved by the resolution of Members referred to in this sub-clause for the purpose of preserving the independence and future viability of the College.

## 8. 7BOARD OF MANAGEMENT

### 8.1 Constitution of Board of Management: The Board of Management shall comprise:

- (a) four persons, each being and remaining a Member of the Foundation in any class of membership, appointed by the Board of Governors, who shall each hold office at the pleasure of the Board of Governors and upon such terms and conditions as may be specified by the Board of Governors;
- (b) three persons who are Members in any class of membership elected by the Members; and
- (c) the Headmaster of the College, or if at any time there is no Headmaster in office the Acting Headmaster, who shall be an *ex officio* Member of the Board of Management.

### 8.2 Composition of Board of Management at Date of This Deed: As at the date of this deed the Board of Management shall comprise the following persons:

- (a) 8.1(a) the Board of Management appointed or elected respectively under the previous iteration of the Trust Deed, dated 26 May 2010; and
- (b) Simon Lamb, the Headmaster of the College.

**Deleted: (b)**

**Deleted:** paid to the relevant Foundation Associate

**Deleted:** and

**Deleted: (c)**

**Deleted:** 3.2: and

**Deleted: (d)**

**Deleted:** there exists

**Deleted:** members

**Deleted:** members

**Deleted: To prevail:** In the case of any difference between the opinion of the Board of Management and the Board of Governors as to the operation or interpretation of this section

**Deleted:** , the opinion of the Board of Governors shall prevail.¶

**Deleted:** member

**Deleted:** members

**Deleted:** members

**Deleted:** member

**Deleted:** d

**Deleted:** t

**Deleted:** d

**Deleted:** Craig Michael Ashby, Peter Jock Ferguson, Raymond Claude Kingston and Lawrence Stephen Mayne (who shall be deemed to have been appointed by the Board of Governors for the purposes of clause

**Deleted:** );¶

**Deleted:** <#>Richard Julian Kidd, Peter Francis Rose and Peter Webster Wilson, who shall be deemed to be elected by members and shall hold office until, in the case of Peter Wilson the first and, in the case of Peter Rose the second and, in the case of Richard Kidd the third, annual general meeting of the Foundation after that referred to in recital D in the Introduction to this deed; and¶

Bradley Thomas Fenner

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

**8.3 Election of Member Representatives:** The member representatives on the Board of Management shall be elected by Members at an AGM of the Foundation in accordance with clause 8.4 and shall, subject only to clause 8.2, hold office until the third AGM after the AGM at which they are elected.

**8.4 Rules Relating to the Election of Member Representatives:** The following shall apply to the election of Member representatives to the Board of Management:

(a) All nominations for the election of Member representatives to the Board of Management shall be:

(i) signed by a proposer and a seconder, both who shall be Members, and by the candidate for election signifying his or her consent to the nomination;

(ii) delivered to the Secretary of the Foundation at the office of the Foundation not later than seven days (7) before the date of the AGM at which the election is to be held.

(b) If the number of candidates standing for election exceeds the number of vacancies, then ballot lists containing the names of the candidates in alphabetical order shall be prepared and circulated to Members present at the AGM at which the election is to be held.

(c) Each Member present at the AGM shall be entitled to vote for such number of candidates as there are vacancies.

(d) The candidates receiving the most votes of Members shall be declared to be elected to fill the vacancies that exist.

(e) In the event that there is a dispute as to the procedure for the conduct of the election the dispute shall be resolved by a decision of the Chairperson of the meeting, whose decision shall be final and binding on every person who shall be interested in the matter.

**8.5 Eligibility for Re-election:** A member of the Board of Management who is an elected Member representative shall be eligible for nomination in accordance with clause 8.4 upon the expiry of his or her term of appointment.

**8.6 Removal of Member Representatives:** A member representative on the Board of Management may be removed from office by an ordinary resolution of the Members passed at a general meeting of Members.

**8.7 Removal of Member Representative by Board of Management:** A Member representative on the Board of Management may be removed from office by a resolution passed by not less than three-quarters of the total number of Members of the Board of Management.

**8.8 Cessation of Membership of the Board of Management:** A Member of the Board of Management shall cease to be a Member of the Board of Management and a casual vacancy shall arise if:

(a) the Member ceases to be a Member of the Foundation;

Deleted: m

Deleted: r

Deleted: members

Deleted: annual general meeting

Deleted: annual general meeting

Deleted: annual general meeting

Deleted: r

Deleted: e

Deleted: m

Deleted: r

Deleted: member

Deleted: member

Deleted: of whom

Deleted: members

Deleted: annual general meeting

Deleted:

Deleted: members

Deleted: annual general meeting

Deleted: member

Deleted: annual general meeting

Deleted: members

Deleted: r

Deleted: member

Deleted: m

Deleted: r

Deleted: members

Deleted: members

Deleted: m

Deleted: r

Deleted: member

Deleted: members

Deleted: m

Deleted: member

Deleted: member

Deleted: member

Deleted: member

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

- (b) the Member gives notice in writing of resignation to the Secretary of the Foundation;
- (c) the Member dies;
- (d) the Member becomes bankrupt;
- (e) the Board of Management determines by resolution passed by not less than three-quarters of the Members of the Board of management, after considering such expert advice as it considers appropriate, that the person has ceased to have legal capacity; or
- (f) the Member is removed as a Member of the Board of Management in accordance with clauses 8.6 and 8.7.

**8.9 Member Representative Casual Vacancy:** Where a Member representative ceases to be a Member of the Board of Management for any reason specified in clause 8.8, a casual vacancy shall arise and the remaining Member representatives shall fill that vacancy by appointing any Member of the Foundation to the Board of Management.

**8.10 Casual Vacancy to Hold Office:** Where a casual vacancy is filled in accordance with clause 8.9, the person appointed to the Board of Management shall hold office until the next AGM at which an election shall be held and the person so appointed may stand for election.

**8.11 Board of Governors' Appointee Casual Vacancy:** Where a vacancy exists for any reason in the Board of Governors' appointees to the Board of Management, the Board of Management shall request the Board of Governors to fill that vacancy as soon as practicable.

## 9. OFFICERS

**9.1 President, Vice-President and Secretary:** The officers of the Foundation shall comprise:

- (a) the President, who shall be a Member of the Board of Management and who shall be the Chairperson of the Board of Management and Chairperson of all meetings of the Members of the Foundation;
- (b) a Vice President, who shall be a Member of the Board of Management and who shall act as the deputy to the President and fill in the role of President whenever the President is unable to do so; and
- (c) a Secretary, who may be honorary or a full-time or part-time employee of the Foundation and who shall have such functions specified in this deed for the Secretary and such other functions as the President may from time to time specify or, if the Secretary is an employee, as may be specified in his or her contract of employment.

**9.2 Other officers:** The Board of Management may appoint a Treasurer, who may be the same person as the finance director of the College, and/or an Executive Director,

**Deleted:** member

**Deleted:** member

**Deleted:** member

**Deleted:** members

**Deleted:** member

**Deleted:** member

**Deleted:** 8.6 and

**Deleted:** r

**Deleted:** c

**Deleted:** v

**Deleted:** member

**Deleted:** member

**Deleted:** member

**Moved down [2]:** Where a casual vacancy is filled in this manner the person appointed to the Board of Management shall hold office until the next annual general meeting at which an election shall be held and the person so. appointed may stand for election.¶

**Deleted:** member

**Deleted:** this manner

**Deleted:** annual general meeting

**Deleted:** .

**Moved (insertion) [2]**

**Moved (insertion) [7]**

**Moved (insertion) [1]**

**Moved (insertion) [6]**

**Deleted:** 8.10

**Deleted:** a

**Deleted:** c

**Deleted:** v

**Deleted:** member

**Deleted:** members

**Deleted:** member

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025



each of whom may be honorary, or may be a full-time or part-time employee of the Foundation and who shall have such functions as the President may from time to time specify or, if the Treasurer or Executive Director is an employee, as may be specified in his or her contract of employment, provided that the Treasurer and the Executive Director may be the same person.

- 9.3 Appointment of officers:** Except where an officer of the Foundation is an employee of the Foundation, the officers of the Foundation shall be appointed each Year by the Board of Management at its first meeting after the AGM and shall hold office until the later of the corresponding meeting of the Board of Management in the next Year, at which time they shall be eligible for re-appointment, and the time when their respective successors have been appointed.

**Deleted:** year

**Deleted:** annual general meeting

**Deleted:** year

- 9.4 Vacancies:** Any vacancies amongst the officers of the Foundation shall be filled by the Board of Management as soon as practicable.

## 10. PROCEEDINGS OF BOARD OF MANAGEMENT

- 10.1 General:** Subject to clause 7, the Board of Management shall have the absolute management and entire control of the affairs of the Foundation provided that the Board of Management may delegate the whole or any part of the day to day administration of the Foundation and the implementation of the policies determined from time to time by the Board of Management to the College, the Executive Director, or any committee comprising Members of the Foundation in accordance with clause 10.4.

**Deleted:** section

**Deleted:** members

- 10.2 Meetings:** The Board of Management shall meet for the despatch of the business of the Foundation and shall have power to adjourn, and otherwise regulate the conduct of the Foundation's business as it thinks fit in accordance with the following:

- (a) The Board of Management may meet at such intervals as it thinks fit.
- (b) The Board of Management may invite to its meetings any other person or persons as it considers may assist with its deliberations.
- (c) Except as expressly provided otherwise by this deed, any matter requiring decision at a meeting of the Board of Management shall be decided by a simple majority of the Members of the Board of Management personally present and voting on the matter.
- (d) Each Member of the Board of Management (including the Headmaster) shall have one vote and in the event of an equality of votes the Chairperson shall have a second or casting vote.
- (e) The President or, in his or her absence, the Vice President shall preside over all meetings of the Board of Management and if neither of them is present the Members of the Board of Management shall appoint one of their number to be the Chairperson of the meeting.
- (f) Except as expressly provided otherwise by this deed, a resolution in writing signed by all the Members of the Board of Management shall be as valid

**Deleted:** members

**Deleted:** member

**Deleted:** members

**Deleted:** members

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025



and have effect as if it had been passed at a meeting of the Board of Management duly convened and constituted.

**Deleted:** and effectual

- (g) Any resolution in writing may consist of several like documents each signed by one or more Members of the Board of Management, and such signed document sent by a Member of the Board of Management by facsimile or email or other electronic means of written communication shall be deemed to have been duly signed by that Member of the Board of Management.

**Deleted:** members

**Deleted:** member

**Deleted:** member

- (h) Any Member of the Board of Management may at any time give notice convening a meeting of the Board of Management in accordance with the following:

**Deleted:** member

(i) the notice shall be given in writing at least fourteen (14) days before the date of the proposed meeting; and

(ii) the notice shall state the time and place of the meeting and, in sufficient terms, the nature of the business to be transacted.

- (i) The quorum for a meeting of Board of Management shall be a majority of the Members of the Board of Management then holding office.

**Deleted:** members

- (j) The contemporaneous linking together of the Members of the Board of Management by telephone or video-link or other electronic means of communication shall constitute a meeting of the Board of Management and the provisions of this clause as to meetings of the Board of Management shall apply to such meetings provided the following conditions are met:

**Deleted:** members

(i) each Member of the Board of Management then in New Zealand shall be entitled to notice of such a meeting, which may be given by the same means of communication as is proposed for the meeting, and to be linked in the same way for the purposes of the meeting;

**Deleted:** member

(ii) each Member of the Board of Management taking part in the meeting must be able to hear each of the other Members of the Board of Management taking part during the whole of the meeting;

**Deleted:** member

**Deleted:** members

(iii) at the commencement and conclusion of such meeting each Member of the Board of Management shall acknowledge his or her presence for the purpose of a meeting;

**Deleted:** member

(iv) a Member of the Board of Management participating in the meeting may not withdraw from such a meeting unless that Member has previously obtained the express consent of the Chairperson of the meeting to do so; and

**Deleted:** member

**Deleted:** member

(v) a Member of the Board of Management 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 unless that Member has previously obtained the express consent of the Chairperson to withdraw from such a meeting.

**Deleted:** a member

**Deleted:** member

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

- (k) A minute of the proceedings of meeting by telephone, video-link or other means of electronic communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified to be a correct minute by the Chairperson of the meeting.

**10.3 Minutes:** Minutes of the proceedings of all meetings of the Board of Management shall be recorded in a book to be kept for that purpose by the Secretary and shall be signed by the Chairperson 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.

Deleted: I

**10.4 Delegation of Powers:**

- (a) The Board of Management may delegate to any person or committee, whether or not a Member of the Board of Management, such of the powers of the Board of Management as the Board of Management 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 Board of Management may revoke wholly or partly any delegation of the powers of the Board of Management at any time.
- (d) Subject to any directions given by the Board of Management, any person or committee to which any powers of the Board of Management have been delegated may conduct that person's or the committee's affairs as that person or the committee may decide.
- (e) The Board of Management may, in delegating the powers of the Board of Management, provide restrictions or rules by or within which such delegated powers are to be exercised.

Deleted: member

**10.5 Bank Account:** The Board of Management shall keep an account or accounts in the name "King's College Foundation" at such bank or banks as the Board of Management may from time to time determine. Cheques, withdrawals, authorities and electronic transactions shall be signed, endorsed or carried out, as the case may be, by such person or persons as the Board of Management may from time to time determine.

Deleted: a

**10.6 Accounts and Audit:** The Board of Management shall cause true accounts for each Year to be kept in such manner as the Board of Management 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 Foundation. The accounts of the Foundation shall be audited at least once in each Year by a chartered accountant (not being a Member of the Board of Management) appointed in that capacity by the Board of Management.

Deleted: a

Deleted: year

Deleted: year

Deleted: member

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

## 11. POWERS OF BOARD OF MANAGEMENT

**11.1 Powers:** The Board of Management 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 on any constitutive part of the Trust Fund, or otherwise by this deed, may deal with the Trust Fund as if the Board of Management were the absolute owner of and beneficially entitled to the Trust Fund; and, accordingly, in addition to any specific powers vested in the Board of Management by law, in dealing with the Trust Fund, subject only as aforesaid, the Board of Management may do any act or thing or procure the doing of any act or thing or enter into any obligation whatever, including, borrowing and raising money, and giving mortgages, other securities, guarantees and indemnities provided that:

- (a) the power to guarantee shall be limited to guaranteeing the obligations of the College to an amount of liability not exceeding in the aggregate the amount held in the Preserved Capital Fund at the relevant time and such power to guarantee the obligations of the College shall not be exercised except with a resolution passed by a three-quarters majority at a general meeting of the Foundation; and
- (b) the power to raise or borrow money (whether such borrowing is free of interest or not) and to give mortgages or other security over the property of the Foundation shall not be exercised except with the prior written approval of the Board of Governors.

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

### 11.3 Investment of Trust Fund:

- (a) The Board of Management may invest all moneys requiring investment in any property of whatever nature and wherever situated whether producing income or not and whether involving liability or not as the Board of Management in its absolute and uncontrolled discretion thinks fit.
- (b) In exercising its powers of investment the Board of Management 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 Board of Management in the exercise of those powers and discretions would be, or could be, contrary to the duties and principles governing the investment of trust funds set out in the Act.

(c) The Board of Management may have regard to the following matters, so far as they are appropriate to the circumstances of the Foundation:

- (i) Objectives: the objectives of the Foundation or the permitted purposes of the Foundation;

**Deleted:** Trustee Act 1956. This clause expresses a "contrary intention" for the purposes of section 13D of that

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

(ii) **Diversification:** the desirability of diversifying Foundation investments;

(iii) **Nature of Existing Investments:** the nature of existing Foundation investments and other Foundation property;

(iv) **Maintain Value:** the need to maintain the real value of the capital or income of the Foundation;

(v) **Risk:** the risk of capital loss or depreciation;

(vi) **Potential:** the potential for capital appreciation;

(vii) **Return:** the likely income return;

(viii) **Term:** the length of the term of the proposed investment;

(ix) **Duration of Foundation:** the probable duration of the Foundation;

(x) **Marketability:** the marketability of the proposed investment during, and on the expiry of, the term of the proposed investment;

(xi) **Value:** the aggregate value of the Trust Fund;

(xii) **Tax Liability:** the effect of the proposed investment in relation to the tax liability of the Foundation;

(xiii) **Inflation:** the likelihood of inflation affecting the value of the proposed investment or other Trust Fund; and

(xiv) **Overall Investment Strategy:** the Foundation's overall investment strategy.

(d) Clause 11.3(c) does not limit the matters that the Board of Management may take into account.

(e) Without prejudice to the generality of this clause 11.3, the Board of Management may incorporate a company or companies in any jurisdiction and may transfer all or any part of the property of the Foundation to that company or those companies whether by way of subscription, loan (at or free of interest and whether secured or unsecured) or otherwise, for the purposes of the investment of that property.

(f) For the purpose of managing the investments of the Trust Fund, the Board of Management may enter into transactions such as swaps, options, futures contracts, stock lending, sale and re-purchase transactions and any other transactions of a similar nature.

**11.4 Investment Manager:** The Board of Management may appoint any person as investment manager to invest and manage all or any property comprising the Trust Fund with power to invest, liquidate and re-invest or switch any assets placed under its management, appoint sub-managers and custodians and otherwise on such terms and conditions as the Board of Management thinks fit.

Deleted: (c)

Deleted: (d)

Deleted:

Deleted: m

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

**11.5 Custodian:** The Board of Management may appoint any person to be a custodian to hold legal title to assets comprising the Trust Fund and to provide such other services as the Board of Management in its absolute discretion requires.

**11.6 Administrator:** The Board of Management may appoint any person to provide administration services in relation to the affairs of the Foundation.

## **12. DUTIES OF THE FOUNDATION AND THE BOARD OF MANAGEMENT**

**12.1 Trustees Duties:** The mandatory, default and other duties of trustees as provided for in the Act are set out in Schedule 1. The default duties may be modified or excluded by other clauses in this deed.

**12.2 Review of Governance:** The Board of Management shall ensure that the Foundation complies with Section 42G of the Charities Act 2005 by reviewing its governance procedures at least every three (3) years. When conducting a review, the Board of Management must consider if the governance procedures of the Foundation:

- (a) are fit for purpose;
- (b) assist the Foundation achieve its Charitable Purpose; and
- (c) assist the Foundation comply with the requirements of the Charities Act 2005.

## **13. STANDING COMMITTEES**

**13.1 Committees:** In addition to any committee that may be formed under any other provision of this deed, the Board of Management may appoint a "Membership Committee" and an "Investment Committee".

**13.2 Membership Committee:** If appointed, the Membership Committee shall, unless the Board of Management determines otherwise,:

- (a) consist of a Chairperson, who shall be a Member of the Board of Management appointed to that position by the Board of Management, the Executive Director, and such other persons as the Board of Management shall determine;
- (b) be responsible for:
  - (i) planning and implementing an on-going programme of identifying, cultivating, introducing and registering new Members;
  - (ii) reviewing current membership and encouraging the progression of Members to higher classes of membership;
  - (iii) considering and recommending to the Board of Management appropriate ways of recognising Members who have given outstanding service to the College, the Foundation or to a Foundation Associate;

**Deleted: 12.**

**Deleted: Specified Standing**

**Deleted:** there shall be two Standing Committees, namely the

**Deleted:** the

**Deleted:** appointed by the Board of Management annually

**Deleted: 12.2**

**Deleted:** The

**Deleted:** member

**Deleted:** members

**Deleted:** members

**Deleted:** members

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

- (iv) fostering a sense of community among the membership focused on the success of the College, undertaking activities to develop such sense of community and providing stewardship over the affairs of the membership; and
- (v) taking such other initiatives that it considers desirable to foster a culture of philanthropy among the membership for the benefit of the College and the Foundation.

**13.3 Investment Committee:** If appointed, the Investment Committee shall, unless the Board of Management determines otherwise,:

- (a) consist of a Chairperson, who shall be a Member of the Board of Management appointed to that position by the Board of Management, the Executive Director, and such other persons as the Board of Management shall determine;
- (b) be responsible for investing the Trust Fund (or such part of it shall be available for investment) and in doing so shall have the power:
  - (i) to seek and obtain such advice or other assistance as it shall consider necessary or desirable; and
  - (ii) engage, with the prior approval of the Board of Management, an investment manager(s) with such mandate or mandates and on such terms as it considers appropriate for the investment of the whole or any part of the Trust Fund that is available for investment and where the investment committee engages such an investment manager the investment committee shall be responsible for monitoring the performance of such manager;
- (c) report to the Board of Management from time to time and when requested by the Board of Management on:
  - (i) the performance of the investments of the Foundation;
  - (ii) the performance of any investment manager who is engaged; and
  - (iii) such other matters as the Board of Management shall request.

**14. GENERAL MEETINGS**

**14.1 Annual General Meeting:** An AGM of the Foundation of which not less than fourteen (14) days' notice in writing has been given to the Members shall be held once in every Year at such time and place as the Board of Management may determine.

**14.2 Business:** The business of the AGM shall be to:

- (a) receive and consider the annual report of the Board of Management;

**Deleted:** 12.3

**Deleted:** The

**Deleted:** member

**Deleted:** and

**Deleted:** or investment managers

**Deleted:** 13.

**Deleted:** annual general meeting

**Deleted:** 14

**Deleted:** year

**Deleted:** 13.2

**Deleted:** annual general meeting

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

- (b) receive and consider the financial statements for the Year and the report of the auditors;
- (c) elect Members of the Board of Management;
- (d) if the Board of Management determines that it is an appropriate matter to be decided at the AGM, appoint the auditors for the ensuing Year; and
- (e) consider such other business as may be specified by the Board of Management.

Deleted: year

Deleted: members

Deleted: year

**14.3 General Meeting:** The Board of Management may at any time, but only after giving not less than fourteen (14) days' notice in writing to the Members, convene a general meeting of the Foundation.

Deleted: 13.3

Deleted: m

Deleted: 14

**14.4 Rules for Conduct of General Meetings:** The following shall apply to the conduct of general meetings:

Deleted: 13.4

Deleted: The following shall apply to the conduct of general meetings:...

(a) A general meeting may be held by the participants assembling together and/or attending by means of audio, audio and visual, or any other form of communication suitable for conducting meetings (by which all participants can participate and simultaneously hear each other throughout the meeting), and references in this deed to attending a meeting or being present are to be read accordingly.

(b) The President of the Foundation shall preside as chairperson of every general meeting of the Foundation or, if the president is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act, the vice-president shall preside or, if the vice-president is not present or is unwilling to act then the Members present shall elect any Member who is present and who is willing to chair the meeting to be the chairperson of the meeting.

Deleted: (a)

Deleted: 15

Deleted: members

Deleted: member

(c) The quorum for a general meeting shall be eight (8) Members present or by proxy or representative and, unless a quorum is present, no business shall be transacted at any general meeting.

Deleted: (b)

Deleted: members

Deleted: in person

(d) If within half an hour from the time appointed for the commencement of a general meeting, a quorum is not present, the meeting shall stand adjourned to the same day the following week at the same time and place, or to such other day and at such other time and place as the Board of Management may determine and, if at the adjourned meeting a quorum is not present within half an hour of the time appointed for the commencement of the meeting, the Members present (being not fewer than five) shall form a quorum.

Deleted: (c)

Deleted:

Deleted: in

Deleted: members

(e) At any general meeting, a resolution put to the vote of the meeting shall be decided upon a show of hands or such other acceptable means of communication unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairperson or by three (3) Members present in person or by proxy or by representative.

Deleted: (d)

Deleted:

Deleted: members

Deleted: (e)

Deleted: on a show of hands

(f) Unless a poll is demanded, a declaration by the Chairperson that a resolution has been carried unanimously or by a particular majority or lost, and any

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

subsequent entry to that effect in the minutes of the proceedings of the Foundation, shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

(g) If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairperson directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a Chairperson or on a question of adjournment shall be taken forthwith. The demand for a poll may be withdrawn.

Deleted: (f)

(h) Unless otherwise provided for in this deed, for a resolution to be passed it must be approved by more than 50% of the total number of Members present.

(i) In the case of an equality of votes being cast on a particular resolution, whether on a show of hands or on a poll, the Chairperson of the meeting shall be entitled to a second or casting vote.

Deleted: (g)

(j) Every Member present in person or by proxy or by representative duly appointed in writing shall have one vote.

Deleted: (h)

Deleted: member

(k) No Member who is a Member by virtue of having made a Pledge shall be entitled to vote at any general meeting unless all moneys then due for payment by the Member in accordance with the Pledge have been paid.

Deleted: (i)

Deleted: member

Deleted: member

Deleted: member

(l) The instrument appointing a proxy or representative shall be in writing and signed or executed by the appointor as if it were a deed.

Deleted: (j)

(m) The proxy or representative need not be a Member of the Foundation.

Deleted: (k)

Deleted: member

(n) An appointment of a proxy or representative may be revoked by the appointor at any time.

Deleted: (l)

(o) The instrument appointing a proxy or representative may be in the following form or any other form which the Board of Management may approve:

Deleted: (m)the

I/we                      of                      , being a member of King's College Foundation, hereby appoint                      as my/our proxy/representative to vote for me/us at the general meeting of the Foundation to be held on                      at                      and at any adjournment thereof and at any subsequent meeting until due notice of revocation of such appointment is given.

Signed by

this                      day of 20

in the presence of:

\_\_\_\_\_

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025



Signature of witness

Occupation of witness

City/town of residence of witness

**14.5 Minutes:** The Board of Management shall cause to be kept and recorded minutes of all resolutions and proceedings of general meetings of the Foundation and shall cause such minutes to be signed by the Chairperson of the meeting or the next AGM. Copies of all such minutes shall be sent forthwith to the Members of the Board of Management and to the Board of Governors.

**Deleted:** 13.5

**Deleted:** annual general meeting

**Deleted:** members

## **15. ACCOUNTS**

**Deleted:** 14.

**15.1 Duty to Keep Accounts:** The Board of Management shall:

**Deleted:** 14.1

**Deleted:** k

**Deleted:** a

- (a) cause proper records and accounts to be kept of:
  - (i) all sums of money received and expended by the Foundation;
  - (ii) the matter in respect of which the receipt or expenditure takes place;
  - (iii) the assets and liabilities of the Foundation; and
- (b) cause financial statements to be prepared for each Year ending on 31 December.

**Deleted:** and

**Deleted:** year

**15.2 Comply with Charities Act:** The Board of Management shall comply with all reporting and accounting standards requirements as provided for in the Charities Act 2005 and as otherwise required by Charities Services from time to time.

**15.3 Provision of Copy of Accounts:** The accounts shall be subject to audit and a duly audited copy of the statement of financial performance and statement of position shall be made available by whatever means the Board of Management deems suitable to all Members and the Board of Governors not less than fourteen (14) days prior to the date of the AGM at which the annual report and financial statements of the Foundation are to be presented.

**Deleted:** 14.2

**Deleted:** c

**Deleted:** a

**Deleted:** furnished to all members of the Foundation

**Deleted:** 14

**Deleted:** annual general meeting

**15.4 Inspection of Accounts:** The accounts shall be kept at the office of the Foundation or at such other place or places as the Board of Management thinks fit from time to time and shall be open for inspection during normal business hours by any member of the Board of Management and any member of the Board of Governors nominated by the Board of Governors from time to time.

**Deleted:** 14.3

**Deleted:** a

**15.5 Money Received by the Foundation:** All money received by or on behalf of or as a result of the activities of the Foundation shall, after meeting normal management, operation and collection costs, be applied for the promotion of Charitable Purposes and held to the credit of the Capital Endowment Fund, the Special Purpose Fund, the

**Deleted:** 14.4

**Deleted:** r

**Deleted:** or

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

Preserved Capital Fund or such other trusts that the Foundation is trustee of, as the case may require.

## 16. NO DISTRIBUTION TO MEMBERS

**16.1 Members not to Benefit:** No portion of the funds of the Foundation shall be paid or transferred directly or indirectly or by way of dividend, bonus or otherwise howsoever by way of profit to the Members of the Foundation provided that nothing shall prevent the payment, in good faith, of reasonable and proper remuneration to any officer or servant of the Foundation or to any Member of the Foundation for services actually rendered to the Foundation.

**16.2 Restrictions on Benefits to Board of Management:** No Member of the Board of Management of the Foundation shall be appointed to any salaried office of the Foundation or any office of the Foundation paid by fees and no remuneration or other benefit in money or money's worth shall be given by the Foundation to any member of the Board of Management except by way of reimbursement of out of pocket expenses.

**16.3 Restriction Not to Apply to Company:** Nothing in clause 16.2 shall apply to any fees or remuneration received by any company of which a Member of the Board of Management is a shareholder in which they hold no more than one percent of the capital. Such Member shall not be bound to account to the Foundation for any share of profits he or she may receive in respect of such payment made to the company.

## 17. INCORPORATION AND COMMON SEAL

**17.1 Incorporation:** The Foundation shall be incorporated as a trust board under the Charitable Trusts Act 1957.

**17.2 Common Seal:** The Board of Management shall provide for the safe custody of the common seal, which shall be used only by the authority of the Board of Management and every instrument to which the seal is affixed shall be signed by two Members of the Board of Management or by one member of the Board of Management and the Secretary.

## 18. LIABILITY

**18.1 Limitation of Liability:** In carrying out the trusts and powers contained in this deed, no Member or former Member of the Board of Management shall be personally liable for any loss to the Trust Fund unless that loss is attributable to:

- (a) Dishonesty: that Member's own dishonesty;
- (b) Wilful Misconduct: that Member's wilful misconduct; or
- (c) Gross Negligence: that Member's gross negligence.

**18.2 Proceedings:** The Foundation shall not be bound to take any proceedings against any Member or former Member of the Board of Management for any breach or alleged breach of trust committed.

Deleted: 15.

Deleted: 15.1

Deleted: b

Deleted: members

Deleted: member

Deleted: 15.2

Deleted: b

Deleted: member

Deleted: provided that nothing in this sub-clause shall apply to any company of which a member of the Board of Management may be a member and in which such member holds

Deleted: and such member

Deleted: .

Moved (insertion) [4]

Moved (insertion) [5]

Moved (insertion) [8]

Deleted: 16.

Deleted: 16.1

Deleted: 16.2

Deleted: s

Deleted: members

Deleted: secretary.

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

**18.3 Indemnity:** Each Member and former Member of the Board of Management is entitled to be indemnified out of the Trust Fund against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, costs (including legal costs) and expenses (together the **Liabilities**) suffered or incurred by that member or former member in the conduct of his or her duties for the Foundation, unless those Liabilities (or any of them) are due to:

- (a) **Dishonesty:** that Member's own dishonesty;
- (b) **Wilful Misconduct:** that Member's wilful misconduct; or
- (c) **Gross Negligence:** that Member's gross negligence.

**18.4 Insurance:** The Board of Management may obtain insurance for the benefit of the Members and former Members of the Board of Management in relation to any Liabilities covered by the indemnification provided under this clause and meet the cost of such insurance out of the Trust Fund.

## 19. BY-LAWS

**19.1** The Board of Management may at its discretion and with the approval of the Board of Governors determine by-laws for the operation of the Foundation, its committees or officers not otherwise provided for in this deed.

## 20. WINDING UP

**20.1 Resolution to wind up Foundation:** The Foundation shall be wound up if a resolution to wind up the Foundation is passed at a meeting of the Board of Management by a number of board Members that equals or exceeds 75% of the total number of board Members for the time being, or by a written resolution under clause 10.2(f) and only after the Board of Management has adequately consulted the Members and the Board of Governors.

**20.2 Other Trusteeships:** Before the Foundation is wound up it shall retire as trustee of any other trusts it is trustee of in terms of clause 3.3. The Board of Management shall execute all necessary documentation related to the retirement of the Foundation and to enable, if required, a new trustee to be appointed and for the assets of any such trust to be transferred to the continuing trustees and new trustees as applicable.

**20.3 Surplus Assets:** If upon the winding up of the Foundation, there remains after satisfaction of all debts and liabilities any property whatsoever the same shall not be paid to or distributed among the Members of the Foundation but shall, subject to the terms of:

- (a) any gift, Donation or Bequest relating to funds held in the Capital Endowment Fund or the Special Purpose Fund; or
- (b) any other trust in terms of clause 3.3.

**Deleted: <#>INDEMNIFICATION¶**

**Indemnification out of assets:** Any member of the Board of Management, officer or an employee of the Foundation shall be indemnified out of the assets of the Foundation against any liability incurred by him or her in defending any proceedings whether civil or criminal taken against him or her by reason of his or her actions in relation to or connected with the Foundation in which judgment is given in his or her favour or in which he or she is acquitted or in which relief is granted to him or her by the court in respect of any negligence, default, breach of duty or breach of trust.¶

**No responsibility for investment loss:** No member of the Board of Management shall be responsible for any loss arising out of the investment of moneys of the Foundation in the administration of the trust fund unless any such loss shall arise from his own wilful default or neglect.¶

**Deleted: 18.**

**Deleted: 18.1**

**Deleted: 19.**

**Deleted: 19.1**

**Deleted:** shall be passed by a three-quarters majority at an annual general meeting with the prior approval of

**Deleted: 19.2**

**Deleted:**

**Deleted:** members

**Deleted:** any relevant trust,

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

be given or transferred to the Board of Governors to be used for the benefit of the College or, if the College shall cease to exist, to one or more other educational institutions in New Zealand to be used for the advancement of education within New Zealand.

## 21. RESETTLEMENT OF TRUST FUND

**21.1 Approval of Resettlement:** Subject to clause 21.2, the Board of Management may, by deed, and after adequate consultation with the Members and the Board of Governors, resettle all or any part of the Trust Fund on trust for any one or more Charitable Purposes in New Zealand, on terms determined by the Board of Management, provided that any such resettlement must be approved by resolution of the Board of Management passed at a meeting of the Board by a number of board members that equals or exceeds 75% of the total number of board members for the time being, or by a written resolution under clause 10.2(f).

**21.2 Resettlement Restrictions:** No resettlement shall be valid or effective if it would:

- (a) **Focus of the Trust:** permit any resettled part of the Trust Fund, or any income to be derived from any resettled part of the Trust Fund, to be distributed or applied in a manner inconsistent with the Foundation's principal focus on the advancement of education in New Zealand;
- (b) **Charitable Purposes:** permit any resettled part of the Trust Fund, or any income to be derived from any resettled part of the Trust Fund, to be distributed or applied other than for exclusively Charitable Purposes in New Zealand, pursued for public benefit and not for private profit;
- (c) **Derogate from Terms:** unless permitted, derogate from the terms of:
  - (i) any gift, Donation or Bequest relating to funds held in the Capital Endowment Fund or the Special Purpose Fund; or
  - (ii) any other trust in terms of clause 3.3; or
- (d) **Tax Concessions:** affect the Foundation's eligibility for the benefit of any Tax Concession for which it would otherwise be eligible, unless in relation to any such concession the Board of Management has determined that eligibility for the benefit of that concession is not required in the best interests of advancing and achieving the Foundation's Charitable Purposes.

## 22. VARIATION OF DEED

**22.1 Approval of Variation:** Subject to clause 22.2, the Board of Management may from time to time, by deed (which may be in the form of a revised deed of trust setting out all of the terms of the Foundation, as varied), vary the terms of the Foundation, by amending, deleting or replacing any term set out in this deed (including, for the avoidance of doubt, the details of the Charitable Purposes of the Foundation set out in clause 3), provided that any such variation must be:

- (a) **Special Resolution:** approved by resolution of the Board of Management passed at a meeting of the Board by a number of board members that equals

### Deleted: AMENDMENT

**Deleted:** This deed may be amended or varied in any way by resolution of a general meeting of the Foundation of which not less than 14 days' notice in writing of the proposed amendment shall have been given to all members of the Foundation, such resolution to be passed by a three-quarters majority of the members of the Foundation present at the meeting provided that such resolution has the prior approval of the Board of Governors and provided no amendments shall be made enabling any benefit to be conferred upon any member of the Foundation or any part of the Trust Fund to be applied other than as allowed for in or by this deed or any Trust Fund to be applied other than for the purposes set out in section 3.

### Deleted:

**Deleted:** governing the (38744861.1) Draft 09/05/2025

or exceeds 75% of the total number of board members for the time being, or by a written resolution under clause 10.2(f); and

(b) **Board of Governors' Approval:** approved in writing by the Board of Governors, or contingent on approval in writing by the Board of Governors.

**22.2 Variation Restrictions:** No variation (or purported variation) of the terms set out in this deed shall be valid or effective if it would:

(a) **Focus of the Trust:** detract from the Foundation's principal focus on the advancement of education in New Zealand;

(b) **Charitable Purposes:** permit the Foundation to operate other than for exclusively Charitable Purposes in New Zealand, pursued for the benefit of the public and not for private profit;

(c) **Derogate from Terms:** unless permitted, derogate from the terms of:

(i) any gift, Donation or Bequest relating to funds held in the Capital Endowment Fund or the Special Purpose Fund; or

(ii) any other trust in terms of clause 3.3; or

(d) **Tax Concessions:** affect the Foundation's eligibility for the benefit of any Tax Concession for which it would otherwise be eligible, unless in relation to any such concession the Board of Management has determined that eligibility for the benefit of that concession is not required in the best interests of advancing and achieving the Foundation's Charitable Purposes.

**22.3 Records and Filing:** The Board of Management must ensure that any variation of the terms set out in this deed is included in the Foundation's records and, if required by law, filed with any relevant authority including Charities Services and the Registrar under the Charitable Trusts Act 1957.

## **23. GOVERNING LAW AND JURISDICTION**

**23.1 Governing Law:** This deed is governed by the law of New Zealand.

**23.2 Jurisdiction:** In connection with the Foundation, the Board of Management and the Members submit to the non-exclusive jurisdiction of all courts having jurisdiction in New Zealand.

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

**EXECUTED AND DELIVERED AS A DEED****Deleted:** SIGNED**Deleted:** SIGNED by CRAIG MICHAESL ASHBY in the presence of: [1]**Deleted:** Witness: [2]**Deleted:** Signature of witness [3]**Deleted:** Full name of witness [4]**Deleted:** Occupation of witness [5]**Deleted:** Address of witness [6]**Deleted:** \*The witness must not be a party to this deed. [7]**Deleted:** SIGNED by BRADLEY THOMAS FENNER in the presence of: [8]**Deleted:** Witness: [9]**Deleted:** Signature of witness [10]**Deleted:** Full name of witness [11]**Deleted:** Occupation of witness [12]**Deleted:** Address of witness [13]**Deleted:** \*The witness must not be a party to this deed. [14]**Deleted:** SIGNED by PETER JOCK FERGUSON in the presence of: [15]**Deleted:** Witness: [16]**Deleted:** Signature of witness [17]**Deleted:** Full name of witness [18]**Deleted:** Occupation of witness [19]**Deleted:** Address of witness [20]**Deleted:** \*The witness must not be a party to this deed. [21]**Deleted:** SIGNED by RICHARD JULIAN KIDD in the presence of: [22]**Deleted:** Witness: [23]**Deleted:** Signature of witness [24]**Deleted:** Full name of witness [25]**Deleted:** Occupation of witness [26]**Deleted:** Address of witness [27]**Deleted:** \*The witness must not be a party to this deed. [28]**Deleted:** SIGNED by RAYMOND CLAUDE KINGSTON in the presence of: [29]**Deleted:** Witness: [30]**Deleted:** Signature of witness [31]**Deleted:****Deleted:** governing the (38744861.1) Draft 09/05/2025

Trust Deed\_King's College Foundation\_Amendments Tracked Changes.docx

SIGNED by ELIZABETH DIANNA YOUNG in the presence of:

Elizabeth Dianna Young

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by ISILELI TUIVANUAVOU TUPOU in the presence of:

Isileli Tuivanuavou Tupou

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

Deleted: Witness: [44]

Deleted: Signature of witness [45]

Deleted: Full name of witness [46]

Deleted: Occupation of witness [47]

Deleted: Address of witness [48]

Deleted: \*The witness must not be a party to this deed. [49]

Deleted: SIGNED by PETER WEBSTER WILSON in the pres [50]

Deleted: Witness: [51]

Deleted: Signature of witness [52]

Deleted: Full name of witness [53]

Deleted: Occupation of witness [54]

Deleted: Address of witness [55]

Deleted: \*The witness must not be a party to this deed. [56]

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025



SIGNED by CAROLLYN JOY CHAPLIN in the presence of:

Carollyn Joy Chaplin

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by MICHAEL JOHN HARPER in the presence of:

Michael John Harper

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by SIMON THOMAS LAMB in the presence of:

Simon Thomas Lamb

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

SIGNED by MURRAY ALAN REID in the presence of: Murray Alan Reid

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

Deleted:  
Deleted: governing the (38744861.1) Draft 09/05/2025

APPROVAL OF RESOLUTION

The Chair of the Board of Governors, Shan Nicola Wilson, hereby certifies that the Board of Governors approved the resolution referred to in recital D in the introduction to this deed prior to it being passed.

Deleted: Chairman  
Deleted: Peter Jock Ferguson

SIGNED by SHAN NICOLA WILSON as the Chair in the presence of:

Shan Nicola Wilson

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

Deleted:  
Deleted: governing the (38744861.1) Draft 09/05/2025

## SCHEDULE 1

### TRUSTEE DUTIES

#### 1. TRUSTEE DUTIES

**1.1 Guiding Principle:** In performing the duties set out in clause 1.2 of this Schedule and the duties contained in sections 29 to 38 of the Act (as may be modified by this Deed), the Trustees must have regard to the purposes of the Trust.

**1.2 Mandatory Duties:** The following duties in this clause 1.2 are mandatory duties that must be performed by each Trustee, as set out in section 23 to 27 of the Act:

- (a) a Trustee must know the terms of the Trust;
- (b) a Trustee must act in accordance with the terms of the Trust;
- (c) a Trustee must act honestly and in good faith;
- (d) a Trustee must hold or deal with Trust Fund and otherwise to further the purposes of the Trust, in accordance with the terms of the Trust; and
- (e) a Trustee must exercise the Trustee's powers for a proper purpose.

**1.3 Duty of Care:** In accordance with section 29 of the Act, when administering the Trust (other than when exercising a discretion to distribute part of or all of the Trust Fund), a Trustee must exercise the care and skill that is reasonable in the circumstances, having regard, in particular:

- (a) to any special knowledge or experience that the Trustee has or that the Trustee holds out as having; and
- (b) if the person acts as a Trustee in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

**1.4 Duty to Invest Prudently:** In accordance with section 30 of the Act, when exercising any power to invest the Trust Fund, a Trustee must exercise the care and skill that a prudent person of business would exercise in managing the affairs of others, having regard, in particular,;

- (a) to any special knowledge or experience that the Trustee has or that the Trustee holds out as having; and
- (b) if the person acts as a Trustee in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

**1.5 Duty as Shareholder:** Where the Trust Fund includes shares in a private company, the Trustees shall be under no obligation to become involved with or be responsible in any way for the governance and management of that company and shall not be liable for

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

any loss in value of the shares. The Trustees' obligations in relation to a private company shall be limited to receiving and reviewing the financial statements of the company (and any subsidiary or holding company) and considering any resolution or proposal that the Trustees may receive from the company. This duty does not apply to any shares included in an investment portfolio held by the Trustees where the Trustees have delegated the management of the portfolio to a professional investment manager.

**1.6 Duty Not to Exercise Power for Own Benefit:** In accordance with section 31 of the Act a Trustee must not exercise a power of a Trustee directly or indirectly for the Trustee's own benefit.

**1.7 Duty to Consider Exercise of Power:** In accordance with section 32 of the Act, a Trustee must actively and regularly consider whether the Trustee should be exercising one or more of the Trustee's powers.

**1.8 Duty not to Bind or Commit Trustees to Future Exercise of Discretion:** In accordance with section 33 of the Act, a Trustee must not bind or commit Trustees to a future exercise or non-exercise of a discretion.

**1.9 Duty to Avoid Conflict of Interest:** In accordance with section 34 of the Act a Trustee must avoid a conflict between the interests of the Trustee and the interests of the Discretionary Beneficiaries.

**1.10 Duty of Impartiality:** In accordance with section 35 of the Act, a Trustee must act impartially in relation to the Trust's Discretionary Beneficiaries.

**1.11 Duty not to Profit and to Act for No Reward:** In accordance with sections 36 and 37 of the Act a Trustee must not profit from the trusteeship or take any reward for acting as a Trustee. For the avoidance of doubt, this does not affect a Trustee's right to be reimbursed for legitimate expenses and disbursements in acting as a Trustee.

**1.12 Duty to Act Unanimously:** In accordance with section 38 of the Act, the Trustees are required to act unanimously.

**1.13 Trustee Record Keeping:** In accordance with sections 45 and 46 of the Act, if there is more than one Trustee, each Trustee must:

(a) hold (or hold copies of) this deed, any other document that contains terms of this Trust, and any variations made to this deed or Trust; and

(b) be satisfied that at least one Trustee holds the following documents and that those documents or copies of them shall be made available to the other Trustees on request:

(i) records of the Trust Fund that identify the assets, liabilities, Income, and expenses of the Trust and that are appropriate to the value and complexity of the Trust Fund;

(ii) any records of Trustee decisions made during the Trustee's trusteeship;

Deleted:

Deleted: governing the (38744861.1) Draft 09/05/2025

- (iii) any written contracts entered into during that Trustee's trusteeship;
- (iv) any accounting records and financial statements prepared during that Trustee's trusteeship;
- (v) documents of appointment, removal, and discharge of Trustees (including any court orders appointing or removing Trustees);
- (vi) any letter or memorandum of wishes from the Settlers;
- (vii) any other documents necessary for the administration of the Trust; and
- (viii) any of the documents referred to in this clause that were kept by a former Trustee during that person's trusteeship and passed on to the current Trustee.

**Deleted:**

**Deleted:** governing the (38744861.1) Draft 09/05/2025

Page 29: [1] Deleted	compareDocs
▼	
Page 29: [2] Deleted	compareDocs
▼	
Page 29: [3] Deleted	compareDocs
▼	
Page 29: [4] Deleted	compareDocs
▼	
Page 29: [5] Deleted	compareDocs
▼	
Page 29: [6] Deleted	compareDocs
▼	
Page 29: [7] Deleted	compareDocs
▼	
Page 29: [8] Deleted	compareDocs
▼	
Page 29: [9] Deleted	compareDocs
▼	
Page 29: [10] Deleted	compareDocs
▼	
Page 29: [11] Deleted	compareDocs
▼	
Page 29: [12] Deleted	compareDocs
▼	
Page 29: [13] Deleted	compareDocs
▼	
Page 29: [14] Deleted	compareDocs
▼	
Page 29: [15] Deleted	compareDocs
▼	
Page 29: [16] Deleted	compareDocs
▼	
Page 29: [17] Deleted	compareDocs
▼	

Page 29: [18] Deleted	compareDocs
▼	
Page 29: [19] Deleted	compareDocs
▼	
Page 29: [20] Deleted	compareDocs
▼	
Page 29: [21] Deleted	compareDocs
▼	
Page 29: [22] Deleted	compareDocs
▼	
Page 29: [23] Deleted	compareDocs
▼	
Page 29: [24] Deleted	compareDocs
▼	
Page 29: [25] Deleted	compareDocs
▼	
Page 29: [26] Deleted	compareDocs
▼	
Page 29: [27] Deleted	compareDocs
▼	
Page 29: [28] Deleted	compareDocs
▼	
Page 29: [29] Deleted	compareDocs
▼	
Page 29: [30] Deleted	compareDocs
▼	
Page 29: [31] Deleted	compareDocs
▼	
Page 30: [32] Deleted	compareDocs
▼	
Page 30: [33] Deleted	compareDocs
▼	
Page 30: [34] Deleted	compareDocs
▼	
Page 30: [35] Deleted	compareDocs
▼	



Page 30: [36] Deleted	compareDocs
▼	
Page 30: [37] Deleted	compareDocs
▼	
Page 30: [38] Deleted	compareDocs
▼	
Page 30: [39] Deleted	compareDocs
▼	
Page 30: [40] Deleted	compareDocs
▼	
Page 30: [41] Deleted	compareDocs
▼	
Page 30: [42] Deleted	compareDocs
▼	
Page 30: [43] Deleted	compareDocs
▼	
Page 31: [44] Deleted	compareDocs
▼	
Page 31: [45] Deleted	compareDocs
▼	
Page 31: [46] Deleted	compareDocs
▼	
Page 31: [47] Deleted	compareDocs
▼	
Page 31: [48] Deleted	compareDocs
▼	
Page 31: [49] Deleted	compareDocs
▼	
Page 31: [50] Deleted	compareDocs
▼	
Page 31: [51] Deleted	compareDocs
▼	
Page 31: [52] Deleted	compareDocs
▼	

Page 31: [53] Deleted	compareDocs
▼	
Page 31: [54] Deleted	compareDocs
▼	
Page 31: [55] Deleted	compareDocs
▼	
Page 31: [56] Deleted	compareDocs
▼	