

**PIHA COMMUNITY LIBRARY TRUST**  
**AMENDED AND RESTATED DEED OF TRUST**

**DEED DATED** this \_\_\_\_\_ day of \_\_\_\_\_ 2015

**RECITALS**

- A. **PIHA COMMUNITY LIBRARY TRUST** was established as a charitable trust under a deed of trust dated 8 September 2009 as amended on or about 12 December 2009 ("Original Trust Deed") to provide the Piha, Karekare and Anawhata areas with community library services.
- B. **PIHA COMMUNITY LIBRARY TRUST** was incorporated under the Charitable Trusts Act 1957 as a charitable trust board under number 2321735 on 11 September 2009.
- C. **PIHA COMMUNITY LIBRARY TRUST** was registered as a charitable entity in accordance with the provisions of the Charities Act 2005 under number CC43414 on 20 January 2010.
- D. The Trustees have resolved to amend the Original Trust Deed in accordance with its terms and have agreed to enter into and execute this Amended and Restated Trust Deed ("Trust Deed") to record the terms of the Original Trust Deed as so amended.

**OPERATIVE PART**

**1. TRUSTS**

- 1.1 The Trustees shall hold the Trust Property in perpetuity or until the Trust is sooner wound up in accordance with Clause 9 hereof UPON THE TRUSTS and subject to the terms and conditions set out in this Trust Deed.

**2. NAME**

- 2.1 The name of the Trust shall be **PIHA COMMUNITY LIBRARY TRUST**.

**3. OBJECTS**

- 3.1 The objects and purposes for which the Trust is established are as follows:
- 3.2 To provide a library service accessible to all the people of Piha, Karekare and Anawhata areas.
- 3.3 To raise funds to encourage, assist and promote the provision of the aforesaid facilities and services.
- 3.4 To establish, implement and manage a system for the purposes of seeking, raising, accepting, receiving, accumulating, investing and managing funds for the purposes of the Trust.
- 3.5 To seek, accept and receive by public subscription or appeal, by raffles and other fund raising activities and by both public and private donations, subsidies, grants, endowments, gifts, legacies, loans and bequests either in money or in kind or partly in money and partly in kind for all or any of the purposes and objects of the Trust and to carry out any specified trust attaching to the same to the intent that donations grants etcetera made to the Trust may be made for the benefit of the general purposes of the Trust or may be made for some purposes

within the general objects of the Trust specified in particular cases by the donor or donors, and lender or lenders.

- 3.6 To carry on any other charitable object which may seem to the Trustees capable of being conveniently carried on in connection with the above objects or calculated directly or indirectly to advance the objects of the Trust or any of them.
- 3.7 To apply for, obtain and maintain registration as a charitable entity in accordance with the provisions of the Charities Act 2005.
- 3.8 To apply for, obtain and maintain incorporation of the Trust under Part II of the Charitable Trusts Act 1957 under the name "**PIHA COMMUNITY LIBRARY TRUST**" or such other name as the Trustees by written resolution may determine or which is approved by the Registrar of Incorporated Societies and upon such incorporation the powers and discretions hereby conferred upon the Trustees shall be conferred and the within Trusts shall devolve upon them as Trustees.
- 3.9 In giving effect to the objectives set out in clauses 3.1 to 3.8 above (the "Objectives"), the Trust will:
- (a) Act as a focal point for the receipt of funds (being funds and property of the Trust, whether raised by subscription, grants, donations, allocations, subsidies, profits or accretions arising in respect of funds or property already held, by borrowing, or by any other means) ("Trust Property") intended to be held and dealt with for the Objectives;
  - (b) Invest the Trust Property in such manner as may seem to the Trustees to be prudent; and
  - (c) Make payments from the Trust Property in furtherance of the Objectives in such amounts and in such manner as the Trustees consider appropriate.
- 3.10 In giving effect to clause 3.9(c) the Trustees may in their discretion, make payments from capital as well as from the income of the Trust Property, unless and to the extent that they are constrained from doing so, in any given case, by the terms of a particular payment, grant or bequest made to the Trust.
- 3.11 Subject to the terms of this Trust Deed, the extent to which, and the means by which the Trust fulfills its Objectives are to be entirely within the discretion of the Trustees.

#### **4. TRUSTEES OF THE TRUST**

- 4.1 There shall be no fewer than five nor more than eight Trustees comprising the Board. Any vacancy which reduces the number of Trustees in office at any time below five shall be filled as soon as practicable by the Trustees then remaining in office appointing such new Trustees as may be required to bring the number of Trustees in office to at least five.
- 4.2 Each Trustee shall hold office for a term of not more than three years from the date of his or her appointment and, subject to being willing to serve, shall be eligible for reappointment for three further terms of office by the Trustees under clause 4.3 below.
- 4.3 The Board shall have the power to appoint and the power to remove Trustees. The power to appoint Trustees and the power to remove Trustees may only be exercised by the Board upon a resolution passed by not less than 75% of the Trustees then in office at a meeting of the Trustees of which not less than 21 days' notice has been given to all Trustees provided that the period of notice may be shortened with the written consent of all the Trustees then in office. In making any appointment of Trustee(s) the Trustees shall:

- (a) ensure that at least three Trustees reside in the Piha, Karekare and Anawhata areas;
- (b) have regard to the need to appoint persons to the Trust who are interested in the Objectives and who are capable of assisting the Trust to carry out its Objectives by virtue of their skill, expertise, profession, standing in the community or other attribute or qualification;
- (c) select from nominees recommended by its Nominating Committee and approved by a simple majority of Subscribers present and voting at the Annual General Meeting.

The Library Manager appointed pursuant to clause 4.10 shall be an ex officio Trustee.

- 4.4 If a resolution is proposed to remove a Trustee from office then the Trustee the subject of the resolution shall not be counted in determining whether the 75% majority has been met and the 75% majority shall be determined by reference to the Trustees who are not the subject of the resolution.
- 4.5 Any Trustee may retire from the Trusts of this Trust Deed by giving not less than one month's notice in writing of his or her intention to do so to the Chair or the Secretary (if any) (or, if there is no Secretary or Chair, to all of the other Trustees) and upon the expiration of such notice the Trustee giving notice shall cease to be a Trustee.
- 4.6 If any Trustee:
  - (a) becomes bankrupt;
  - (b) remains out of New Zealand without leave of absence for more than 12 months;
  - (c) dies;
  - (d) is convicted of any offence punishable by a term of imprisonment and has been sentenced to imprisonment for that offence;
  - (e) is convicted of any offence which a majority of the other Trustees decides disqualifies him or her from remaining a Trustee;
  - (f) has an order made against them under section 383 of the Companies Act 1993;
  - (g) suffers from a mental disorder as defined in the Mental Health (Compulsory Assessment and Treatment) Act 1992;
  - (h) is otherwise disqualified at law from acting as a Trustee; or
  - (i) without having obtained the leave of a majority of the other Trustees in each case, fails to attend any three consecutive meetings of Trustees or fails to attend five meetings of Trustees in any 12 month period,

he or she shall immediately cease to be a Trustee and will have no claim against the Trust or the Trustees for loss of office or otherwise.

- 4.7 The provisions of Schedule 1 to this Trust Deed shall apply to all meetings and proceedings of the Board.
- 4.8 The Trust Property will be vested in the Board, notwithstanding any changes in the composition of the Trustees. The Trust Property will be administered by the Board in accordance with the provisions of this Trust Deed.

- 4.9 The Trustees may appoint (and remove) a Chair of the Trust from time to time. The term of appointment shall be for a period not exceeding 3 years. The Chair will:
- (a) chair meetings of the Board;
  - (b) have a casting or deciding vote in any matter on which the votes of the Trustees are deadlocked;
  - (c) perform such other functions as are allocated to the Chair in this Trust Deed or by the Board from time to time.
- 4.10 The Trustees may, from time to time, appoint a Library Manager, a Secretary, a Treasurer, and such other officers as the Trustees think fit, and shall, from time to time, define their respective duties. The Library Manager, the Secretary, the Treasurer, and any other appointed officers may, but need not, be Trustees, although the Library Manager will (if not already a Trustee) become an ex officio Trustee. The Board may, at any time, and from time to time, and without being required to give prior notice, terminate the appointment of a person as Library Manager, Secretary, Treasurer or as any other appointed officer. The same person as may act as both Secretary and Treasurer.
- 4.11 The Trustees may establish committees and appoint such officers to such committee(s) as they think fit to achieve the Objectives and the charitable purposes of the Trust. Any committee so established:
- (a) will be conducted in accordance with the rules set out in Schedule 2 to this Trust Deed;
  - (a) must have at least one Trustee;
  - (b) may include persons who are not Trustees; and
  - (c) will be delegated such powers as are consistent with the terms of this Deed as the Board thinks fit.

## **5. LIBRARY MANAGER**

- 5.1 The Board shall delegate to the Library Manager responsibility for the efficient carrying out of the Library in accordance with the strategic plan and policies and protocols set by the Board.
- 5.2 The Library Manager will be responsible for the day-to-day administration of the Library and will be assisted and supported by voluntary library assistants.
- 5.3 The Library Manager shall be responsible for keeping the Board fully informed of the Library's activities and shall promote to the Board any projects he or she feels will enhance the performance of the Library's service.

## **6. ADVISORY MEMBERSHIP**

- 6.1 Advisory membership of the Trust may at the discretion of the Trustees be offered to any person or body (whether incorporated or not) and such person so appointed shall be known as an advisory member.
- 6.2 The primary object of Advisory Membership is to encourage public participation in and assistance to the Trust and the Trustees to meet and achieve its goals.

- 6.3 Advisory members may also be called upon to assist in the funding of the undertakings of the Trust and all joining fees and annual subscriptions and other funds raised by the Advisory members shall be applied by the Trustees to the objects of the Trust.
- 6.4 Nothing in these rules shall give an Advisory member any rights in relation to the Trust and the Trustees other than to assist and advise as and when required and to enable participation by that Advisory member in the activities of the Trust.
- 6.5 A person wishing to join the Trust as an Advisory member shall be proposed by any Trustee and seconded by one other Trustee. The appropriate nomination form is to be completed and signed by the person wishing to join as an Advisory member and the nominator. Such form to also include the full name, address and occupation of that person.
- 6.6 Such nomination form when completed shall be considered by the Trustees at the Trustees next ensuing meeting following which that person wishing to become an Advisory member shall be notified of his acceptance as an Advisory member or the Trustees decision to decline that person as an Advisory member.
- 6.7 All Advisory members shall be deemed to accept and agree to abide by all and any rules of the Trust from time to time. For the avoidance of doubt, Advisory members are not Trustees and do not have the rights or obligations of Trustees.
- 6.8 All Advisory members of the Trust may at the discretion of the Trustees, attend any meeting of the Trustees and although an Advisory Member shall have no voting rights, the constructive input to the affairs of the Trust by Advisory members shall be encouraged by the Trustees to assist in enabling the Trust to achieve its stated objects.
- 6.9 The Chair or, if relevant, the Secretary of the Trust shall give at least seven days written notice to the Advisory members of the Trust's intention to hold a meeting to which Advisory members are invited which notice shall also state the business of the meeting and the matters to be discussed.
- 6.10 Service of notice pursuant to clause 6.8 shall be deemed sufficient if posted to the address given to the Trust by the Advisory member at the time of becoming an Advisory member, or to any other address that such Advisory member may have given to the Trust from time to time and notice shall be deemed to have occurred four days following the date of posting such notice. Failure to give any such notice to an Advisory member will not invalidate the proceedings at the relevant meeting of Trustees.
- 6.11 Any Advisory member may resign from the Trust upon giving the Secretary or Chair or, if there is no Secretary or Chair, the Trustees not less than fourteen days' notice in writing of such desire.

## **7. POWERS**

- 7.1 In managing the Trust Property and the affairs of the Trust, the Board will have all the powers of an absolute owner of the Trust Property to do all lawful acts and things consistent with the charitable purposes of the Trust, including all acts and things incidental to, or conducive to the attainment of, the Objectives of the Trust.
- 7.2 The Board shall in addition to such other powers as are vested in it have the power to borrow or raise money by any means.
- 7.3 The Board may use such of its funds as the Trustees may consider necessary or proper in payment of the costs and expenses in the furthering or carrying out of the objects of the Trust including the employment of counsel, solicitors, accountants, agents, officers and servants as shall appear necessary or expedient.

- 7.4 The Board may also purchase, take on lease or in exchange on hire or otherwise acquire any real or personal property and any rights or privileges which the Trustees shall think necessary or expedient for the purpose of attaining the objects of the Trust or any of them or promoting the interests of the Trust or its members and to sell, exchange, let on hire or lease with or without option or purchase or in any manner dispose of any such property right or privilege.
- 7.5 The Board may invest in any security and upon any terms as the Trustees shall think fit such part of its funds or the whole of its funds which shall not be required for the immediate business of the Trust.
- 7.6 The Board may seek grants and sponsorship from any person, company or organisation for its general funding and/or equipment or for any other purpose. The Board may in the Trustees' absolute discretion from time to time invite and accept as additions to the Trust Property any voluntary contributions of money or other property (real or personal) whether by donation or award or other subscription legacy fit or otherwise and may employ or pay collectors or canvassers and expend part of the income of the Trust Property in advertising any appeal to the public or selected member of the public for voluntary contribution in such manner as the trustees think fit.
- 7.7 The Board shall adopt such means as it may from time to time determine necessary or appropriate for the purpose of raising monies for the Objectives and in particular to canvas for and accept contribution, collections, donations, legacies, devises, gifts, grants, subsidies or any other monies or properties and to expend or use them in furtherance of the objects of the Trust.
- 7.8 In addition to the powers set out in clauses 7.1 to 7.7 above and elsewhere in this Trust Deed the Board shall have all of the following powers set out in this clause 7.8.
- (a) To enter into any arrangement with any government or authorities supreme municipal local or otherwise that may seem conducive to the Trust's objects or any of them and to obtain from any such government or authority any rights privileges and concessions which the Trustees may think it desirable to obtain and carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
  - (b) To obtain any provision, order or Act of Parliament or town planning ordinance, classification, designation or by-law for enabling the Trust to carry out any of its objects or for any other purpose which in the opinion of the Trustees is directly or indirectly conducive to the carrying out of the objects of the Trust and to oppose any proceedings, applications, classifications, designations, orders, Acts, ordinances or by-laws which may seem to the Trustees to be likely, directly or indirectly to prejudice or injure the interests, objects and purposes of the Trust;
  - (c) To promote any other society trust, association or institution for the purpose of acquiring or taking overall or any other the property rights and liabilities of the Trust or for any other purpose which may seem directly or indirectly calculated to benefit the Trust and to further or more effectively carry out its objects provided that the objects and purposes of such society, trusts, association or institution are wholly charitable;
  - (d) To co-operate with any other society, trust or institution whether incorporated or not whose objects are altogether or in part similar to those of this Trust and to procure from or communicate to such society, trust or institution such information as may be likely to forward the objects of this Trust;
  - (e) To agree and settle accounts with all persons, companies or other bodies liable to account to the Trust and to compromise all questions relating to the Trust Property and to grant effectual receipts, discharges and releases;

- (f) To delegate any of its powers to such committee or committees consisting of any persons (including all or any of the Trustees) as the Trustees may think fit PROVIDED THAT the Trustees may not delegate any power to deal with the Trust Property or to incur any liability on behalf of the Trust. Any committee so formed shall in the exercise of the powers so delegated conform to any requirements that may be imposed on it by the Trust;
- (g) To insure against loss or damage by any cause any insurable property forming part of the Trust Property, 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 deem appropriate;
- (h) To set up or create sub-trusts for any Charitable Purposes authorised by this Trust Deed and maintain separate accounts within the Trust Property for those sub-trusts;
- (i) To promote and advance the Objectives of the Trust through publications, advertising, websites, social media and other means as the Trustees consider appropriate;
- (j) To invest the Trust Property in whole or in part in any fund or property (whether tangible or intangible) and subject to any liability;
- (k) To lend money on such terms as the Trustees think fit;
- (l) To make grants, whether conditional or unconditional, consistent with the charitable purposes of the Trust;
- (m) To open and maintain such bank accounts for all or part of the Trust Property of the Trust;
- (n) To pay a reasonable market remuneration to any Trustee for services actually rendered to the Trust by the Trustee;
- (o) To reimburse the Trustees out of the Trust Property for all legitimate expenses incurred or transacting any business pursuant to a resolution of Trustees;
- (p) To guarantee the liability of any person or corporation for the purposes of the Trust and to give security in support of any such guarantee;
- (q) To apply the assets and income of the Trust howsoever derived towards all or any of the aforesaid objects and purposes of the Trust as the Trustees may in their absolute discretion think fit;
- (r) To do all or any of the above things as principals, agents, contractors, trustees or otherwise and by or through agents, trustees or otherwise and either alone or in conjunction with others;
- (s) To do all such other things as in the opinion of the Trustees may be incidental or conducive to the attainment of any of the foregoing objects or the exercise of any of the foregoing powers;
- (t) To pay all or any of the expenses incurred in and in connection with the incorporation and establishment of this Trust and in furthering or carrying out the objects of the Trust or any of them including the employment of counsel, solicitors, accountants, auditors, architects, professional advisers, builders, engineers, contractors, doctors, nurses and the employment and training of supervisors, officers and servants or any other persons as shall appear necessary or expedient and upon such salaries, wages, terms and conditions as shall appear necessary or expedient.

## **8. INTERPRETATION**

- 8.1 The objects set forth in Clauses 3.0 to 3.8 in this Trust Deed shall be the primary objects of the Trust. The objects set forth in any clause of this Trust Deed shall not, except where the context expressly requires, be in any way limited or restricted by reference to or any inference from the terms of any other of the said clauses and none of the said clauses or the objects therein specified shall be deemed subsidiary or ancillary to any other clause or object but the Trust shall be fully empowered to pursue and carry out all or any of the objects set out in this Trust Deed independently of any other such objects. None of the powers and authorities conferred upon the Board under Clauses 7.1 to 7.8 (inclusive) shall be deemed subsidiary or ancillary to any other power or authority and the Trustees shall be entitled to exercise all or any of the powers or authorities independently or any other of such powers or authorities PROVIDED THAT all or any of the powers or authorities are exercised in pursuance of the objects and purposes for which the Trust is established.

## **9. WINDING UP**

- 9.1 The Trust shall be governed by the provisions for winding up contained in Section 24 of the Charitable Trust Act 1957, and should the Trust dissolve or be wound up then any assets remaining after repayment of debts and obligations shall be distributed to other charitable bodies in the Piha, Karekare and Anawhata area or for charitable purposes for the benefit of the communities within the Piha, Karekare and Anawhata area.
- 9.2 In addition to clause 9.1 above, the Trust may be wound up at any time on the passing of a unanimous resolution of all Trustees.
- 9.3 Notwithstanding clause 9.2, if the Objectives of the Trust fail or become frustrated or incapable of being carried out at any time, the Trustees will proceed to wind up the Trust.

## **10. PECUNIARY PROFIT PROHIBITED**

- 10.1 Any income, benefit or advantage shall be applied to the charitable purposes of the Trust.
- 10.2 No Trustee of the Trust or any person associated with a Trustee shall participate in or materially influence any decision made by the Trustees in respect of the payment to or on behalf of a Trustee or associated person of any income, benefit or advantage whatsoever.
- 10.3 Any such income paid shall be reasonable and relative to that which would be paid in an arms length transaction (being the open market value).
- 10.4 The provisions and effect of this clause shall not be removed from this document and shall be included and implied into any document replacing this document.
- 10.5 Upon becoming aware of the fact that they are interested in a transaction or a proposal with the Trust, a Trustee will give written notice to each of the other Trustees, specifying the nature of the Trustee's interest.
- 10.6 For the purposes of clause 10.5, a general notice given to all the other Trustees from time to time that a Trustee is a shareholder, director, officer or trustee of a company, body corporate or other organisation and is to be regarded as interested in any transaction which may be considered by the Trust involving, to the knowledge of the Trust, that company, body corporate or other organisation after the date of the giving of the notice, will be sufficient disclosure.
- 10.7 A Trustee who is interested in any proposal or transaction being considered by the Trust may:

- (a) attend any meeting of the Board at which a matter relating to the proposal or transaction arises;
- (b) be included among the Trustees present at the meeting for the purpose of forming a quorum;
- (c) subject to clause 10.8, vote on any matter relating to the proposal or transaction;
- (d) sign any document, on behalf of the Trust, relating to the proposal or the transaction where the proposal or transaction has been approved by the Trustees in accordance with this clause 10; and
- (e) do any other act or thing in his or her capacity as a Trustee in relation to the proposal or transaction,

as if the Trustee was not interested in the proposal or transaction.

10.8 Notwithstanding clause 10.7, a Trustee who is interested in any proposal or transaction being considered by the Board may speak to the proposal or transaction but may not:

- (a) vote on any matter relating to the proposal or transaction; or
- (b) sign any written resolution of the Board relating to the proposal or transaction,

provided that this clause 10.8 will not apply to a Trustee where that Trustee's interest arises as a result of a company or firm, in which the Trustee has an interest, providing professional services to the Trust in connection with the proposal or transaction.

10.9 Nothing in this clause 10 will affect the rights of any person dealing with the Trust.

## **11. MONIES, ACCOUNTS AND EXPENSES**

11.1 The Board will cause proper books of account to be kept showing all assets and liabilities of the Trust and all moneys received and disbursed by the Trustees. The Trustees will prepare annual financial statements to be presented at the annual general meeting of the Trustees. The financial statements shall, if required by law or by the Trustees by majority vote, be either audited, reviewed or certified by a suitably qualified person who shall from time to time be appointed by the Trustees at the annual general meeting.

11.2 The Board will open and operate such accounts at any registered bank in New Zealand as they determine from time to time. Cheques will be drawn or payments made by such person or persons as the Board directs from time to time provided that no cheque will be signed or payment authorised by less than two Trustees.

11.3 Expenditure will be incurred by the Trust once it has been approved by the Trustees or any committee established by the Trustees where the expenditure in question relates to a function of such committee or by such other person to whom the Trustees have delegated the necessary authority.

11.4 Where it shall be made to appear to the Board that any legacy, endowment, contribution or gift has been made in the spirit of or in ignorance or without full appreciation of the claim whether legal or moral of any person upon the duty or bounty of the testator or donor the Board notwithstanding that the Board may have expressed its acceptance of such legacy, endowment, contribution or gift either wholly or in part may make such payment or gift of or out of the property comprised therein towards the satisfaction or relief of such claim as the Board may in appropriate circumstances consider proper;

- 11.5 Any Secretary or Treasurer appointed by the Board shall have power to receive and give receipts for all legacies, donations, subscriptions or other moneys bequeathed, made, given or lent to the Trust and every such receipt shall be an effective discharge for the money or other property therein stated to have been received;
- 11.6 No part of the income or property of the Trust shall be paid or transferred directly or indirectly by way of profit to any Trustee PROVIDED THAT nothing herein contained shall preclude any payment to a Trustee for services rendered or for goods supplied or by way of interest on moneys borrowed from or by way of rent for premises let or leased to the Trust by any Trustee.

## **12. VARIATION OF THIS DEED**

- 12.1 This Deed may be added to, rescinded, or otherwise amended by separate resolutions of the Trustees and Library Subscribers respectively, each approved by 75% of the Trustees or Library Subscribers as the case may be, personally present at any Annual General Meeting or such other special meeting of the Trust provided that:
- (a) the notice convening such meeting shall set forth the purpose of such alterations; and
  - (b) no alterations shall be made that would change the charitable aim or charitable objects of the Trust.

## **13. COMMON SEAL**

- 13.1 The Board shall provide a common seal for the Trust, which shall be affixed by the authority of the Board previously given at a meeting of the Board to any document requiring execution by the Trust. Every affixing shall be performed in the presence of and accompanied by the signatures of two Trustees and shall be sufficient evidence of their authority to affix the Seal. No person dealing with the Trust shall be bound or concerned to see or enquire as to the authority under which any document is so sealed and in whose presence.

## **14. INDEMNITY AND INSURANCE**

- 14.1 No Trustee will be liable for any loss other than those attributable to that Trustee's own dishonesty or to the wilful commission by the Trustee of any act known by that Trustee to be a breach of trust. The Trustees are not required to demonstrate the levels of care, skill and diligence contemplated by section 13B and 13C of the Trustee Act 1956.
- 14.2 Each of the Trustees and every employee, delegate or agent of the Trust acting on behalf of the Trustees will be indemnified out of the Trust Property in respect of:
- (a) the exercise or attempted exercise of the trusts, powers and discretions vested in the Trustees pursuant to this Trust Deed; and
  - (b) any matter or thing done or omitted to be done in any way relating to the Trust,

and will have a lien on and may use any moneys for the time being in the hands or coming into the hands of the Trustees for this indemnity and to pay all proper legal and other costs, taxes, charges, and expenses of administering or winding up the Trust which may be permitted from time to time under this Trust Deed. Nothing in this clause will entitle any Trustee to be indemnified out of the Trust Property for any loss attributable to the Trustee's own dishonesty or to the wilful commission of any act by the Trustee known by the Trustee to be a breach of trust.

- 14.3 The Trustees may effect insurance for the Trustees in respect of any liability which may be incurred by any Trustee in his or her capacity as a Trustee, provided that such insurance shall not apply in respect of any loss attributable to the Trustee's own dishonesty or to the willful commission of any act by the Trustee known by the Trustee to be a breach of trust.
- 14.4 Clauses 14.1 and 14.2 of this Trust Deed shall not apply with respect to any advice or services for which a Trustee is paid normal professional or business trade remuneration. Such Trustee shall be liable in respect of such advice or services for loss caused by negligence in the normal manner as if the Trustee were being employed or contracted by the Trust in the normal course of business.

## 15. DEFINITIONS AND INTERPRETATION

15.1 In this Trust Deed, unless the context otherwise requires:

**Advisory member** means any person appointed as an advisory member under clause 5.1;

**Annual General Meeting** means a meeting of Trustees and Library Subscribers called on at least seven days' notice in each calendar year within three months of the Trust's financial year-end to –

- (a) review and account for the work of the Trust during the preceding financial year,
- (b) receive and approve the certified financial statements of the Trust for the preceding financial year,
- (c) approve Trustees to fill any vacancies (if any),
- (d) to make recommendations on policy and strategic directions, and
- (e) to carry out such other business of a broad policy nature as may be considered necessary;

**Board** means the Board of Trustees constituted hereunder;

**Chair** means the Trustee who is the chair of the Board appointed pursuant to clause 4.8 for the time being;

**Charitable Purpose** means any purpose which is regarded as a charitable purpose under any statute relating to income tax, estate duty or gift duty in New Zealand;

**Objectives or objects** means the objectives set out in clauses 3.1 to 3.7 of this Trust Deed;

**Library** means the Piha Community Library operated by the Trust from 19 Seaview Road, Piha or such other location as the Board determines from time to time;

**Library Subscribers** means registered subscribers of the Trust's library services;

**Nominating Committee** means an ad hoc committee of the Board comprising the Chair, one other Trustee, and two representatives of the community appointed by the Board who are not Trustees and who have expertise in the area of library, charity or not for profit organisation, management;

**Secretary** means any person who, for the time being, occupies that position by virtue of having been appointed under clause 4.9;

**Treasurer** means any person who, for the time being, occupies that position by virtue of having been appointed under clause 4.9;

**Trust** means Piha Community Library Trust as established under this Trust Deed;

**Trust Deed** means this Trust Deed as amended in accordance with its terms from time to time;

**Trust Property** has the meaning given to it in clause 3.9(a);

**Trustees** means the persons who, for time being, hold that position, either by virtue of having signed this Trust Deed or by having been appointed to that position in terms of this Trust Deed.

15.2 In this Trust Deed, unless the context otherwise requires:

- (a) Headings are for convenience only and do not affect the interpretation of this Trust Deed;
- (b) Words importing the singular include the plural and vice versa;
- (c) Words importing one gender include the other genders as the case may require; and
- (d) Any reference to a statute includes any regulation made under that statute and any subsequent modification or re-enactment of the statute or regulations.

**IN WITNESS WHEREOF** this Deed has been executed the day and year first hereinbefore appearing

**SIGNED** by **SUSANNAH FOUGERE-HARDIE** in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
City/town of residence

**SIGNED by DANA HOFMANN**  
in the presence of:

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Signature of witness

---

Name of witness

---

Occupation

---

City/town of residence

**SIGNED by CLARE HOWSE**  
in the presence of:

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Signature of witness

---

Name of witness

---

Occupation

---

City/town of residence

**SIGNED by BRIAN MCAVOY**  
in the presence of:

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Signature of witness

---

Name of witness

---

Occupation

---

City/town of residence

**SIGNED by JULIE MERCER**  
in the presence of:

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Signature of witness

---

Name of witness

---

Occupation

---

City/town of residence

**SIGNED by GLENDA NORTHEY**  
in the presence of:

---

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Signature of witness

---

Name of witness

---

Occupation

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City/town of residence

**SIGNED by MARILYN PERKO**  
in the presence of:

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Signature of witness

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Name of witness

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Occupation

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City/town of residence

**SCHEDULE 1**  
**PROCEEDINGS OF TRUSTEES**

1. **Proceedings:** Subject to this Trust Deed (including the other terms of this Schedule 1), meetings of the Trustees may be held at any time or place and, subject to any express provisions contained in this Trust Deed, the Trustees may regulate their own procedure, adjourn and otherwise regulate their meetings in such manner as they think fit. At the discretion of the Trustees, Advisory Members may or may not be invited to such meetings.
2. **Notice:** Subject to a waiver of this requirement by all of the Trustees in office for the time being, no meeting of the Trustees will be held unless all Trustees have been given seven days' notice of the proposed meeting (which notice may be issued by or on behalf of any one or more of the Trustees). Notice may be given verbally, or in writing addressed to each Trustee at the address notified by each Trustee to the Trust for that purpose, or failing such notice, at the last known residence, place or business of such Trustee. Notice given verbally shall be deemed to be received at the time it is given and notice given in writing shall be deemed to be received on the third day after the posting of the notice.
3. **Quorum:** No item of business will be transacted at a meeting of the Trustees unless a quorum of Trustees is present (either in person or by other means of communication) during the time when the Trustees are considering that item. The quorum will be three Trustees personally present.
4. **Chair:** At every meeting of the Trustees the Chairperson or in his absence the Deputy Chairperson shall preside as Chairperson. If at any meeting the Chairperson or Deputy Chairperson is not present within ten minutes after the time appointed for the holding of such meeting or is unable or unwilling to act as Chairperson the Trustees present shall appoint one of their number to act as Chairperson of that meeting.
5. **Voting:** Subject to the terms of this Trust Deed, questions arising at any meeting will be decided by a majority of votes (excluding those Trustees not permitted to vote under clause 10.8) will be required. At any meeting of the Trustees, the Chairperson or other person presiding shall have a deliberate vote, and in the case of an equality of votes shall also have a casting vote.
6. **Minutes:** All proceedings and all resolutions of the Trustees shall be duly recorded in a Minute Book. Any minute or extract from any such approved minutes signed by the chair of the meeting shall be sufficient evidence without further proof of the matters referred to in that minute.
7. **Written resolution:** A resolution passed by a simple majority of Trustees present at a meeting shall be effective to bind all Trustees. Any such resolution may consist of one or more documents (including letters, facsimiles, electronic mail, or other similar means of communication) *in* similar form, each signed by one or more of the Trustees permitted to vote on the resolution. A resolution signed *by* all the Trustees for the time being entitled to receive notice of a meeting (but not any Trustee who is personally and financially interested in the subject matter of the resolution in accordance with clause 10.8) shall be as valid and effective as if passed at a duly convened and attended meeting of the Board.
8. **Conference call meetings:** The Trustees may meet together in person or by the contemporaneous linking together by telephone or other communications of a number of the Trustees (the participants) being not less than the quorum. All the provisions in this Trust Deed as to meetings will apply to such meetings by telephone, so long as the following conditions are met:

- (a) all the participants for the time being entitled to receive notice of a meeting will be entitled to notice of a meeting by telephone and to be linked by telephone for the purposes of such meeting. Notice of the meeting may be given by telephone;
- (b) each of the participants taking part in the meeting by telephone must be able to hear each of the others taking part at the start of the meeting;
- (c) at the start of the meeting, each participant must acknowledge her presence for the purpose of such meeting to all the others taking part; and
- (d) a participant may not leave the meeting by disconnecting his or her telephone without having previously obtained the express consent of the chair of the meeting and will be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone, unless the participant has obtained the express consent of the chair to leave the meeting.

9. **Minutes of telephone meetings:** Minutes of the proceedings at a meeting held by contemporaneous linking together by telephone will be sufficient evidence of such proceedings and of the observance of all necessary formalities, if certified as a correct minute by or on behalf of the chair of that meeting.

**SCHEDULE 2**  
**PROCEEDINGS OF COMMITTEES**

1. **Proceeding:** The committee will meet together to conduct its business, adjourn and otherwise regulate its meetings as the members think fit.
2. **Notice:** Subject to a waiver of this requirement by all of the members of the committee, no meeting of the committee will be held unless all members have been given seven days' notice of the proposed meeting (which notice may be issued by or on behalf of any one or more of the members of the committee). Notice may be given verbally, or in writing addressed to each member at the address notified by each member to the Trust for that purpose, or failing such notice, at the last known residence, place or business of such member. Notice given verbally shall be deemed to be received at the time it is given and notice given in writing shall be deemed to be received on the third day after the posting of the notice.
3. **Quorum:** No item of business will be transacted at a meeting of a committee unless a quorum of committee members is present during the time when the committee members are considering that item. The quorum will be two members of the committee personally present (where one of those members is also a Trustee).
4. **Voting:** Questions arising at any meeting shall be decided by a majority of votes. In the case of equality of votes, the chair shall have a second or casting vote.
5. **Chair:** If the chair is unable or fails to attend a meeting of the committee for any reason, having been given due notice of such meeting, any such meeting may proceed on the basis that the members of the committee present elect one of their number to chair the meeting.
6. **Minutes:** The committee will keep minutes of all meetings and will be approved by the committee at the following meeting. Any such approved minutes or extract from any minute signed by the chair of the meeting shall be sufficient evidence without further proof of the matters referred to in that minute.
7. **Written resolution:** A resolution in writing signed by all the members of the committee or all of those permitted to vote on the particular subject matter of the resolution, will be as valid and effectual as if it had been passed at a meeting of the committee. Any such resolution may consist of one or more documents (including letters, facsimiles, electronic mail, or other similar means of communication) in similar form, each signed by one or more of the members of the committee permitted to vote on the resolution.
8. **Conference call meetings:** The committee may meet together in person or by the contemporaneous linking together by telephone or other communications of a number of the members of the committee (the participants) being not less than the quorum. All the provisions in these rules as to meetings will apply to such meetings by telephone, so long as the following conditions are met:
  - (a) all the participants for the time being entitled to receive notice of a meeting will be entitled to notice of a meeting by telephone and to be linked by telephone for the purposes of such meeting. Notice of the meeting may be given by telephone;
  - (b) each of the participants taking part in the meeting by telephone must be able to hear each of the others taking part at the commencement of the meeting;
  - (c) at the commencement of the meeting, each participant must acknowledge her presence for the purpose of such meeting to all the others taking part; *and*
  - (d) a participant may not leave the meeting by disconnecting his or her telephone without having previously obtained the express consent of the chair of the meeting and shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone unless having obtained the express consent of the chair to leave the meeting.

9. **Minutes of telephone meetings:** Minutes of the proceedings at a meeting held by contemporaneous linking together by telephone will be sufficient evidence of such proceedings and of the observance of all necessary formalities, if certified as a correct minute by or on behalf of the chair of that meeting.