

INTO International Heritage Foundation

Trust Deed



INTERNATIONAL
NATIONAL TRUSTS
ORGANISATION

International National Trusts Organisation
20 Grosvenor Gardens, London, SW1W 0DH, United Kingdom
www.internationaltrusts.org

DATE 2nd June 2012

PARTIES

THE SETTLOR:

Rodney Disney Davidson AO OBE
of "Bali Hai", 84 Cedar Road, Palm Cove, Queensland, Australia

THE FIRST TRUSTEE:

International National Trusts Organisation (No.06718966)
of 32 Queen Anne's Gate, London, SW1H 9AB, United Kingdom.

BACKGROUND

- A. The International National Trusts Organisation ("INTO Charity") is an exclusively charitable organisation, registered as a limited company (No.06718966) and as a charity (No.1128224) pursuant to the laws of England and Wales, the overarching object of which is to promote the conservation and enhancement of the cultural and natural heritage of all nations for the benefit of the people of the world.
 - B. INTO Charity wishes to establish public gift funds to raise funds for projects, activities and organisational operations which will contribute to the fulfilment and achievement of its overarching object.
 - C. The Settlor and INTO Charity wish to establish a charitable trust to hold and manage the public gift funds with the intention that an endowment should be created which provides the necessary income to fulfil the trust's objects.
 - D. INTO Charity has agreed to act as First Trustee of the trust.
 - E. The Settlor has paid the sum of Twenty Thousand Australian Dollars to INTO Charity, via the intermediary of the Australian Council of National Trusts, to establish the trust on the terms of this deed.
-

OPERATIVE PROVISIONS

1. Names and roles

- (1) The Trust established under this deed is to be called the **INTO International Heritage Foundation** (or any other name chosen by resolution of the Trustee), and will be referred to in this deed as **the Foundation**.
- (2) Each of the public gift funds established under this deed are to be designated by a name determined either by (a) the primary focus of each fund or (b) the accommodation of a reasonable request of a benefactor. Collectively these gift funds will be referred to in this deed as **the Gift Funds**.
- (3) The first specifically named Gift Fund will be called the **Rodney Disney Davidson Gift Fund**, and will be referred to in short form as **the Davidson Fund**.
- (4) The first specific purpose Gift Fund will be the INTO Charter Organisation Gift Fund, and will be referred to in short form as the **INTO Charter Fund**.
- (5) The company known in short form as INTO Charity will act as First Trustee of the Foundation, and in that capacity will be referred to in this deed as **the Trustee**
- (6) The Gift Funds will form part of the trust assets of the Foundation and will be held by INTO Charity in its capacity as Trustee of the Foundation.
- (7) The Gift Funds will be administered by a committee of 'responsible persons' appointed by the Trustee, and called the **Gift Funds Management Committee**.

2. Definitions and interpretation

2.1. Definitions

"**asset**" includes money, any form of tangible or intangible property, any form of right, and any other thing of value.

"**benefactor**" means any legal person, whether an individual, corporation, partnership, association or other formal entity, who or which donates or has donated an asset to the Foundation.

"**charitable purposes**" are those of the Foundation set out in clause 4 of this deed

“conservation of cultural and natural heritage” shall include all reasonable processes to retain values and features of the places, structures, articles and objects which contribute to and constitute this heritage; and processes that sustain intangible heritage.

“cultural and natural heritage” includes but is not limited to land areas, sites, structures, articles, and objects of natural, cultural, archaeological, historic, architectural, scientific, aesthetic, or social value, specifically including the context in which they are located; as well as cultural expression generally identified by the term intangible heritage.

“disposable income” shall include income generated from the investment of Foundation assets.

"Foundation" means the charitable trust established under this deed and called the INTO International Heritage Foundation.

“Gift Fund resources” means those assets of the Foundation that have been derived from investment or other income-producing activity and which have thereby become a resource for dispersal or distribution.

“Gift Funds” means the public Gift Funds established under this deed.

“Gift Funds Management Committee” is the committee appointed under clause 10.6 to administer the Gift Funds.

"includes" or "including" means includes or including without limitation.

“INTO Charity” means the International National Trusts Organisation which is an exclusively charitable organisation, registered as a limited company (No.06718966) and as a charity (No.1128224) pursuant to the laws of England and Wales

“INTO Charter Organisation” means the international organisation that was founded by the adoption by subscribing members of a Charter in New Delhi, India, in December 2007.

“overarching mission” of the INTO Charter Organisation is identical to the overarching object of INTO Charity.

“overarching object” of INTO Charity is to promote the conservation and enhancement of the cultural and natural heritage of all nations for the benefit of the people of the world.

“purposes of the Foundation” or **“Foundation’s purposes”** where expressed in either of those forms is a reference to the charitable purposes of the Foundation.

“responsible person” is a person who satisfies the criteria of a 'responsible person' as set out in the Guidelines in the Appendix to this deed as amended from time to time by the Trustee

"Trust Property" includes the initial sum paid by the Settlor to the First Trustee, the Gift Funds, and any other asset of the Foundation.

" Trustee" means INTO Charity acting in its capacity as the Trustee of the Foundation under this deed, and includes its successors as Trustee of the Foundation.

2.2. Interpretation

In this deed, unless the context requires otherwise:

- (i) the singular (including of defined terms) includes the plural, and vice versa;
- (ii) a reference to this deed means this deed as originally executed and as from time to time lawfully amended; and
- (iii) a reference to any legislation, legislative instrument, guideline or register, or a provision of the same, includes any amendment, consolidation, substitution or replacement of it, or any part of it, or any sub-ordinate instrument that is made under it.

2.3. Headings

Headings are for convenience only and do not affect the interpretation of this deed.

3. Establishment of the Foundation

- (1) The Settlor has settled the sum of Twenty Thousand Australian Dollars on the First Trustee to establish a charitable trust to be called the INTO International Heritage Foundation.
 - (2) The First Trustee agrees to be the first trustee of the Foundation.
 - (3) The Trustee holds, and must continue to hold, the Trust Property of the Foundation on the trusts set out in this deed.
 - (4) The Trustee has control of the Foundation and its property and funds.
 - (5) The Settlor will not have any interest by way of resulting trust or otherwise in the Trust Property.
-

4. The Foundation's Charitable Purposes

- (1) The Foundation is established for the charitable purposes set out in sub-clause (2).
- (2) Consistent with the overarching object of INTO Charity, the charitable purpose of the Foundation is to promote the conservation and enhancement of the national and cultural heritage of all nations for the benefit of the people of the world by facilitating and sustaining such projects, activities and organisational operations of the INTO Charter Organisation, members and associates of the INTO Charter Organisation and such other organisations

established for like purposes that are likely over time to become either members or associates of the INTO Charter Organisation so as to bring about the achievement of the following:

- (a) The fostering of international cooperation and coordination between National Trusts and like heritage organisations;
- (b) The formulation and promotion of conservation best practices;
- (c) Increasing and enhancing the capacity of individual National Trusts;
- (d) Encouraging the establishment and development of National Trusts where they do not presently exist;
- (e) Pursuing advocacy in the interests of conservation of cultural and natural heritage; and
- (f) The advancement of the objectives of the Edinburgh Declaration for the Improved Protection of Cultural and Natural Heritage at the National and Local Levels.

5. Powers

5.1 General Powers

The Trustee has the following powers, which may be exercised only in promoting the Foundation's charitable purposes:

- (a) to solicit gifts, from the public and any person, organisation or government, to be added to the Gift Funds;
- (b) to hold gifts and income in the Gift Funds;
- (c) subject to clause 5.2 to use the income and capital from the Gift Funds in promoting the Foundation's purposes;
- (d) to invest money held by the Gift Funds or use non-money assets held by the Gift Funds to earn income for the Gift Funds;
- (e) to disburse only Gift Fund resources from the Gift Funds in furtherance of the Foundation's purposes;
- (f) to promote or carry out research;
- (g) to provide advice;
- (h) to publish or distribute information;
- (i) to co-operate with other bodies;

- (j) to support, administer or set up other charities;
- (k) to borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Act);
- (l) to acquire or hire property of any kind;
- (m) to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act);
- (n) to make grants or loans of money and to give guarantees;
- (o) to set aside funds for special purposes or as reserves against future expenditure;
- (p) to insure the property of the Foundation against any foreseeable risk and take out other insurance policies to protect the Foundation when required;
- (q) to employ paid or unpaid agents, staff or advisers;
- (r) to pay for Indemnity Insurance for the First Trustee, or any subsequent Trustees duly appointed;
- (s) to enter into contracts to provide services to or on behalf of other bodies;
- (t) to pay the costs of forming the Foundation; and
- (u) to do anything else within the law of England and Wales which promotes, or helps to promote the charitable purposes of the Foundation.

5.2 Restrictions on use of Capital

With respect to any particular Gift Fund, where a benefactor has specifically advised the Trustee in writing that the capital of their donation to the Gift Fund may not be spent, the Trustee shall not spend the capital but only the income from the Gift Fund.

5.3 Strategy for achieving the Foundation's purposes

The First Trustee must prepare, as soon as possible after this deed has effect, and the Trustee must maintain over time, an up-to-date Foundation strategy that proposes effective ways to raise, manage and use Gift Fund resources to have the maximum timely impact on the achievement of the Foundation's purposes.

6. Charitable mode of operation

- (1) The Foundation and its Gift Funds must be operated in an exclusively charitable manner in pursuance of the Foundation's charitable purposes .

- (2) The Trustee must apply the assets and income of the Foundation solely in furtherance of the Foundation's purposes.
 - (3) The Trustee must not, either while the Foundation is operating or upon winding up:
 - (a) carry on the Foundation's activities for the purposes of profit or gain for particular persons, including the Trustee's directors or office holders; or
 - (b) apply the assets or income of the Foundation to the private benefit of particular persons, including the Trustee's directors or office holders; but this shall not prevent the payment of premiums for payment of Indemnity Insurance pursuant to Clause 5.1(r) or reimbursement in accordance with Clause 10.7.3.
 - (4) The Trustee must not, by way of dividend, bonus or profit, transfer or pay any of the Gift Funds resources or other Trust Property directly or indirectly to the Settlor, any benefactor, or the Trustee's directors and office holders.
 - (5) The Trustee must not enter into any transaction that is not on arm's length terms unless the transaction:
 - (a) is necessary for the Foundation's purposes;
 - (b) is on terms more favourable to the Foundation than would otherwise be expected under an arm's length transaction;
 - (c) is to make a gift or donation to a charitable organisation covered by clause 10.7.6.(1)(c); or
 - (d) involves a discounted charge where the discount is in effect a gift and the recipient is a charitable organisation covered by clause 10.7.6 (1)(c).
-

7. The location and operation of the Foundation

- (1) For as long as the First Trustee is a registered company and charity in accordance with the laws of England and Wales, the Foundation must be physically located in the United Kingdom however its operations may be, and will preferably be, global.
 - (2) The Foundation must pursue the Foundation's charitable purposes with a global perspective but may disperse its disposable income in support of any particular project in a single continent, country, region or locality, or in a combination of such places, provided it is in furtherance of the Foundation's purposes.
-

8. Sources of money and other resources

The Foundation's only sources of money and other assets are to be:

- (1) gifts (which term includes donations, bequests or endowments);
 - (2) income from the investment or use of gifts for the purpose of growing the Gift Funds;
 - (3) grants as may be received from governments or agencies of governments;
 - (4) other trust funds that may be incorporated into the Gift Funds established by this deed;
and
 - (5) borrowings undertaken only to manage short term cash flow requirements.
-

9. Foundation must not finance political activity

The Foundation must not:

- (1) apply Gift Funds resources or other Trust Property in making payments to any political party or persons seeking election to any political office; or
 - (2) otherwise finance activity which has a predominant political purpose; however
 - (3) the term “political purpose” does not include legitimate conservation campaigning or lobbying where the purpose of such activity is to safeguard cultural or natural heritage which is considered by the First Trustee to be of such particular significance as to justify such action.
-

10. Establishment of the Gift Funds

10.1. The Foundation may establish a number of Gift Funds

There shall be established a number of the Gift Funds within the Foundation under this deed, each as a public gift fund. The number of such Gift Funds will be determined over time by the need.

10.2. The purpose of the Gift Funds

- (1) The underlying purpose of each of the Gift Funds is to support the Foundation’s charitable purposes. However each Gift Fund may be established with a specific focus,

provided that all such specific foci are entirely consistent with the Foundation's charitable purposes.

- (2) The INTO Charter Fund, being the first specific purpose Gift Fund, is to be established to fund the global operations of the INTO Charter Organisation, the objectives of which are identical to INTO Charity.

10.3. The mode of operation of the Gift Funds

- (1) The Gift Funds must be managed in a charitable manner, as provided in Clause 6.
- (2) The Gift Funds must comply with the taxation and charity laws of England and Wales.

10.4. The public to be invited to make gifts

- (1) Members of the public are to be invited to make gifts of money or property to the Gift Funds for the Foundation's purposes.
- (2) The Trustee must actively seek gifts from the public for the Gift Funds.
- (3) Invitations to the public to make gifts to the Gift Funds may be general or specific.
- (4) Where a gift is received with a stated preference from the benefactor that the gift be allocated to a specific Gift Fund, then whenever it is practical to do so the Gift Funds Management Committee will respect the wishes of the benefactor and allocate the gift accordingly.
- (5) The reference to "the public" includes any individual, corporation, partnership, association or other formal entity from any nation.

10.5. The composition of Gift Funds resources

- (1) The Gift Funds are to hold money and property made up of all gifts to the Foundation and all income earned from the investment or use of undisbursed Gift Funds assets, and any proceeds of the realisation of such assets.
- (2) Where there are a number of Gift Funds and the Gift Funds Management Committee has allocated gifts in accordance with the expressed preferences of benefactors, then for accounting, auditing and reporting purposes the differing accumulated total funds for each Gift Fund is to be discernible.
- (3) Notwithstanding subclause (2), where it is considered advantageous by the Gift Funds Management Committee to pursue an investment strategy that aggregates the capital in the various Gift Funds in order to secure the best investment return, such a strategy may be adopted provided that any income so generated can be apportioned between the Gifts

Funds on a pro rata basis accurately reflecting the differing capital held within each Gift Fund.

- (4) A Gift Fund may be combined with a similar Gift Fund if the capital of a fund falls below £10,000.

10.6. The Gift Funds Management Committee

- (1) The Trustee may appoint a committee of management for the Gift Funds to be known as the Gift Funds Management Committee.
- (2) The Gift Funds Management Committee shall administer the Gift Funds.
- (3) The Gift Funds Management Committee must consist of no fewer than three persons and a majority of the members of the committee must be 'responsible persons'. Board members of the First Trustee are eligible to be appointed to the Committee, as are persons independent of the First Trustee board.
- (4) In appointing the Gift Funds Management Committee the Trustee will ensure that the Gift Funds Management Committee is comprised of 'responsible persons' who must have or have had a wider degree of experience with and responsibility to heritage conservation than just their obligation to the Foundation.
- (5) The primary operational purposes of the Gift Funds Management Committee are to ensure that:
 - (a) gifts made to the Gift Funds and compounding income earned from those gifts are responsibly managed and appropriately invested in furtherance of the Foundation's purposes;
 - (b) all assets of the Foundation which are capable of becoming income producing, including Gift Fund resources prior to distribution, are used to earn income for the Gift Funds in accordance with the Foundation Strategy; and
 - (c) Gift Fund resources are only distributed in furtherance of the Foundation's purposes.
- (6) Provided that there is full disclosure of any past or present relationship, an organisation, such as a National Trust, with which a member of the Gifts Funds Management Committee has or has had an association, is not precluded from applying for and receiving an allocation of funds from the Gift Fund resources of the Foundation providing the proper approval processes are satisfied.
- (7) The Gift Funds Management Committee and its members (including any Board member of the First Trustee who may have become a Committee member) must not directly engage in soliciting money from the public for the Gift Funds. The Trustee must ensure that such activities are conducted by other persons independently of the Committee.

- (8) The Gift Funds Management Committee must hold at least 2 meetings each year.
- (9) A quorum at a meeting of the Gift Funds Management Committee is 2 Committee Members.
- (10) A meeting may be held either in person or by suitable electronic means agreed by the Committee Members in which all participants may communicate with all the other participants.
- (11) Whenever a Committee Member has a personal interest in a matter to be discussed at a meeting of The Gift Funds Management Committee, the Committee Member must:
 - (a) Declare the nature and extent of the interest before the meeting or at the meeting before discussion on the matter begins;
 - (b) Be absent from the meeting for that item unless expressly invited to remain in order to provide information;
 - (c) Not be counted in the quorum for that part of the meeting;
 - (d) Be absent during the vote and have no vote on the matter.
- (12) The Gift Funds Management Committee shall provide Minutes of its meetings to the Trustee within 28 days of each meeting.

10.7. Management of Gift Fund resources and related matters

10.7.1 Gift Funds Management Committee to recommend use of resources

- (1) Gift Fund resources must be used and applied solely in the furtherance of the Foundation's charitable purposes and do not belong to the First Trustee.
- (2) Subject to sub-clause (3), Gift Fund resources must not be dispersed from the Gift Funds for use by the First Trustee or any other party, except by decision of the Trustee upon receipt of a recommendation of the Gift Funds Management Committee, and such a decision must not be made unless the use of resources from the Gift Funds is for a defined project or purpose that is clearly in furtherance of the Foundation's charitable purposes.
- (3) The First Trustee, or any future Trustee, must not receive payment of money or other Material Benefit from the Foundation except:
 - (a) for reimbursement of reasonable out-of-pocket expenses (including reasonable hotel and travel costs) actually incurred in the administration of the Foundation;
 - (b) in respect of interest at a reasonable rate on money lent to the Foundation;
 - (c) for a reasonable rent or hiring fee for property let or hired to the Foundation.
- (4) When making recommendations under sub-clause (2) the Gift Funds Management Committee must have regard to the Foundation strategy as prepared by the Trustee

under clause 5.3, and must make the rationale for its recommendations available to the First Trustee's Board in writing.

10.7.2 Gift Fund resources may be used to earn income for the Gift Funds

- (1) Gift Fund resources, prior to disbursement, must be invested or used to earn income to add to the Gift Funds to enhance the Foundation's capacity to pursue its purposes, and at the end of the investment period or the period of use for income earning purposes such Gift Fund resources must be returned, in accounting terms, to the respective Gift Funds.
- (2) Gift Fund resources may be invested ethically even if this does not maximise the returns to the Gift Funds, provided the investments are prudent and subject to a policy agreed by the First Trustee.

10.7.3 Gift Fund resources may be disbursed for reasonable administrative expenses

Gift Fund resources may be used to cover necessary and reasonable administrative activities to operate the Gift Funds, but the Trustee and the Gift Funds Management Committee must take reasonable steps to keep administrative costs to a minimum while maintaining the quality of administrative activities.

10.7.4 Gift Fund resources may be disbursed on pro-active projects

- (1) Gift Fund resources may be used to fund projects which pro-actively promote the achievement of the Foundation's charitable purposes.
- (2) Gift Fund resources may be used to cover administrative costs associated with such proactive projects, but the Trustee and the Gift Funds Management Committee must take reasonable steps to keep administrative costs to a minimum while maintaining the quality of administrative activities.

10.7.5 Benefactors may state a non-binding preference

Subject to clause 10.7.7 (conduit policy), a benefactor may state a preference as to how the Foundation might use a gift, providing such stated preference would be in accord with the Foundation's charitable purposes, and:

- (1) the Gift Funds Management Committee must have regard to, and may in its discretion give effect to, the benefactor's preference;
- (2) in some instances the benefactor's preferences may be facilitated by setting up a specifically named Gift Fund, an instance of which is the Davidson Fund;

- (3) however, no statement of preference is binding in law or equity on the Gift Funds Management Committee or the Trustee.

10.7.6 Certain payments do not breach charitable rule

- (1) Gift Fund resources may be used to make the following payments without violating the Foundation's charitable mode of operation (see clause 6), if the payments are made in furtherance of the Foundation's purposes:
- (a) a payment to any person or organisation as bona fide compensation for services rendered, goods supplied or expenses incurred on behalf of the Foundation;
 - (b) a payment to another person or organisation in anticipation and support of actions or outcomes to further the Foundation's purposes, if the payment is subject to a contractual obligation binding the other party to complete those actions or achieve those outcomes, or otherwise return unused resources to the Foundation; or
 - (c) a payment by way of a gift or donation to a charitable organisation which is a deductible gift recipient within the meaning of the taxation laws of England and Wales or within the meaning of the taxation laws of a nation within which the INTO Charter Organisation has a member or associate.
- (2) Clause 10.7.6(1) does not prohibit the use of Gift Funds resources in furtherance of the Foundation's purposes in ways not expressly mentioned in that clause, but any other use of resources must not violate the Foundation's charitable mode of operation (see clause 6), and must otherwise comply with the requirements of this deed.

10.7.7 Conduit policy

Any allocation of Gift Fund resources to persons or organisations other than the Trustee:

- (1) must be made in accordance with the Foundation's charitable purposes and charitable mode of operation (see clause 6); and
- (2) must not be directed or controlled by the preference of a benefactor, save that where appropriate the Gift Funds Management Committee shall give consideration to the expressed preference and may in its discretion act upon that preference.

10.7.8 All gifts to the Foundation must go to the Gift Funds

All gifts to the Foundation must be received by and held in the Gift Funds.

10.7.9 Gift Fund receipts

- (1) Receipts must be issued in the name of the Foundation, identified with a specific Gift Funds where appropriate.
- (2) If donations to the Foundation are eligible for income tax deductions, receipts issued in the name of the Foundation must contain the following elements:
 - (a) the Foundation's name;
 - (b) the Foundation's registration numbers;
 - (c) the number of the receipt;
 - (d) the date the donation was received;
 - (e) the amount of the gift (or its nature if it is property);
 - (f) the name of the benefactor;
 - (g) an indication that the amount is for a gift or donation to a particular Gift Fund (indicating its name);
 - (h) the signature of a person authorised to act on behalf of the Foundation;
 - (i) an indication that the donation may be tax deductible pursuant to the laws of England and Wales or tax deductible pursuant to the laws of another (specified) nation (if known to be the case).
- (3) Testamentary gifts or contributions are generally deductible, and persons making such gifts or contributions should be so advised.

10.7.10 Managing donor preferences

- (1) The Gift Funds Management Committee must operate or oversee a system to keep track of benefactor preferences where acting on these preferences is permitted by law and where the Trustee has opted to exercise its discretion in favour of accepting and managing the implementation of particular benefactor preferences.
- (2) However, no statement of preference is binding on the Committee or the Trustee.

10.7.11 Gift Fund resources and non-Gift Funds resources must be managed separately

- (1) The Trustee must keep all Gift Fund monies on the one hand and all non-Gift Fund monies on the other in separate bank accounts. *(See also clause 16.(3))*
- (2) The Trustee must manage the Foundation's Gift Fund resources separately from the non-Gift Funds resources.
- (3) Money realised from the sale of Gift Fund property must be deposited in a Gift Fund bank account.
- (4) Borrowings and sponsorship earnings must not be held in a Gift Fund bank account.

10.7.12 Accumulation

Subject to subclause 10.5(3), the Trustee may accumulate Gift Fund resources but such action should be governed by the strategic need for effectiveness in pursuing the achievement of the Foundation's purposes and not by a stand-alone doctrine of maximising the size of the Gift Funds.

10.7.13 Notification requirements

The Trustee should inform the INTO Charter Organisation and when required by law any relevant regulatory authority, on a needs basis, as soon as possible if:

- (1) the Foundation changes its name or the name of the Gift Funds;
- (2) there is any change to the membership of the Gift Funds Management Committee;
- (3) the Foundation or any of the Gift Funds is to be amalgamated or wound up.

10.7.14 Statistical Information and Reporting

- (1) The Committee Members must maintain proper records of:
 - (a) All proceedings at meetings of the Gift Funds Management Committee;
 - (b) All reports of the Committee Members; and
 - (c) All professional advice obtained.
- (2) Statistical information on donations to the Gift Funds should be provided within three months of the end of the financial year to the INTO Charter Organisation.
- (3) An audited financial statement for the Foundation's non-Gift Funds operations and for the Gift Funds must be produced annually.
- (4) The statement must provide information on the expenditure of Gift Fund monies, including the allocation of Gift Fund resources, and the management of Gift Fund assets.
- (5) Accounting records relating to the Foundation must be made available for inspection by the First Trustee at any time during normal office hours.
- (6) A copy of the Foundation's latest available statement of account must be supplied on request to the First Trustee. A copy must also be supplied, within two months, to any person who makes a written request and pays the Foundation's reasonable costs.

11. The Trustee's additional powers

- (1) In addition to the powers set out in this deed, the Trustee shall have the powers set out in the Schedule to this deed.
 - (2) The Trustee must not exercise its powers other than in furtherance of the Foundation's purposes.
 - (3) The powers in the Schedule must be read subject to this deed, including clause 6 (charitable mode of operation) and in the event of inconsistency this deed prevails.
-

12. The Trustee's discretion

Except where there is an express contrary provision in this deed, every discretion given to the Trustee in pursuing the Foundation's purposes is absolute and uncontrolled and every power given to it is exercisable at its absolute and uncontrolled discretion.

13. Delegation of the Trustee's powers

With the exception of this power of delegation, the Trustee may, by appropriate legal instrument, delegate to any person any of the discretions or powers given to it under this deed, subject still to the trusts under this deed. The exercise of any of the discretions or powers of this deed by an attorney or delegate is valid and effectual and binds all persons interested under this deed.

14. Resolutions and Receipts

14.1 Certified resolutions

A copy of a certified resolution is conclusive evidence that the resolution has been validly made and is conclusive and binding on any person or organisation having dealings with the Trustee, where:

- (1) in the case where the resolution is a resolution of the Trustee's Board, the copy of the resolution has been certified by the Chairman or Secretary of the Trustee's Board; or

- (2) in the case where the resolution is a resolution of the Gift Funds Management Committee, the copy of the resolution has been certified by an authorised representative of the Gift Funds Management Committee.

14.2 Receipts

The receipt of a person purporting to be the treasurer, or secretary or other proper officer of any recipient of a gift or donation or a payment for contractual services, made by the Trustee, is a sufficient discharge to the Trustee and the Trustee need not seek further proofs that the obligations attached to the gift, donation or payment have been discharged.

15. Liability of Trustee, etc

15.1 Exclusion of Liability

The Trustee, and each other indemnified person (refer clause 15.4), is not liable for:

- (1) a loss of all or part of the Trust Property (including the Gift Funds);
- (2) any other loss, liability, cost or expense incurred by the Foundation or any other person in relation to any act or omission of the Trustee or other indemnified person, whether such act or omission is in the actual or purported exercise of powers and discretions, or performance of duties under this deed, or otherwise on behalf of the Foundation.

15.2 Indemnity

The Trustee, and each other indemnified person (refer clause 15.4), is entitled to be reimbursed or indemnified from the Trust Property (including the Gift Funds) for any loss, liability, cost or expense incurred by the Trustee or other indemnified person on behalf of, or otherwise in relation to, the Foundation, including any loss, liability, cost or expense incurred in relation to:

- (a) execution of this deed or any deed amending this deed;
- (b) establishing, operating, administering, amending, terminating and winding up the Gift Funds or the Foundation;
- (c) the Trustee or indemnified person performing duties or exercising powers and discretions under this deed, or otherwise on behalf of the Foundation;
- (d) income tax and any other taxes, and any associated fines and penalties, payable in relation to the Gift Funds or the Foundation, or any transactions undertaken in relation to the Gift Funds or the Foundation;

- (e) any action brought by any person against the Trustee or indemnified person, or the Foundation;
- (f) any acts and things done in connection with or resulting from the matters referred to in paragraphs (a) to (e); or
- (g) any and all other matters relating directly or indirectly to the Gift Funds or the Foundation.

15.3 Limitations on exclusion and indemnity

- (1) Clause 15.1 and 15.2 do not apply to an indemnified person if and to the extent that the loss, liability, cost or expense is attributable to:
 - (a) the wilful dishonesty of that person; or
 - (b) a deliberate act or omission by that person known by that person to be a breach of trust.
- (2) The rights to indemnity and reimbursement of the Trustee or other indemnified person in respect of any matter will be limited to the Trust Property (including the Gift Funds). Neither the Settlor, nor the directors, officers or members of the Trustee, nor the members of the Gift Funds Management Committee, nor any person disposing of property to the Trustee on the trusts of this deed, nor any other person whomsoever, will be personally liable in any way directly or indirectly to indemnify or reimburse the Trustee or other indemnified person.

15.4 Indemnified persons

Clauses 15.1, 15.2 and 15.3 shall apply to the Trustee, the Settlor, each director, officer, delegate, attorney, agent or employee of the Trustee, each member of the Gift Funds Management Committee, and any volunteer assisting the Foundation. The Trustee and each such person is an 'indemnified person' under this clause.

16. Accounting records and audit

- (1) The Trustee must keep or cause to be kept proper accounting records in respect of all receipts and income, payments and expenditure, and assets and liabilities for the Gift Funds and all other Foundation operations.
- (2) Each financial year the Trustee must make suitable arrangements for the audit of the accounts, books, relevant records and financial statements of the Foundation, including the Gift Funds, in a manner that complies with auditing standards and obligations imposed by law.

- (3) The Foundation's Gift Funds resources and non-Gift Funds resources must be accounted for and reported separately.
 - (4) The Foundation's financial year ends on 31st December.
-

17. Amendment of this Trust Deed

- (1) The Trustee may, after considering advice from the Gift Funds Management Committee, by deed revoke, add to or vary any of the provisions of this deed providing there are sound and necessary reasons to justify such action.
 - (2) Any such amendments to this deed, must:
 - (a) ensure the Foundation remains a charitable trust;
 - (b) keep the purposes of the Foundation as closely aligned as possible to its charitable purposes and ensure that they remain wholly charitable at all times so as not to destroy the charitable status of the Foundation;
 - (c) preserve the Foundation's and the Gift Funds' charitable nature;
 - (d) ensure that the interests of donors are respected, including in relation to ensuring that:
 - (i) Gift Funds resources are used only for the Foundation's charitable purposes;
 - (ii) Gift Funds resources are used effectively and efficiently; and
 - (e) ensure the amendments do not constitute a termination or resettlement of the charitable trust.
-

18. Replacement of Trustee

- (1) The Trustee for the time being may retire and appoint another person, including a corporation, as a replacement trustee.
- (2) If a corporation is appointed as trustee, it must be an exclusively charitable company with at least one 'responsible person' on its board of directors.
- (3) If an individual is appointed as trustee, the individual must be a responsible person.

- (4) If for any reason (including insolvency) the Trustee for the time being cannot continue to act as Trustee, a new trustee may be appointed as Trustee by a resolution of a majority of the Gift Funds Management Committee.
 - (5) Any new Trustee must sign a declaration of willingness to act as a trustee of the Foundation before he or she may act as a Trustee.
 - (6) The First Trustee, or any new Trustee will automatically cease to be a Trustee of the Foundation if:
 - (a) Disqualified under the Charities Act from acting as a charity trustee or trustee for a charity;
 - (b) Is incapable, whether mentally or physically, of managing his/her own affairs.
-

19. Winding up of the Gift Funds and the Foundation

- (1) The Foundation (including the Gift Funds) may be wound up on the decision of the Trustee at any time, providing there are sound and necessary reasons to justify such action.
 - (2) On the winding up of the Foundation (including the Gift Funds), any surplus assets, remaining after the satisfaction of all of the Foundation's debts and liabilities, must be transferred to:-
 - (a) another exclusively charitable organisation with charitable purposes within, the same as or similar to the Foundation's purposes, providing that other organisation is a charity registered pursuant to the laws of England and Wales; or.
 - (b) in such other manner consistent with charitable status as the Charity Commission approves in writing in advance.
 - (3) On a transfer under clause 19(2) the Trustee must ensure that all necessary steps are taken as to:
 - (a) the transfer of land and other property;
 - (b) the novation of contracts of employment and the transfer of any pension rights; and
 - (c) the trusteeship of any property held for special purposes.
-

20. Governing Law

This deed is governed by the laws of England and Wales.

Executed as a deed:

**Signed sealed and delivered by
Rodney Disney Davidson AO OBE**

R. Disney Davidson
(Signature)

in the presence of:

Witness' signature: *S. R Molesworth*

Witness' printed name *Simon Richard Molesworth*

**Executed and delivered as a deed
in accordance with
the Companies Act 1985-2006
by INTO Charity :**

Martin Scicluna
Director's signature

Simon Murray
Director's/Secretary's signature

Martin Scicluna
Director's printed name

Simon Charles Stuart Murray
Director's/Secretary's printed name

SCHEDULE

Additional Powers of Trustee (refer clause 11 of deed)

-
- (a) Any money or assets (including income derived from investments and proceeds of the realisation of investments) paid or accrued to the Foundation and not applied for the purposes of the Foundation may be invested by the Trustee in any investment which it regards as appropriate or reasonable provided that the Trustee will not invest the money or assets of the Trust otherwise than in a manner which is consistent with socially responsible ethical standards of an organisation with the charitable purposes set out in Clause 4
- (b) The Trustee will in the management and investment of the Trust Property in furtherance of the Foundation's purposes, have such powers as it would have if the Trust Property belonged to it beneficially, including the following powers:
- (i) generally to manage the real and personal property of the Trust;
-
- (ii) to open and operate such bank and other accounts as the Trustee thinks fit;
-
- (iii) to vary, alter, transpose or reinvest any of the investments or reinvestments authorised;
- (iv) to retain any gift in its original form (including a gift of property which is subject to a liability) without selling or converting the gift into money;
-
- (v) to employ or engage a solicitor, accountant, broker, auditor, manager, investment manager, custodian Trustee or agent or any other person, to transact any business or do any act required or convenient to be done in connection with the Foundation, including the receipt and payment of money, and whether requiring the exercise of discretion or not, on such terms as the Trustee may deem proper, and to pay all proper fees, charges, commissions and disbursements in connection with or incidental to any such employment or engagement;
-
- (vi) to take and act on the opinion of any solicitor or barrister, whether in relation to the interpretation of this deed, or of any document or statute, or as to the administration of the trusts of this deed, without being liable in respect of any act done by it in accordance with such opinion, but nothing in this clause will prohibit the Trustee from applying to a court if it should think fit;
-
- (vii) to institute and defend proceedings at law, to proceed to the final end and determination of such proceedings, or to compromise them;

-
- (viii) to compromise and settle all matters arising in relation to the Trust Property or the trusts of this Deed; and
 - (ix) to permit any asset of the Foundation to be held or registered in the name of any nominee of the Trustee, and to deposit securities belonging to or related to the Foundation with any custodian, bank or solicitor.
-
-

APPENDIX

Guidelines for selection of “responsible persons”

- (1) As required by Clause 10.6(4), these persons must have or have had a wider degree of experience with and responsibility to heritage conservation than just their obligation to the Foundation.
- (2) The objective of the requirement in 1 is to ensure that the appointed persons will have an empathy for heritage conservation in order to be capable of carrying out qualitative assessments of competing projects eligible to receive funds from the Foundation.
- (3) These persons shall have a demonstrable personal past and/or present experience in professional and/or corporate positions that have required a sound understanding of and competency in any of following: business strategies, investment strategies, financial markets, investment banking or charitable fund-raising.
- (4) As permitted by Clause 10.6(3), Board members of the First Trustee are eligible to be appointed to the Committee, as are persons independent of the First Trustee board.

| | |
|--|----|
| DATE | 2 |
| PARTIES | 2 |
| BACKGROUND | 2 |
| OPERATIVE PROVISIONS | 3 |
| 1. NAMES AND ROLES | 3 |
| 2. DEFINITIONS AND INTERPRETATION | 3 |
| 2.1. <i>DEFINITIONS</i> | 3 |
| 2.2. <i>INTERPRETATION</i> | 5 |
| 2.3. <i>HEADINGS</i> | 5 |
| 3. ESTABLISHMENT OF THE FOUNDATION | 5 |
| 4. THE FOUNDATION'S CHARITABLE PURPOSES | 5 |
| 5. POWERS | 6 |
| 5.1 <i>GENERAL POWERS</i> | 6 |
| 5.2 <i>RESTRICTIONS ON USE OF CAPITAL</i> | 7 |
| 5.3 <i>STRATEGY FOR ACHIEVING THE FOUNDATION'S PURPOSES</i> | 7 |
| 6. CHARITABLE MODE OF OPERATION | 7 |
| 7. THE LOCATION AND OPERATION OF THE FOUNDATION | 8 |
| 8. SOURCES OF MONEY AND OTHER RESOURCES | 9 |
| 9. FOUNDATION MUST NOT FINANCE POLITICAL ACTIVITY | 9 |
| 10. ESTABLISHMENT OF THE GIFT FUNDS | 9 |
| 10.1. <i>THE FOUNDATION MAY ESTABLISH A NUMBER OF GIFT FUNDS</i> | 9 |
| 10.2. <i>THE PURPOSE OF THE GIFT FUNDS</i> | 9 |
| 10.3. <i>THE MODE OF OPERATION OF THE GIFT FUNDS</i> | 10 |
| 10.4. <i>THE PUBLIC TO BE INVITED TO MAKE GIFTS</i> | 10 |
| 10.5. <i>THE COMPOSITION OF GIFT FUNDS RESOURCES</i> | 10 |
| 10.6. <i>THE GIFT FUNDS MANAGEMENT COMMITTEE</i> | 11 |
| 10.7. <i>MANAGEMENT OF GIFT FUNDS RESOURCES AND RELATED MATTERS</i> | 12 |
| 10.7.1. <i>Gift Funds Management Committee to determine use of resources</i> | 12 |
| 10.7.2. <i>Gift Funds resources may be used to earn income for the Gift Funds</i> | 13 |
| 10.7.3. <i>Gift Funds resources may be disbursed for reasonable administrative expenses</i> | 13 |
| 10.7.4. <i>Gift Funds resources may be disbursed on pro-active projects</i> | 13 |
| 10.7.5. <i>Benefactors may state a non-binding preference</i> | 13 |
| 10.7.6. <i>Certain payments do not breach charitable rule</i> | 14 |
| 10.7.7. <i>Conduit policy</i> | 14 |
| 10.7.8. <i>All gifts to the Foundation must go to the Gift Funds</i> | 14 |
| 10.7.9. <i>Gift Funds receipts</i> | 15 |
| 10.7.10. <i>Managing donor preferences</i> | 15 |
| 10.7.11. <i>Gift Funds resources and non-Gift Funds resources must be managed separately</i> | 15 |
| 10.7.12. <i>Accumulation</i> | 16 |
| 10.7.13. <i>Notification requirements</i> | 16 |
| 10.7.14. <i>Statistical Information and Reporting</i> | 16 |
| 11. THE TRUSTEE'S ADDITIONAL POWERS | 17 |

| | | |
|------------|---|-----------|
| 12. | THE TRUSTEE'S DISCRETION | 17 |
| 13. | DELEGATION OF THE TRUSTEE'S POWERS | 17 |
| 14. | RESOLUTIONS AND RECEIPTS | 17 |
| 14.1. | CERTIFIED RESOLUTIONS..... | 17 |
| 14.2. | RECEIPTS..... | 18 |
| 15. | LIABILITY OF TRUSTEE, ETC | 18 |
| 15.1. | EXCLUSION OF LIABILITY..... | 18 |
| 15.2. | INDEMNITY..... | 18 |
| 15.3. | LIMITATIONS ON EXCLUSION AND INDEMNITY | 19 |
| 15.4. | INDEMNIFIED PERSONS..... | 19 |
| 16. | ACCOUNTING RECORDS AND AUDIT | 19 |
| 17. | AMENDMENT OF THIS TRUST DEED | 20 |
| 18. | REPLACEMENT OF TRUSTEE | 20 |
| 19. | WINDING UP OF THE GIFT FUNDS AND THE FOUNDATION | 21 |
| 20. | GOVERNING LAW | 21 |
| | EXECUTED AS A DEED: | 22 |
| | SCHEDULE ADDITIONAL POWERS OF TRUSTEES | 23 |
| | APPENDIX – GUIDELINES FOR SELECTION OF RESPONSIBLE PERSONS | 24 |