

DATED the *25<sup>th</sup>* day of *MARCH* 2018

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**TEHMUS MISTRY, SHAHAZAD CONTRACTOR, VICKY MISTRY,  
TANAZ SIGANPORIA and HOMAI MISTRY**

("the Trustees")

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**DEED OF VARIATION OF TRUST  
ZOROASTRIAN COMMUNITY TRUST OF NEW ZEALAND**

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**ASCO**  
LEGAL

THIS DEED is made the \_\_\_\_\_ day of \_\_\_\_\_ 2018

**BETWEEN**      **TEHMUS MISTRY, SHAHAZAD CONTRACTOR, VICKY MISTRY,  
TANAZ SIGANPORIA, and HOMAI MISTRY ("the Trustees")**

**BACKGROUND**

- A**      By deed dated 23 March 2007 ("the Trust Deed") a trust was created known as the Zoroastrian Community Trust of New Zealand ("the Trust").
- B**      **TEHMUS MISTRY, SHAHAZAD CONTRACTOR, VICKY MISTRY, TANAZ SIGANPORIA and HOMAI MISTRY** are the present Trustees of the Trust.
- C**      Clause 6.7 of the Trust Deed provides the Trustees with the authority to vary the Trust Deed by deed, provided that the variation is tabled at a General Meeting of the Pledge Donors and the majority of the Pledge Donors vote in favour for the proposed variations.
- D**      The Trustees desire to exercise their powers to vary the Trust Deed as provided for in this Deed of Variation, this Deed of Variation has been tabled at a General Meeting of the Pledge Donors and the majority has voted in favour of the variations.

**COVENANTS**

- 1**      The Trustees declare that the Trust Deed shall be and is **HEREBY** varied amended or added to by deleting and adding provisions to the Trust Deed as recorded in the Schedule to this Deed of Variation.
- 2**      In all other respects the terms of the Trust Deed shall remain unaltered.

**EXECUTED** as a Deed.

**SIGNED** by **TEHMUS MISTRY** as  
Trustee in the presence of:



Witness signature:

Kersi Karki HAKATI

Name:

Kersi Karki

Occupation:

Accountant

Address:

788 Chapel Road, Shamrock Park

**SIGNED** by **SHAHAZAD  
CONTRACTOR** as Trustee in the



presence of:

Witness signature:

KK Katti

Name:

Kerdi Katti

Occupation:

Accountant

Address:

788 Chapel Road, Shamrock Park

**SIGNED** by **VICKY MISTRY** as  
Trustee in the presence of:

Witness signature:

 KK Katti

Name:

Kerdi Katti

Occupation:


Accountant

Address:

788 Chapel Road, Shamrock Park

**SIGNED** by **TANAZ SIGANPORIA** as  
Trustee in the presence of:

Witness signature:

  
KK Katti

Name:

Kerdi Katti

Occupation:

Accountant

Address:

788, Chapel Road, Shamrock Park

**SIGNED** by **HOMAI MISTRY** as  
Trustee in the presence of:

Witness signature:

  
KK Katti

Name:

Kerdi Katti

Occupation:

Accountant

Address:

788 chapel Road, Shamrock Park

## SCHEDULE

Where current or previous clause numbers and provisions of the Trust Deed are referred to, they are to the clause numbers of provisions of the Trust Deed in the form in which they exist immediately prior to the execution of this Deed of Variation.

Modifications, variations, amendments or additions are:

1. Delete sub-clause 1.1 (7) and replace with:

"(7) *"Trustees" means existing trustees named on this Deed and any trustees appointed in accordance with Clause 6.3 (original, additional or substituted) and "Trustee" has a similar meaning."*

2. Insert new sub-clause 1.1 (11) which provides:

"(11) *"Extraordinary Resolution" means a resolution passed at a meeting duly convened and held in accordance with the provisions of the Trust Deed at which Pledge donors three-fourths or more of the number of Pledge donors voting at the Meeting (in person or represented by proxies) upon a show of hands or if a poll is duly demanded then not less than three-fourths of the votes given on such a poll voted in favour of the resolution."*

3. Insert new sub-clause 1.1 (12) which provides:

"(12) *"Financial statements" means accounts that are prepared in accordance with the relevant reporting standards applicable to registered charities. The financial statements must be:*

- (a) reviewed by a qualified Chartered Accountant who is a member of the Chartered Accountants Australia and New Zealand; or*
- (b) audited or reviewed by a qualified auditor in accordance with the Charities Act 2005."*

4. Delete sub-clause 4.2 and replace with:

"4.2 *Despite clause 4.1, investment decisions in respect of an amount greater than \$200,000 must be approved by an Extraordinary Resolution of the Pledge Donors present or represented (via proxy) and voting at a General Meeting (whether SGM or AGM)."*

5. Delete sub-clause 6.2 (1) and replace with:

"(1) *At least once every Financial Year within 5 months from the end of the Financial Year, the Trustees must call an Annual General Meeting ("AGM") of all of those who at the time of the notice of meeting qualify as Pledge Donors."*

6. Delete sub-clause 6.2 (2) and replace with:

"(3) *From time to time a Special General Meeting ("SGM") of such Pledge Donors may be called either by the Trustees or by notice signed by at least 30% by number of such Pledge Donors."*



Handwritten signatures and initials in blue and black ink, including "Lm", "JKR", "JH", and "JH".

7. Delete sub-clause 6.2 (5) and replace with:

*“(5) Each Pledge Donor will be entitled to one vote at a General Meeting, if they have contributed a minimum of \$500 in the previous financial year or contributed at least \$500 in the current financial year (i.e. before they are eligible to vote at least \$500 must have been received in the current financial year). A Pledge Donor unable to attend may nominate a proxy in writing, and that proxy may vote on the Pledge Donor’s behalf. All matters will be decided by a simple majority of those voting (in person or by proxy) except those matters that are to be voted under an Extraordinary Resolution.”*

8. Delete sub-clause 6.3 (1) and replace with:

*“(1) With the AGM notice nominations will be called for any vacant Trustee positions. At the AGM an election by vote of the Pledge Donors will be held for any vacant Trustee positions which have been created by the end of the term of a trustee/s or the resignation of a trustee. If at any point in time the number of trustees is less than 3, then the remaining trustees must immediately call a SGM for the purpose of electing replacement trustees following the same process as outlined in this clause.”*

9. Delete sub-clause 6.3 (3) and replace with:

*“(3) Any nominated person for a Trustee position must be:*

- (a) a Pledge Donor for at least 12 months;*
- (b) who is over 21 years in age;*
- (c) entitled to vote under Clause 6.2 (5) of the Trust Deed; and*
- (d) must also be qualified to be an officer of a charitable entity under Section 16(2) of the Charities Act 2005.”*

10. Insert a new clause 6.3(4) which provides:

*“(4) The number of Trustees shall at all times (subject however to the provisions of section 23 of the Trustee Act 1956) be no less than 3 and no more than 5.”*

11. Delete sub-clause 6.6 (2) (a) and replace with:

*“(a) Be approved by resolution at a General Meeting (AGM or SGM), provided that the resolution is supported by at least 60% in number of all current Pledge Donors who would have been entitled to vote in accordance with clause 6.2.5 notwithstanding whether or not they are in attendance at the meeting.”*

12. Delete sub-clause 6.7 (1) and replace with:

*“(1) With the consent of the Pledge Donors present in person or represented by proxy and voting at a General Meeting (AGM or SGM) in the forms of an Extraordinary Resolution, the Trustees may at any time or times and without infringing the rule against perpetuities, by Deed vary, revoke or enlarge all or any of the provisions of this Deed including (by way of*

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*example but without limiting this power) the definition of the purpose of the trust, the management or administration of this Trust and the powers relating to investment of the Trust Fund."*

13. Insert a new sub-clause 6.7 (2) (c) which provides:

*"(c) Meet the requirements of the Charities Commission."*

14. Insert a new sub-clause 6.7 (2) (d) which provides:

*"(d) Meet the requirements of the Charities Act 2005."*

15. Delete sub-clause 6.7 (3) and replace with:

*"(3) However any such Deed of Deeds must not make changes to the provisions of this Deed that would result in the Trust ceasing to qualify being a registered charity under the Charities Act 2005 (or relevant New Zealand law at that time)."*

16. Delete clause 6.11 and replace with:

**"6.11 Information Availability to Pledge Donor**

*The trust board will make available to all Pledge Donors at the AGM the annual report of activities and Financial Statements"*

17. Insert a new clauses 6.13 which provides:

**"6.13 Quorum**

- (1) No business may be transacted at a meeting of Pledge Donors if a quorum is not present.*
- (2) A quorum for a meeting of Pledge Donors is present if at least 30% of the Pledge Donors or their proxies are present.*
- (3) If a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is adjourned to the same day in the following week at the same time and place or to such other date, time and place as the directors may appoint and, if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Pledge Donors present or represented by their proxies are a quorum."*

18. Insert a new clauses 6.14 which provides:

**"6.14 Voting**

- (1) In the case of a meeting of Pledge Donors assembled together, unless a poll is demanded, voting shall be by whichever of the following methods is determined by the chairperson of the meeting:*

- Voting by voice; or*
- Voting by show of hands.*

*Lm*  
*AK*  
*AK*  
*AK*

(2) *A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact, unless a poll is demanded.*

(3) *At a meeting of Pledge Donors, a poll may be demanded by*

- *The chairperson; or*
- *5 Pledge Donors having the right to vote at the meeting (as per clause 6.2(5));*

*A poll may be demanded either before or after the vote is taken on a resolution.*

*If a poll is taken, votes must be counted according to the votes for each Pledge Donor present in person or represented by proxy and voting.*

*The chairperson of a Pledge Donors' meeting is not entitled to a casting vote.*

*For the purposes of this clause, the instrument appointing a proxy to vote at a meeting of the Trust confers authority to demand or join in demanding a poll and a demand by a person as proxy for a Pledge Donor has the same effect as a demand by the Pledge Donor."*

19. Insert a new clauses 6.15 which provides:

**"6.15 Proxies**

- (1) *A Pledge Donor may exercise the right to vote either by being present in person or by proxy.*
- (2) *A proxy for a Pledge Donor, who must be a Pledge Donor, is entitled to attend and be heard at a meeting of Pledge Donors as if the proxy were the Pledge Donor.*
- (3) *A proxy must be appointed by notice in writing signed by the Pledge Donor and the notice must state whether the appointment is for a particular meeting or a specified term.*
- (4) *No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting."*

20. Insert a new clauses 6.16 which provides:

**"6.16 Charities Act**

*The trustees will comply with the rules and regulations of the Charities Act 2005 (and other relevant legislation and regulations) including the duty to notify changes identified in section 40 of the Act and duty to prepare and file annual returns as provided for in section 41 of the Act and complying with the requirements of the Charities Commission to ensure that the Trust is able to maintain its status as a registered Charitable Trust."*



21. Delete sub-clause 7.2 (1) and replace with:

*"(1) The Board must take all steps and do everything in its power to become incorporated under section 7 of the Charitable Trusts Act 1957 and be registered as a Charitable Trust under the Charities Act 2005."*

22. Delete sub-clause 7.2 (2).

23. Delete sub-clause 7.4 (7) and replace with:

*"(7) All the other Trustees unanimously determine by vote that a Trustee is unfit or unable for any reason to carry out the duties of a Trustee."*

24. Insert a new sub-clause 7.4 (8) which provides:

*"(8) Is disqualified from being an officer of charitable entities under section 16 (2) of the Charities Act 2005."*

25. Delete sub-clause 7.5 (1) and replace with:

*"(1) Three Trustees or 80% of all Trustees (whichever is the higher) present at a meeting of the Trustees shall constitute a quorum for all business of the Trustees."*

26. Delete sub-clause 7.5 (4) and replace with:

*"(4) The Trustees must meet at least four times per year."*

27. Insert a new sub-clause 7.5 (6) which provides:

*"(6) Notwithstanding the above provisions, any decision in relation to investments of the Trust fund, pursuant to Clause 4.1 of the Trust Deed must be unanimous by all Trustees of the Trust present at a meeting of the Trustees."*

28. Insert a new sub-clause 7.7 (c) which provides:

*"(3) Every investment decision."*

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