

**Declaration of trust
relating to the
Halberg Disability
Sport Foundation**

**Sir Murray Gordon Halberg
Wayne Robert Boyd
Colin Paul Cameron
Peter Kerry Clark
Anthony Evan Hill
Michael John Murray Sidey
Bryan Andrews
Shelley Campbell**

The Executive Board

Date *20 October 2014.*



Parties

Sir Murray Gordon Halberg, Wayne Robert Boyd, Colin Paul Cameron, Peter Kerry Clark, Anthony Evan Hill, Michael John Murray Sidey, Bryan Andrews and Shelley Campbell ("Executive Board")

Operative part

1. Name of Trust

- 1.1 The trust evidenced by this deed shall be known as the **Halberg Disability Sport Foundation** ("Trust") or such other name as the Trustees, upon the recommendation of the Executive Board, may from time to time determine.

2. Definitions and interpretations

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

"**Appointments Subcommittee**" means the subcommittee comprising members of the Executive Board to whom the Executive Board has delegated the power to nominate and recommend individuals for appointment as members of the Executive Board, as may be amended or replaced by the Executive Board from time to time under clause 13.7.

"**Annual Meeting**" means an annual meeting of the Trustees held in accordance with clause 11.1(a) of this deed.

"**charitable purposes**" means every purpose within New Zealand which in accordance with the law of New Zealand for the time being is charitable, whether such purpose involves the relief of poverty, the advancement of education or religion, or any other object or purpose beneficial to the community not falling under any of the preceding heads, and facilities for recreation or other leisure time and occupation that are charitable under section 61A of the Charitable Trusts Act 1957, and shall include any trust established solely and exclusively for charitable purposes.

"**Chairperson**" means the person elected by the members of the Executive Board to be the chair of the Executive Board pursuant to clause 13.3(a) of this deed.

"**children**" means persons under the age of 25 years.

"**clause**" is, unless otherwise qualified, a reference to a clause of this deed.

"**disability**" means any form of physical or mental defect, handicap, impairment, or illness.

“Executive Board” means the governing body of the Trust appointed to conduct the business and affairs of the Trust in accordance with clause 13 of this deed.

“Founder” means Sir Murray Gordon Halberg.

“Life Trustees” means the persons named in Schedule 1 of this deed together with such additional persons who may be appointed as Life Trustees from time to time under clause 9.

“Original Executive Board Members” means those individuals who hold office as members of the Executive Board of the Trust immediately prior to the execution of this deed.

“Original Trustees” mean those individuals who hold office as Trustees of the Trust immediately prior to the execution of this deed.

“person” and words importing a person or persons include a company, firm, organisation or trust and any state government or governmental agency.

“property” means any real or personal property of any kind or nature and includes any right or interest therein.

“Trust” means the trust initially known as “The Halberg Trust” formed by the Founder and governed by the terms of this deed.

“Trustees” means all the trustees for the time being of the Trust, whether original, additional or substituted.

“Trust Fund” means all property which is from time to time acquired or held by the Trustees for the purposes of the Trust.

2.2 Interpretation: In this deed:

- (a) except as otherwise expressly provided by this deed, the powers or discretions as to the administration of the Trust or as to the distribution of the income and the capital of the Trust Fund vested in the Executive Board under this deed by any clause shall not in any way be limited or restricted by the interpretation of any other clause;
- (b) unless the context otherwise requires:
 - (i) words importing the singular include the plural and vice versa;
 - (ii) words importing one gender include the other genders;
 - (iii) words denoting natural persons include companies;
 - (iv) references to a statute shall be deemed to be references to that statute as from time to time amended or enacted or substituted;
- (c) headings have been inserted for guidance only and shall not be deemed to form part of the context of this deed.

3. Declaration of trust

- 3.1 The Executive Board declares and acknowledges that they shall hold the Trust Fund upon the trusts, and with and subject to the powers and discretions, contained or implied in this deed.

4. Charitable purposes

- 4.1 **Purposes:** The Executive Board shall hold the Trust Fund upon trust to pay or apply in New Zealand the income and the capital of the Trust Fund in such amounts, at such times, and subject to such terms and conditions, as the Executive Board may decide for the benefit, education, advancement in life, or personal support in any way whatever, of children with disabilities (including, without limitation, to enhance the lives of physically disabled younger New Zealanders by enabling them to participate in sport and recreation).
- 4.2 **Means of achieving purposes:** The Executive Board may, in order to achieve the purposes of the Trust, in addition to all other powers vested in the Executive Board undertake such activities and enterprises as may be necessary or desirable including to:
- (a) raise funds for the purposes of the Trust by promoting, arranging, organising and sponsoring such functions as the Executive Board may from time to time decide to honour sporting excellence;
 - (b) develop internal processes to identify persons or entities eligible for grants or financial assistance;
 - (c) make grants and provide financial assistance to eligible persons or entities;
 - (d) establish programmes for the assistance of eligible persons or entities;
 - (e) subsidise, encourage, and co-operate with any other person, organisation, or group (whether incorporated or not) sharing similar charitable objects as the Trust;
 - (f) undertake such other activities and enterprises as the Executive Board may decide will further the purposes of the Trust.

5. Powers and discretions of the Executive Board

- 5.1 **Powers:** To achieve the objects of the Trust the Executive Board shall have in the administration, management and investment of the Trust Fund all the rights, powers and privileges of a natural person, and, subject always to the trusts imposed by this deed, may deal with the Trust Fund as if the Executive Board were the absolute owners of and beneficially entitled to the Trust Fund, and accordingly, in addition to any specific powers vested in the Executive Board by law, in dealing with the Trust Fund the Executive Board may do any act or thing or procure the doing of any act or thing or enter into any obligation whatever, including, without limitation, exercising unrestricted powers to borrow and raise money, and to give mortgages, other securities and guarantees.

- 5.2 **Delegation:** Except as otherwise expressly provided by this deed, the Executive Board may exercise all the rights, powers, privileges (including any discretions) that are vested in the Executive Board in the absolute and uncontrolled discretion of the Executive Board, at such time or times, upon such terms and conditions, and in such manner as the Executive Board may decide.
- 5.3 **Investment discretion:** In exercising their powers of investment the Executive Board may acquire any property, or retain or deal with any property which from time to time comprises the whole or part of the Trust Fund, notwithstanding that any act or omission by the Executive Board in the exercise of those powers and discretions would be, or could be, contrary to the principles governing the investment of trust funds set out in the Trustee Act 1956. This clause expresses a "contrary intention" for the purposes of section 13D of that Act.

6. Application of Trust Fund

- 6.1 The Executive Board:
- (a) may, in any one year, use or apply, or decide not to use or apply, the income of the Trust Fund for all or any of the purposes of the Trust;
 - (b) may, in any one year, use or apply any capital of the Trust Fund for all or any of the purposes of the Trust without first using or applying the whole or any portion of the income of the Trust Fund for that year;
 - (c) may, in any one year, set aside reserves or accumulations for future use or application.

7. Founder

- 7.1 In recognition of his role in the establishment of the Trust and his outstanding contribution to the work of the Trust, **Sir Murray Gordon Halberg** shall hold for life the honorary office of Founder of the Trust.

8. Patron

- 8.1 **Appointment of Patron:** The Trustees upon the recommendation of the Executive Board may appoint any person to be the patron of the Trust by a resolution passed by a simple majority of the Trustees present and voting at a meeting of Trustees.
- 8.2 **Resignation or removal of Patron:** The patron may at any time:
- (a) resign from office by notice in writing to the Trust; or
 - (b) upon the recommendation of the Executive Board be removed from office by a resolution passed by a simple majority of the Trustees present and voting at a meeting of Trustees if, in the opinion of those Trustees, the continuation in office of that person is not in the best interests of the Trust.
- 8.3 **Terms of appointment and removal of Patron:** Each appointment or removal of a person as patron of the Trust shall take effect as provided in the resolution, may be

conditional to take effect on a future date or upon the occurrence of a future event, and may, if so specified, be revocable until effective. No more than one patron may be appointed to the Trust at any time provided that for the avoidance of doubt, the Trustees are not obliged to appoint any person to the office of patron in the event of a vacancy.

9. Life Trustees

- 9.1 **Life Trustees:** The persons named in Schedule 1 of this deed shall be Life Trustees in recognition of their past service to the Trust. Those persons who have, immediately prior to the date of this deed, held office as trustees of the Trust for at least 12 years and who have agreed to hold office as Life Trustees, shall also be Life Trustees.
- 9.2 **Appointment of Life Trustees:** The Trustees upon the recommendation of the Executive Board may appoint any person or persons to hold office as new or additional Life Trustees by a resolution passed by a simple majority of the Trustees present and voting at a meeting of the Trustees.
- 9.3 **Office of Life Trustees:** The office of Life Trustees is an honorary office and a Life Trustee shall not:
- (a) have any duties or powers, or fulfil any functions, except such (if any) as the Executive Board may, from time to time, in the case of any Life Trustee, or of Life Trustees generally, determine; or
 - (b) be, or be deemed to be, a Trustee of the Trust for any of the purposes of this deed other than this clause 9.
- 9.4 **Resignation or removal of Life Trustee:** A Life Trustee shall hold office for life but may at any time:
- (a) resign from office by notice in writing to the Trust; or
 - (b) upon the recommendation of the Executive Board be removed from office by a resolution passed by a simple majority of the Trustees present and voting at a meeting of Trustees if, in the opinion of those Trustees, the continuation in office of that person is not in the best interests of the Trust.

10. Trustees

- 10.1 **Role of the Trustees:** The Trustees shall have such functions or roles as determined from time to time by the Executive Board. For the avoidance of doubt, the office of Trustee in this deed shall, notwithstanding any other provision in this deed or at law, not be construed as a reference to such office holders as being (and to the maximum extent permitted under law, Trustees shall not under any circumstances whatsoever be construed as) "trustees" at law including for the purposes of the Charitable Trusts Act 1957, the Charities Act 2005, the Trustee Act 1956 or any other similar legislation that bears on the office of a trustee. Any references to the term "trustee" at law or under the preceding legislation shall be construed for the purposes of this deed as being references to the members of the Executive Board.

- 10.2 **Number of Trustees:** The number of Trustees shall not be less than 20. Should a vacancy reduce the number of Trustees below 20, the vacancy shall be filled as soon as practicable in accordance with the terms of this deed.
- 10.3 **Term:** A Trustee shall, subject to clauses 10.5 and 10.6, hold office for a term that commences immediately after the conclusion of the Annual Meeting or special meeting of Trustees at which his or her appointment was made (each a “**Specific Meeting**”) and ends at the conclusion of the Annual Meeting held in the fifth calendar year occurring immediately after the calendar year in which the Specific Meeting was held (each a “**Term**”). Subject to this clause, a Trustee shall be eligible for re-appointment as a Trustee on the expiry of his or her Term. Notwithstanding the preceding, no person may hold office as a Trustee for more than three Terms in aggregate.
- 10.4 **Appointment of Trustees:** New or additional Trustees shall be appointed by a resolution passed by a simple majority of the Trustees present and voting at a meeting of Trustees.
- 10.5 **Cessation of office of Trustees:** A person shall not be eligible to hold office as a Trustee (and shall cease to be a Trustee) if he or she:
- (a) resigns their position by notice in writing to the Trust; or
 - (b) dies;
 - (c) becomes of unsound mind or becomes a person in respect of whose affairs an order under the Protection of Personal and Property Rights Act 1988 is made, or otherwise becomes unfit or unable to act as a Trustee;
 - (d) becomes insolvent or commits an act of bankruptcy;
 - (e) is appointed a Life Trustee in accordance with this deed;
 - (f) upon the recommendation of the Executive Board, is removed from office by a resolution passed by a simple majority of the Trustees present and voting at a meeting of Trustees if, in the opinion of those Trustees, the continuation in office of that person is not in the best interests of the Trust.
- 10.6 **Transitional provisions for Trustees:** The following transitional provisions shall apply to the Original Trustees:
- (a) At the Annual Meeting held in each of 2015, 2016, 2017, 2019 and 2019, seven of the Original Trustees shall retire from the office of the Trustee. The Original Trustees to retire each year shall be those Trustees who have held office longest (in terms of the total number of years served) as a Trustee of the Trust (including their tenure as Trustees of the Trust prior to the date of this deed) unless another Trustee or Trustees choose to retire at the relevant Annual Meeting.
 - (b) If there are more than seven Original Trustees who have each served longest terms, a ballot (in the absence of agreement between them) shall be held to determine those of the Original Trustees who ought to retire. A declaration by the Chairperson (or where the Chairperson is an Original Trustee who may be required to retire, a Deputy Chairperson who is not subject to retirement) as to who has been selected to retire shall be conclusive.

- (c) Any retiring Original Trustee shall be eligible for re-appointment as a Trustee and, if so re-appointed, shall hold office as a Trustee for the Term determined by and subject to clause 10.3. The period of an Original Trustee's tenure as a Trustee from the date of this deed to the date of his or her retirement under the provisions of this clause shall be ignored for the purposes of determining the maximum term that may be served by that Original Trustee, should he or she be re-appointed as a Trustee under clause 10.3 following his or her retirement under the provisions of this clause.
- (d) For the avoidance of doubt, the transitional provisions in this clause shall only apply to Original Trustees, and shall be of no further force or effect once all of the Original Trustees have retired in accordance with this clause (irrespective of whether any of such Trustees have been re-appointed as a Trustee or not).

11. Proceedings of Trustees

11.1 Annual Meeting:

- (a) In each calendar year, there shall be an annual meeting of Trustees held not later than five months after the end of the preceding financial year of the Trust, at Auckland or such other place as the Executive Board shall from time to time determine ("**Annual Meeting**").
- (b) The business of the Annual Meeting shall be:
 - (i) to consider the Annual Report of the Trust;
 - (ii) to consider and receive the financial statements of the Trust for the preceding financial year and the report of the auditors thereon;
 - (iii) to appoint and/or remove any person or persons as a member of the Executive Board; and
 - (iv) to conduct such other business as any Trustee, or the Executive Board, may properly bring forward.

11.2 Special Meeting:

- (a) The Executive Board may call a special meeting of Trustees at any time to consider any matter concerning the business or affairs of the Trust.
- (b) The Executive Board shall call a special meeting of Trustees on the written request of not less than eight Trustees to consider any matter concerning the business or affairs of the Trust,

(hereinafter, "**Special Meeting**").

11.3 Notice: Notice convening a meeting of Trustees shall be sent by post (or such other method as the Executive Board determines from time to time) to each Trustee at the address from time to time given by each Trustee to the Trust for such purpose at least 14 days before the date of the proposed meeting. The notice shall state the time and place of the meeting and the nature of the business to be transacted.

11.4 Chairperson of meetings of Trustees:

- (a) If the Chairperson is present at a meeting of Trustees, the Chairperson shall chair the meeting.
 - (b) If at any meeting of Trustees the Chairperson is not present within 15 minutes of the time appointed for the commencement of the meeting or the Chairperson is unwilling or unable to act, the members of the Executive Board present, if any, may elect one of their number to be chairperson of the meeting. If no member of the Executive Board is willing to act as chairperson or if no member of the Executive Board is present within 15 minutes of the time appointed for the commencement of the meeting, the Trustees present may choose one of their number to be chairperson.
- 11.5 **Quorum:** The quorum for all meetings of Trustees shall be not less than six Trustees.
- 11.6 **Voting at meetings of Trustees:**
- (a) Each Trustee is entitled to one vote on a resolution at a meeting of Trustees.
 - (b) Except as expressly provided otherwise by this deed any matter requiring decision at a meeting of Trustees shall be decided by a simple majority of the Trustees present at a meeting of Trustees.
 - (c) In the event of an equality of votes the chairperson shall not have a casting vote.
- 11.7 **Proxy:**
- (a) A Trustee may exercise his or her right to vote by appointing any other Trustee as his or her proxy. A proxy for a Trustee is entitled to attend and be heard at a meeting of Trustees as if the proxy were the Trustee. For the purposes of this deed and meetings of Trustees, a duly appointed proxy shall be deemed to count as a Trustee present at a meeting of Trustees.
 - (b) An instrument appointing a proxy must be in the form set out in Schedule 2 of this deed or in such other form as the Executive Board may determine from time to time ("**Proxy Instrument**").
 - (c) A Proxy Instrument must be in the hands of the Chairperson at least 48 hours before the start of the meeting of Trustees at which it is proposed to be used.
- 11.8 **Procedure:** A meeting of the Trustees may be held either:
- (a) by such number of Trustees, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
 - (b) by means of audio, or audio and visual, communication by which all persons participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- 11.9 **Minutes:** The Executive Board shall ensure that minutes are kept of the proceedings at all meetings of Trustees. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.
- 11.10 **Unanimous resolution:** A resolution in writing signed by all the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and constituted. Any such resolution may consist of several like

documents each signed by one or more Trustees. Any such document sent by a Trustee to the Chairperson of the meeting by email (or such other method as may be determined from time to time by the Executive Board) shall be deemed to have been duly signed by that Trustee.

12. Executive Board

- 12.1 **Executive Board:** The Trust shall have an Executive Board which shall consist of up to eight persons, at least four of whom shall be Trustees. Notwithstanding any other provision of this deed, the Founder shall be deemed to be, and shall continue in office as, a member of the Executive Board unless he ceases to hold office as such under any of clauses 12.6(a) to (d). Without limiting clause 10.1, the members of the Executive Board shall have the duties, rights and obligations as "trustees" at law including for the purposes of the Charitable Trusts Act 1957, the Charities Act 2005, the Trustee Act 1956 or any other similar legislation that bears on the office of a trustee.
- 12.2 **Appointment of Executive Board:** Subject to clauses 12.5 and 12.7, members of the Executive Board shall be appointed at the Annual Meeting from those persons recommended for appointment by the Appointments Subcommittee. The Appointments Subcommittee shall, in discharging its duties, comply with the Executive Board's most current policy for board appointments. Members shall be appointed by a resolution passed by a simple majority of the Trustees present and voting at an Annual Meeting.
- 12.3 **Term:** Each member of the Executive Board other than the Founder shall, subject to clauses 12.6 and 12.7, hold office for a term that commences immediately after the conclusion of the Annual Meeting at which his or her appointment was made ("**Initial Annual Meeting**") and ends at the conclusion of the Annual Meeting held in the third calendar year occurring immediately after the calendar year in which the Initial Annual Meeting was held. Subject to the following, a member shall be eligible for re-appointment to the Executive Board on the expiry of his or her term. Other than the Founder, no member may serve for more than three consecutive terms from the date of his or her initial appointment but, subject to that limitation, a member who has previously served three consecutive terms on the Executive Board shall be entitled to apply, or seek nomination for re-appointment to the Executive Board in the future provided that any future re-appointment arising from such application or nomination does not result in that member serving, or being able to serve, more than three consecutive terms on the Executive Board.
- 12.4 **Application for appointment to the Executive Board:**
- (a) The chair of the Appointments Subcommittee (or his or her nominee) ("**Appointments Chair**") shall:
 - (i) call for nominations to the Executive Board from the Trustees; and
 - (ii) commence public advertising seeking applications for appointment to the Executive Board, at least sixty working days prior to the date of the next Annual Meeting.

- (b) Any such nomination or application shall be made in writing, must be accompanied by such other documents or information about the nominee or the applicant as may be determined from time to time by the Appointments Subcommittee, and shall be received by the Appointments Chair (or his or her nominee) at least forty working days prior to the next Annual Meeting.
- (c) The Appointments Chair shall treat all nominations and applications as confidential and shall not review or disclose the details of such nominees or applications other than as may be required to facilitate the operation of the Appointments Subcommittee pursuant to this deed.
- (d) Where an individual is nominated by a Trustee or an application is submitted by someone other than the individual, the individual must have agreed in writing to such application or nomination.

12.5 Appointment to Executive Board by Executive Board:

- (a) If:
 - (i) any person ceases to be a member of the Executive Board under clause 12.6; or
 - (ii) the Appointments Subcommittee does not recommend a candidate for appointment to fill a vacancy on the Executive Board; or
 - (iii) the Trustees do not appoint to the Executive Board any candidate recommended by the Appointments Subcommittee,
 then the Executive Board may, but shall not be obliged to, appoint a person to the Executive Board to fill any vacancy.
- (b) The term of office for any appointment made by the Executive Board under clause 12.5(a) shall automatically expire at the conclusion of the next Annual Meeting.
- (c) With the prior agreement of the person appointed by the Executive Board, and subject to clause 12.2, he or she may be considered as a nominee by the Appointments Subcommittee for the next round of recommendations for appointment to the Executive Board in accordance with clause 12.4.

12.6 Cessation of office of Executive Board Member: A person shall not be eligible to hold office as a member of the Executive Board (and shall cease to be a member of the Executive Board) if he or she:

- (a) resigns their position by notice in writing to the Trust;
- (b) dies; or
- (c) becomes of unsound mind, becomes a person in respect of whose affairs an order under the Protection of Personal and Property Rights Act 1988 is made, or, in the opinion of the Executive Board, otherwise becomes unfit or unable to act as a member of the Executive Board; or
- (d) ceases to qualify as an officer of a charitable entity under section 16 of the Charities Act 2005; or

- (e) upon the recommendation of the Executive Board, is removed from office by a resolution passed by a simple majority of the Trustees present and voting at a meeting of Trustees, if, in the opinion of those Trustees, the continuation in office of that person is not in the best interests of the Trust.

12.7 **Transitional provisions:** The following transitional provisions shall apply to the Original Executive Board Members (other than the Founder).

- (a) At the Annual Meeting held in each of 2015, 2016 and 2017, three of the Original Executive Board Members (and in the case of the 2018 Annual Meeting, one Original Executive Board Member) shall retire from the Executive Board. The Original Executive Board Member or Members to retire each year shall be that member or those members who have served longest (in terms of the total number of years served) as a member of the Executive Board (including their tenure as a member of the executive board of the Trust prior to the date of this deed) unless another Original Executive Board Member or Original Executive Board Members choose to retire at the relevant Annual Meeting.
- (b) If there are more than three Original Executive Board Members who have each served longest terms, a ballot (in the absence of agreement between them) shall be held to determine those of the Original Executive Board Members who ought to retire. A declaration by the Chairperson (or, where the Chairperson is an Original Executive Board Member who may be required to retire, a Deputy Chairperson who is not subject to retirement) as to who has been selected to retire shall be conclusive.
- (c) Any retiring Original Executive Board Member shall be eligible for re-appointment and, if so re-appointed, shall hold office as a member of the Executive Board for the term determined by and subject to clause 12.3. The period of an Original Executive Board Members' tenure on the Executive Board from the date of this deed to the date of his or her retirement under the provisions of this clause 12.7 shall be ignored for the purposes of determining the maximum term that may be served by that Original Executive Board Member, should he or she be re-appointed as an Executive Board member following such retirement.
- (d) For the avoidance of doubt, the transitional provisions in this clause shall only apply to the Original Executive Board Members, and shall be of no further force or effect once all of the Original Executive Board Members have retired in accordance with this clause (irrespective of whether any of such members have been re-appointed or not).
- (e) The transitional provisions in this clause shall be considered and operate separately from the transitional provisions in clause 10.6 that apply to Trustees.

13. Proceedings of Executive Board

13.1 General:

- (a) The Executive Board shall have the absolute management and entire control of the Trust Fund and shall conduct the business and affairs of the Trust.

- (b) The Executive Board may from time to time appoint, remunerate and dismiss officers or employees of the Trust.
- (c) Any individual, whether or not a Trustee, may be appointed as an officer or employee of the Trust.

13.2 Meetings:

- (a) The Executive Board shall meet to conduct business at such intervals as the Executive Board may decide. The Executive Board may invite to such meeting whatever other person or persons as the Executive Board may decide will assist with their deliberations.
- (b) Except as expressly provided otherwise by this deed any matter requiring decision at a meeting of the Executive Board shall be decided by a simple majority of the members of the Executive Board personally present and voting on the matter.
- (c) In the event of an equality of votes the Chairperson shall have a second or casting vote.
- (d) A resolution in writing signed by all the members of the Executive Board shall be as valid and effectual as if it had been passed at a meeting of the Executive Board duly convened and constituted. Any such resolution may consist of several like documents each signed by one or more members of the Executive Board. Any such document sent by an Executive Board member to the Chairperson or the Secretary (if any) by email (or by such other method as may be determined by the Executive Board from time to time) shall be deemed to have been duly signed by that member.
- (e) The Chairperson or any two Executive Board members may at any time give notice convening a meeting of the Executive Board. Notice convening a meeting shall be sent by email (or such other method as the Executive Board may determine from time to time) to each member at the address from time to time given by each member to the Trust for such purpose within New Zealand at least fourteen days before the date of the proposed meeting. The notice shall state the time and place of the meeting and, in sufficient terms, the nature of the business to be transacted.
- (f) The quorum for a meeting of the Executive Board shall be a majority of the Executive Board members including at least two Trustees then holding office.
- (g) The contemporaneous linking together of the Executive Board members by telephone or other electronic means of communication ("**telephone**") shall constitute a meeting of the Executive Board and the provisions of this clause as to meetings of the Executive Board shall apply to such meetings provided the following conditions are met:
 - (i) Each Executive Board member then in New Zealand shall be entitled to notice of such a meeting by telephone and to be linked by telephone for the purposes of the meeting.

- (ii) Each of the Executive Board members taking part in the meeting by telephone must be able to hear each of the other Executive Board members taking part during the whole of the meeting.
- (iii) At the commencement and conclusion of such meeting each Executive Board member must acknowledge the presence of that Executive Board member for the purpose of a meeting of the Executive Board being held.
- (iv) An Executive Board member may not withdraw from such a meeting unless that Executive Board member has obtained the express consent of the Chairperson of the meeting to do so.
- (v) An Executive Board member shall be conclusively presumed to have been present and to have formed part of the quorum of such a meeting at all times during the meeting by telephone unless that Executive Board member has obtained the express consent of the Chairperson to withdraw from such a meeting.

A minute of the proceedings of any such meeting by telephone shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified to be a correct minute by the Chairperson of the meeting.

13.3 Chairperson and Deputy Chairperson:

- (a) The Executive Board shall elect one of its members to act as Chairperson, either from year to year, or for such period as the Executive Board may decide.
- (b) The Executive Board may also appoint one of its members to act as Deputy Chairperson either as the need arises or from year to year or for such period as the Executive Board may decide. In the absence of the Chairperson, the Deputy Chairperson shall have and may exercise all the powers, of and shall perform all the duties, of the Chairperson.

13.4 Secretary: The Executive Board may appoint a Secretary who may be honorary, or may be a full-time or part-time employee of the Trust.

13.5 Treasurer: The Executive Board may appoint a Treasurer who may be honorary, or may be a full-time or part-time employee of the Trust.

13.6 Minutes: Minutes of the proceedings of all meetings of the Executive Board shall be recorded in a book to be kept for that purpose by the Secretary and shall be signed by the Chairperson of the meeting at which the minutes are confirmed. Every such minute purporting to be so signed shall be prima facie evidence of the matters recorded. If the Trust does not have a secretary at any time, the Chairperson may nominate any person whether or not a member of the Executive Board to keep minutes.

13.7 Delegation of Powers: The Executive Board may delegate to any person or committee, whether or not a member of the Executive Board, such of the powers of the Executive Board as the Executive Board may decide, on the following basis:

- (a) Any person or committee acting under delegated power shall act in accordance with the terms of this deed and, in the absence of proof to the

contrary, shall also be presumed to be acting within the terms of the delegation.

- (b) The Executive Board may revoke wholly or partly any delegation of the powers of the Executive Board at any time.
- (c) Subject to any directions given by the Executive Board, any person or committee to which any powers of the Executive Board have been delegated may conduct that person's or the committee's affairs as that person or the committee may decide.
- (d) The Executive Board may, in delegating the powers of the Executive Board, provide restrictions or rules by or within which such delegated powers are to be exercised.

13.8 **Appointments Subcommittee:** The Appointments Subcommittee is deemed to have been established and to have been delegated powers pursuant to clause 13.7 and, for the avoidance of doubt, is subject to the provisions of that clause.

13.9 **Accounts and audit:** The Executive Board shall cause true and proper accounts for each year to be kept in such manner as the Executive Board may decide of all receipts, credits, payments, assets and liabilities of the Trust Fund and all such other matters necessary for showing the true state and condition of the Trust. The accounts of the Trust may, at the Executive Board's discretion, be audited by a chartered accountant (not being a Trustee) appointed in that capacity by the Executive Board.

14. Liability and indemnity of Trustees, Executive Board members and officers

14.1 **No liability of Protected Persons, with exceptions:** No Trustee or former Trustee, Executive Board member or former Executive Board member, or officer of the Trust (each a "**Protected Person**") shall be liable for any loss to the Trust Fund not attributable to the relevant Protected Person's own dishonesty, or to the wilful commission or omission by such Protected Person of an act known by him or her to be a breach of trust. No Protected Person shall be bound to take any proceedings against a co- Protected Person or former Protected Person for any breach or alleged breach of trust committed by such co- Protected Person or former Protected Person.

14.2 **Indemnity of Protected Persons:** Each Protected Person shall be entitled to a full and complete indemnity from the Trust Fund for any personal liability which the relevant Protected Person may incur in any way arising from or in connection with that Protected Person acting or purporting to act as a Trustee, Executive Board member or officer of the Trust, as the case may be, provided such liability is not attributable to the relevant Protected Person's own dishonesty, or to the wilful commission or omission by that Protected Person of an act known by him or her to be a breach of trust.

15. Interested Trustees and Executive Board members

15.1 Any Trustee or Executive Board member (each an "**Interested Person**") who is or may be in any other capacity whatever interested or concerned directly or indirectly in

any property or undertaking in which the Trust is or may be in any way concerned or involved shall disclose the nature and extent of that person's interest to the Executive Board, and shall not take any part whatever in any deliberations of the Trustees or the Executive Board (as the case may be) concerning any matter in which that Interested Person is or may be interested other than as a Trustee or as a member of the Executive Board (as the case may be). Without limiting the preceding, a Trustee or Executive Board member to which this clause applies may not vote on a matter relating to the relevant matter, nor be included among the Trustees or Executive Board members present at the meeting for the purposes of determining a quorum.

16. No private pecuniary profit for any individual, and exceptions

16.1 No private pecuniary profit: No private pecuniary profit may be made by any person from the Trust, except that:

- (a) any Trustee or Executive Board member may receive full reimbursement for all expenses properly incurred by that Trustee or member in connection with the affairs of the Trust;
- (b) the Trust may pay reasonable remuneration to any officer or servant of the Trust (whether or not a Trustee or Executive Board member) in return for services actually rendered to the Trust;
- (c) any Trustee or Executive Board member may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Trustee or Executive Board member or by any firm or entity of which that Trustee or Executive Board member is a member, employee or associate in connection with the affairs of the Trust;
- (d) any Trustee or Executive Board member may retain any remuneration properly payable to that Trustee or Executive Board member by any company or undertaking with which the Trust may be in any way concerned or involved for which that Trustee or Executive Board member has acted in any capacity whatever, notwithstanding that the Trustee's or Executive Board member's connection with the company or undertaking is in any way attributable to that Trustee's or Executive Board member's connection with the Trust.

16.2 Compliance with restrictions: The Executive Board, in determining all reimbursements, remuneration and charges payable in the terms of this clause, shall ensure that the restrictions imposed by clause 17 are strictly observed.

17. Restrictions on benefits to and influence by interested persons

17.1 Recipient not to influence benefits: Notwithstanding anything contained or implied in this deed, any person who is:

- (a) a settlor or Trustee or Executive Board member; or

- (b) a shareholder or director of any company carrying on any business of the Trust;
- (c) a settlor or trustee of any trust which is a shareholder of any company carrying on business of the Trust;
- (d) an associated person (as defined by the Income Tax Act 2007) of any such settlor, Trustee, Executive Board member, shareholder or director; or

shall not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence in any way the determination of the nature or the amount of any benefit or advantage or income or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person.

- 17.2 **Professional account and influence:** A person who in the course of and as part of the carrying on of his or her business of a professional public practice shall not, by reason only of his or her rendering professional services to the Trust or to any company by which any business of the Trust is carried on, be in breach of the terms of this clause.

18. Allocation of receipts

- 18.1 **Allocation of payments between capital and income:** If any dividend or distribution is received which in the opinion of the Executive Board has been paid or made out of profits other than trading profits of the financial year in respect of which the dividend or distribution has been paid or made, the Executive Board may decide how much of that dividend or distribution ought to be treated as capital and how much as income of the Trust Fund. Such decision shall be made by the Executive Board after considering the nature of the profit used to pay or make the dividend or distribution, and the account to which the dividend or distribution has been debited in the books of the person making such payment or distribution. The Executive Board shall not be liable to any person in respect of the payment of any moneys in accordance with any decision made by the Executive Board under this clause.
- 18.2 **No apportionment in respect of date of payment:** There shall be no apportionment as between capital and income of the Trust Fund of rents, interest, dividends, or other periodic payments for the period current to the date of commencement of the Trust or for any other period current at the date upon which any interest created under the terms of this deed commences or determines.

19. Appointment and removal of custodian trustee

- 19.1 The Executive Board may at any time by deed appoint any appropriate corporation to be a custodian trustee of the Trust Fund, or any part of the Trust Fund, upon such terms as the Executive Board may decide, or otherwise to act pursuant to the provisions of Section 50 of the Trustee Act 1956, and the Executive Board may at any time by deed revoke any such appointment.

20. Incorporation

- 20.1 The Trust is incorporated pursuant to Part II of the Charitable Trusts Act 1957 (incorporation number 584127) under the name “**Halberg Disability Sport Foundation**” and for these purposes the Executive Board members are the trustees who have been incorporated as a board under that Act.

21. Office of the Trust

- 21.1 The office of the Trust shall be at such place as the Executive Board from time to time may decide.

22. Execution

- 22.1 The Trust shall have a common seal which shall not be affixed to any document without the authority of the Executive Board. When a document is to be sealed on the prior authority of the Executive Board, the seal must be affixed in the presence of two members of the Executive Board who must sign the document.
- 22.2 No person dealing with the Trust shall be bound or concerned to see or inquire as to the authority to affix the seal, or to inquire as to the authority under which any document was sealed or in whose presence it was sealed.
- 22.3 A contract (not being one in respect of which a seal is required to be affixed) if made between private persons would by law:
- (a) be required to be in writing, may be entered into on behalf of the Executive Board in writing by a person acting under the Executive Board’s express or implied authority; or
 - (b) not required to be in writing, may be entered into on behalf of the Executive Board in writing or orally by a person acting under the Executive Board’s express or implied authority.

23. Winding up of Trust

- 23.1 If at any time the Executive Board decides that for any reason it is no longer practicable or desirable to carry out the purposes of the Trust they may recommend to the Trustees that the Trust be wound up, and the Trustees may, by a resolution passed by not less than 75% of Trustees present and voting at a meeting of Trustees, wind up the Trust and vest the assets of the Trust in such one or more charitable bodies in New Zealand that have similar charitable purposes to the Trust, in such manner, upon such terms, and in such proportions as the Trustees may decide, provided that if the Trust is then incorporated under the Charitable Trusts Act 1957 the assets of the Trust shall be disposed of in accordance with the provisions of that Act.

24. Alteration of Trust Deed

24.1 If the Executive Board considers that any of the provisions of this deed should be altered they may recommend to the Trustees that all or any of the provisions of this deed be revoked, varied or added to, and the Trustees may, by a resolution passed by not less than 75% of Trustees present and voting at a meeting of Trustees, revoke, vary or add to any of the provisions of this deed, provided that such revocation, variation, or addition is consistent with the charitable purposes of the Trust.

25. Notice

25.1 Any notice to be given to the Trust may be given in writing by:

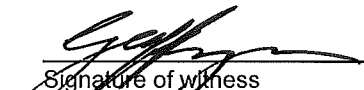
- (a) delivering or posting a copy to the registered office of the Trust, or by sending a copy by facsimile to the facsimile telephone number of the Trust; or
- (b) delivering or emailing a copy to the Chairperson or Secretary (if any); or
- (c) such other method as may be determined by the Executive Board from time to time.

Signed as a deed

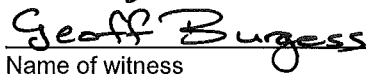
SIGNED by
SIR MURRAY GORDON HALBERG
in the presence of:



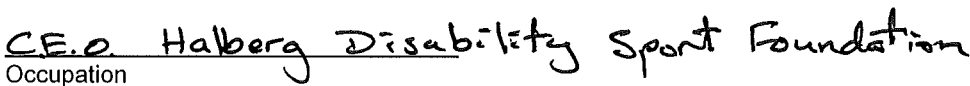
M G Halberg




Signature of witness



Name of witness

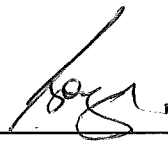


Occupation

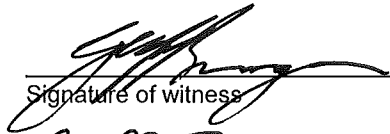


City/town of residence

SIGNED by
WAYNE ROBERT BOYD
in the presence of:



W R Boyd



Signature of witness
Geoff Burgess


Name of witness

CE.O. Halberg Disability Sport Foundation



Occupation
Auckland

City/town of residence

SIGNED by
COLIN PAUL CAMERON
in the presence of:



C P Cameron
C. P. Cameron

Signature of witness
Geoff Burgess

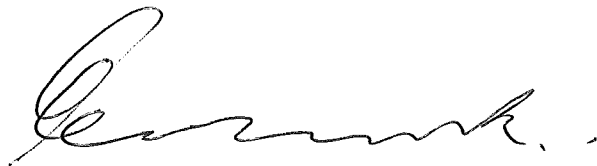
Name of witness

CEO ~~Netball NZ~~ Halberg Disability Sport Foundation

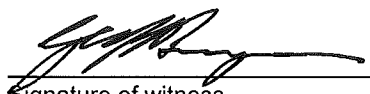
Occupation
~~Wellington~~ Auckland

City/town of residence

SIGNED by
PETER KERRY CLARK
in the presence of:



P K Clark



Signature of witness
Geoff Burgess

Name of witness

CE.O. Halberg Disability Sport Foundation

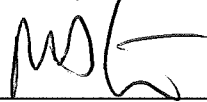
Occupation
Auckland

City/town of residence

SIGNED by
ANTHONY EVAN HILL
in the presence of:



A E Hill



Signature of witness

MARK CURTIS

Name of witness

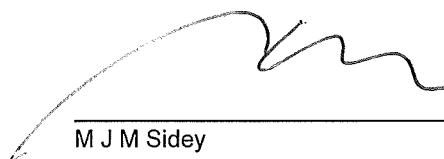
DOCTOR

Occupation

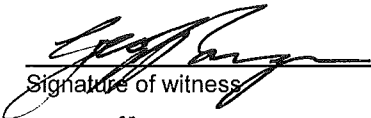
QUEENSTOWN

City/town of residence

SIGNED by
MICHAEL JOHN MURRAY SIDEY
in the presence of:



M J M Sidey



Signature of witness

Geoff Burgess

Name of witness

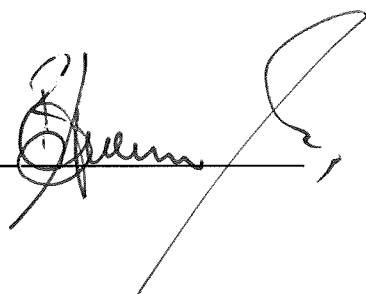
CEO Halberg Disability Sport Foundation

Occupation

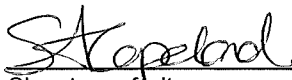
Auckland

City/town of residence

SIGNED by
BRYAN ANDREWS
in the presence of:



B Andrews



Signature of witness

SUZI COPELAND

Name of witness

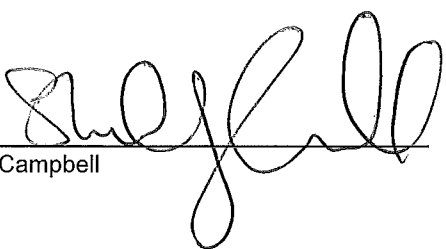
PERSONAL ASSISTANT

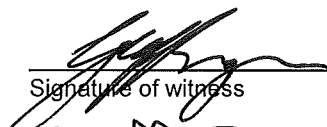
Occupation

CHRISTCHURCH

City/town of residence

SIGNED by
SHELLEY CAMPBELL
in the presence of:


S Campbell


Signature of witness
Geoff Burgess
Name of witness

CEO, Halberg Disability Sport Foundation.
Occupation

Auckland
City/town of residence

Schedule 1 – Life Trustees

Mick Bremner

Iain Gallaway

Dr Dave Gerrard

Andy Leslie

Peter McDermott

John Reid

Jeff Robson

John Rutherford

Graham Vivian

Bob Graham

Brian Osmand

Schedule 2 – Form of Proxy

"I, _____ of _____ being a Trustee of the Trust, hereby
appoint _____ of _____ as my proxy to vote for me on
my behalf at the Annual / Special Meeting of Trustees to be held on the _____ day of
20____, and at any adjournment thereof.

Signed this _____ day of _____ 20____.

[Signature of Trustee]"