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**GISBORNE MUSEUM OF ART AND HISTORY TRUST**

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**TRUST DEED**

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**EGAN AND KITE  
SOLICITORS  
GISBORNE**

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**Schedule**

This Deed Poll is made this 15 day of November 1999

By each of the parties whose name, address and description are set out in the Schedule.

## 1.0 Interpretation

In this Deed unless the context otherwise requires:

"Board" means the Trust Board referred to in clause 6 of this Deed.

"Establishment Day" means the date upon which this Deed has been executed by at least 6 Trustees.

"Director" means the Chief Executive of the Museum appointed pursuant to clause 13 of this Deed.

"GMAC" means The Gisborne Museum and Arts Centre Incorporated.

"Museum" means the Gisborne Museum and Arts Centre and includes the operations, collections, and assets belonging to, in the possession of, or undertaken for that museum both present and future.

## 2.0 Constitution

2.1 This Deed establishes a Charitable Trust upon the terms set out in this Deed which shall be known as the Gisborne Museum of Art and History Trust.

2.2 The Trust is established exclusively for charitable purposes within New Zealand and:

- (a) all actions carried out by the Board pursuant to this Deed shall be carried out exclusively for charitable purposes;

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 23 June 1999  
 Establishment Day

- (b) any business carried on by the Board shall be carried out exclusively for charitable purposes and not for the pecuniary gain of any person.

2.3 The Trusts set out in this Deed shall come into effect on the Establishment Day.

2.4 Immediately following the Establishment Day the Board shall apply pursuant to Section 7 of the Charitable Trusts Act 1957 for the registration of the Board under Section 11 of that Act.

### 3.0 Treaty of Waitangi

3.1 The Board and each individual member of the Board shall at all times act in accordance with the principles of the Treaty of Waitangi and will:

- (a) observe and encourage the spirit of partnership and goodwill envisaged by the Treaty, the implications of mana Maori and elements in the care of Maori cultural property which only Maori can provide; and
- (b) Actively pursue a policy of involvement of Maori in such a way that will retain the trust and confidence in and support of Maori for the objectives of the Trust and that will promote among Maori a sense of ownership, in common with the rest of the community, of the Museum and its undertaking.

### 4.0 Objectives of the Trust

4.1 The Objectives of the Trust are:

- (a) To acquire the assets and undertaking of GMAC.
- (b) To continue the operation and undertaking formerly carried on by GMAC with such modifications (if any) as the Trustees shall

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consider necessary for the purpose of carrying out the objectives of the Trust.

- (c) To provide and operate a cultural centre where the history, art, culture, environment, and heritage of Aotearoa New Zealand with special reference to the Tairāwhiti Region, may be conserved, interpreted, studied, cherished and made available for the benefit of the people of New Zealand.
- (d) To collect, purchase or otherwise acquire for the collection objects that fit within the criteria from time to time specified in the Museum's policy documents.
- (e) To stimulate the community's appreciation, understanding, and enjoyment of and involvement in, cultural heritage, local history, natural history, science and technology by providing exhibitions, public programmes, learning and research opportunities and the efficient management and interpretation of its collections and resources.
- (f) To celebrate the rich cultural heritage of the Tairāwhiti region.
- (g) To use the resources of the museum to educate and enrich the lives of the people of New Zealand and promote the well-being of society.
- (h) To advance and promote cultural and scientific scholarship and research
- (i) To achieve user satisfaction by consultation, responsiveness and continuous improvement.
- (j) To exercise leadership through professionalism, innovation, and co-ordination with relevant organisations.

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*W. H. M. S. O. J. H. M.*  
*R. H. M. P. S. B.*

- (k) To provide maximum community benefit from the resources available.
- (l) To support other individuals, groups and organisations with similar objectives

## **5.0 Office**

- 5.1 The office of the Trust shall be at The Gisborne Museum of Art and History, Kelvin Park, Stout Street, Gisborne or such place as the Board may from time to time determine.

## **6.0 The Trust Board**

- 6.1 The Board shall consist of not fewer than six members and not more than twelve members of whom:

- (a) five may be appointed (and reappointed or replaced in accordance with clause 7 of this Deed) one each by the following Iwi:
  - (i) Te Aitanga-a-Mahaki
  - (ii) Ngai Tamanuhiri
  - (iii) Rongowhakaata
  - (iv) Te Aitanga-a-Hauiti
  - (v) Ngati Porou
- (b) four may be appointed (and reappointed or replaced in accordance with clause 7 of this Deed) by GMAC as long as that society shall be in existence but upon its winding up by the Friends of the Museum of Te Tairawhiti Incorporated or its successor or if there is no successor by the Gisborne District Council (or its successor).
- (c) two may be appointed by (and reappointed or replaced in accordance with clause 7 of this Deed) by the Gisborne District

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Council (or its successor) in consultation with the Friends of the Museum of Te Tairāwhiti Incorporated (or its successor).

- (d) the Director (ex officio) holding office pursuant to clause 13 of this Deed but subject to the restriction contained in clause 13.5 of this Deed.

6.2 The members of the Board appointed pursuant to clause 6.1 of this Deed shall be persons who, in the opinion of those appointing them, have the management skills, experience and professional judgment necessary for the achievement of the objectives as set out in clause 4 of this Deed, and the exercise of the duties, functions and powers set out in clause 12 of this Deed.

6.3 The members of the Board appointed pursuant to clause 6.1(c) or 6.1(d) of the deed need not be members of the Gisborne District Council (or its successor).

6.4 Providing at least six of the first appointments to be made under clause 6.1 of this Deed have been made by the Establishment Day the powers of the Board shall not be affected by any failure to appoint the remaining members.

#### 7.0 **Term of Office of Board Members**

7.1 Subject to clauses 7.4 and 7.5 of this Deed every Board Member shall be appointed for a term of 3 years.

7.2 Every Board Member shall be eligible for reappointment.

7.3 When the term of appointment of a members expires or ceases, that member, unless sooner vacating or deemed to be removed from office by clause 8.1 of this Deed, shall continue to hold office until:

- (a) that member is reappointed; or

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- (b) a successor to that member is appointed.

7.4 The following provisions shall apply with respect to the first Board Members appointed:

- (a) one of the members appointed by Iwi shall hold office for a term of 1 year, two shall hold office for a term 2 years and two shall hold office for 3 years.
- (b) two of the members appointed by GMAC (or its successor) shall hold office for a term of 2 years and two shall hold office for a term of 3 years.
- (c) one of the members appointed by the Gisborne District Council (or its successor) shall hold office for a term of 2 years and one shall hold office for a term of 1 year.
- (d) the term of each of the members so appointed pursuant to clause 6.1 of this Deed shall (unless they otherwise agree among themselves) be determined by lot.

7.5 The term of office of all Board Members shall for the purposes of this clause 7 be deemed to have commenced on the Establishment Day.

#### 8.0 Extraordinary vacancies

8.1 The term of appointment of a Board member shall cease and the vacancy so created shall be an extraordinary vacancy if that member:

- (a) dies;
- (b) becomes a member of the museum staff (except as its director);
- (c) is declared bankrupt;

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- (d) is absent without leave from three consecutive meetings of the Board;
  - (e) resigns office by written notice to the Board (but in that case, if the terms of resignation so permit, may continue to hold office until his or her successor is appointed);
  - (f) is convicted of an offence punishable by a term of imprisonment of 2 years or more;
  - (g) become subject to a compulsory treatment order under Part II of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or becomes a special patient as defined in Section 2(1) of that Act; or
  - (h) becomes a person in respect of whom an order is made pursuant to the Protection of Personal and Property Rights Act 1988.
- 8.2 An extraordinary vacancy shall be filled in the manner in which the appointment to the vacant office was originally made and the member so appointed shall hold office only for the residue of the term of the vacating member.
- 8.3 When an extraordinary vacancy occurs within 6 months before the date fixed for the next appointment to the office vacated, the appointing body may determine that the vacancy shall not be filled.
- 8.4 The powers of the Board shall not be affected by any vacancy in its membership.

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**9.0 Meetings of Board and appointment of chairperson**

- 9.1 The first meeting of the Board shall be called by the Director as soon as practicable after the Establishment Day and shall be chaired by the Director until a chairperson is elected from the members of the Board.
- 9.2 At the first meeting of the Board the members shall elect from their number a chairperson and a deputy chairperson.
- 9.3 The chairperson and deputy chairperson shall be elected annually and may stand for re-election.
- 9.4 The chairperson shall preside at all meetings of the Board at which he or she is present and shall have such other functions, powers, and duties as may be delegated to him or her by the Board from time to time.
- 9.5 The deputy chairperson shall act in place of the chairperson in any case where the chairperson is absent or for any reason unable to act. In the absence of the chairperson or deputy chairperson from any meeting the members present shall appoint one of their number to be the chairperson of that meeting.
- 9.6 The quorum necessary for the transaction of the business of the Board shall be fixed by the Board from time to time but unless so fixed shall be six.
- 9.7 Every question before the Board shall be decided in open voting by a majority of the votes recorded on it.
- 9.8 At any meeting of the Board the person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

**10.0 Procedural Rules**

- 10.1 Subject to the provisions of this Deed the Board shall regulate its own proceedings.

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M. K. P. R. H. A.  
J. S. B.

- 10.2 The Board shall as soon as practical, adopt such procedural rules governing its affairs and the conduct of its meetings as it considers appropriate.

**11.0 Remuneration of Board Members**

- 11.1 Members of the Board may be paid such remuneration as the Board from time to time considers appropriate, but in fixing the level of remuneration (if any) the Board shall have regard to the public purpose of its functions and the extent of public funding of its activities and observe the provisions of clause 17.2 of this Deed.

**12.0 Duties functions and powers of Trust Board**

- 12.1 The duties, functions, and powers of the Board shall be:
- (a) to assume and continue to hold ownership and possession of the Museum;
  - (b) to exercise trusteeship in accordance with the terms of the respective trusts in respect of all assets ownership of which has heretofore been vested in GMAC or which may in the future be vested in the Board, subject to any Trust;
  - (c) to adequately maintain, manage, and develop the Museum;
  - (d) to take such actions as it considers necessary or desirable to further the objectives set out in clause 4 of this Deed.
  - (e) to develop appropriate sources of additional income;
  - (f) to exercise the power of appointment of a Director in accordance with clause 13 of this Deed;

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*Ad Jem*  
*RTH PSB*

- (g) to establish for the guidance of the Director broad lines of policy consistent with the objectives of the Museum and paragraphs (a) to (f) of this clause;
- (h) to delegate, to committees or members of the Board, the Director, or other persons or bodies, such specific duties as the Board considers are best performed by those committees, persons, or bodies;
- (i) to manage prudently the finances of the Museum;

12.2 The Board shall have such powers, not inconsistent with this Deed, as are reasonably necessary for the effective performance of its functions.

### 13.0 Director

13.1 Subject to clause 13.2 of this Deed the Board shall appoint a Director who shall be Chief Executive of the Museum.

13.2 The Director for the time being of GMAC shall on the Establishment Day be deemed to have been appointed as the Director and Chief Executive of the Museum pursuant to clause 13.1 of this Deed upon the same terms and conditions as that Director was previously employed.

13.3 The Board shall, in making any appointment under clause 13.1 of this Deed have regard to the need to appoint a person who can discharge the specific responsibilities placed on the appointee and who will:

- (a) imbue the employees of the Museum with a spirit of service to the community; and
- (b) promote efficiency in the Museum; and
- (c) be a responsible manager; and

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- (d) maintain appropriate standards of integrity and conduct among the employees of the Museum; and
- (e) ensure that the Museum is a good employer; and
- (f) promote equal employment opportunities.

13.4 The Director shall be appointed for a term to be decided by the Board, but shall be eligible for a reappointment from time to time.

13.5 The Director shall be a member of the Board but shall not have the right to vote.

#### **14.0 Responsibilities of Director**

14.1 The Director shall be responsible to the Board for:

- (a) employing, on behalf of the Board, staff of the Museum and negotiating their terms and conditions of employment;
- (b) implementing the decisions of the Board and ensuring that the affairs of the Board are conducted in a transparent and accountable manner;
- (c) providing services and advice to members of the Board;
- (d) ensuring the effective, efficient, and economic management of the activities and planning of the Board in accordance with the objectives set out in clause 4 of this Deed;
- (e) ensuring that obligations imposed by the Treaty of Waitangi as they affect the Museum are taken into account;
- (f) carrying out such other functions as may be delegated to him or her by the Board.

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**15.0 Other Employees**

15.1 Subject to clause 17.2 of this Deed the Board shall have power from time to time to appoint such officers and employees as it considers necessary for the proper conduct of the affairs of the Trust at such salary, if any, and upon such terms and conditions of employment as the Board may in its absolute discretion approve.

15.2 All employees of GMAC on Establishment Day shall be employees of the Trust on the same terms and conditions as if they were continuing to be employed by GMAC.

**16.0 General employment principles**

16.1 The Board shall adopt, and the Director shall implement, a personnel policy that complies with the principle of being a good employer.

16.2 For the purposes of this section, a "good employer" is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring:

- (a) good and safe working conditions; and
- (b) an equal employment opportunities programme; and
- (c) the impartial selection of suitably qualified persons for appointment; and
- (d) recognition of:
  - (i) the aims and aspirations of Maori people; and
  - (ii) the employment requirements of Maori people; and

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- (e) opportunities for the enhancement of the abilities of individual employees; and
- (f) recognition of the aims and aspirations and the cultural differences of ethnic or minority groups; and
- (g) recognition of the employment requirements of women; and
- (h) recognition of the employment requirements of persons with disabilities.

16.3 In addition to the requirements specified in clause 16.1 and 16.2 of this Deed, the Board and the Director shall ensure that all employees maintain proper standards of integrity, conduct, and concern for the public interest.

16.4 Any salary or other remuneration paid to any person (including the Director or any other Board member) employed by the Board shall not exceed a reasonable salary or be in excess of market rates.

#### 17.0 **Application of funds**

17.1 Any income benefit or advantage derived by the Trust from whatever source shall be applied solely towards the promotion of the objectives of the Trust.

17.2 No Trust Board member or person associated with a Board member shall derive any income, benefit or advantage from the Trust where they can materially influence the payment of that income, benefit or advantage except where that income benefit or advantage is derived from:

- (a) professional services to the Trust in the course of business charged at no greater rate than current marked rates; or
- (b) interest on money lent at no greater rate than current market rates.

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*W.B.H.*  
*R.H.A.*  
*P.S.B.*  
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- 17.3 Funds entrusted to the Trust by gift or bequest shall be used as directed by the donor.

**18.0 Dissolution and winding up**

- 18.1 The Trust may be wound up pursuant to the provisions of the Charitable Trusts Act 1957.
- 18.2 If, after winding up or a dissolution of the Trust, and after the satisfaction of all the debts and liabilities of the Trust, there remain any funds or property whatsoever available, the same shall be paid or distributed in accordance with the requirements of the Charitable Trusts Act 1957 or any Court Order made pursuant to such Act.
- 18.3 The Board may at or before winding up or dissolution, make a recommendation as to the body or institution of a charitable nature to whom such funds or property should, in the opinion of the Board, be transferred, to the intent that such recommendation shall be available for consideration when distribution is being made pursuant to the preceding clause 18.2 of this Deed.

**19.0 Notices**

- 19.1 A notice may be served on behalf of the Trust upon any Board Member, either personally or by sending it through the post in a prepaid letter addressed to such member at the member's last known address. Any notice sent by post shall be deemed to have been served one day after posting.

**20.0 Alteration to this Deed**

- 20.1 This Deed may be altered, added to, rescinded, or otherwise amended by a



- (a) detract from the exclusively Charitable nature of the Trust or result in the distribution of its assets on winding up or dissolution for any purpose that is not exclusively Charitable;
- (b) be made to clauses 16, 17 or 18 of this Deed unless it is first approved in writing by the Commissioner of Inland Revenue as not affecting the charitable nature of the trust and its charitable status in accordance with New Zealand Revenue laws.

## 21.0 Specific powers of Trust Board

21.1 In addition to the powers implied by the general law of New Zealand and contained in the Trustee Act 1956, the Charitable Trusts Act 1957 and clause 12 of this Deed, the Trust Board may at any time and from time to time exercise all or any of the following powers to further the charitable purposes of the trust:

- (a) distribute any part of the trust property for purposes which are charitable according to the law of New Zealand or to entities whose only purposes are charitable according to the law of New Zealand; and
- (b) use the trust property in payment of the costs and expenses of the Trust, including the employment of professional advisers, agents, officers, staff and independent contractors; and
- (c) purchase, take on lease or in exchange or hire or otherwise acquire any land or personal property and any rights or privileges and to sell, exchange, bail or lease, with or without option of purchase, or in any manner dispose of any such property, rights or privileges as aforesaid; and
- (d) carry on any business alone or in partnership provided that it is declared that in the carrying on of any business under these

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presents and in the exercise of any power authorising the remuneration of trustees no benefit whether capital or income of any kind shall be afforded to, or received, gained, achieved or derived by any of the persons specified in sCB4(1)(e) of the Income Tax Act 1994, or any enactment in amendment thereof or in substitution therefore, where that person is able, by virtue of that capacity as such person specified therein, in any way (whether directly or indirectly) to determine, or to materially influence in any way the determination of, the nature or the amount of that benefit or advantage or that income or the circumstances in which it is or is to be so received, gained, achieved, afforded, or derived, except as specifically exempted by that section; and

- (e) invest surplus funds as the Trust Board thinks fit; and
- (f) borrow or raise money from time to time with or without security and upon such terms as to priority and otherwise as the Trust Board sees fit; and
- (g) lend money for purposes which are charitable within the law of New Zealand either directly or to other entities whose purposes or object are exclusively charitable within the law of New Zealand either at interest or without interest and either with or without security or adequate security; and
- (h) promote and or form either alone or in conjunction with others any entity whose purposes are exclusively charitable within the law of New Zealand; and
- (i) do such things as may from time to time be necessary or desirable to enable the Trust Board to give effect to and to attain the charitable purposes of this Trust; and

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*Ad Penn*  
*RTHA PSB*



- (j) guarantee the repayment of monies or the performance of any obligation of any entities whose purposes are exclusively charitable within the law of New Zealand.

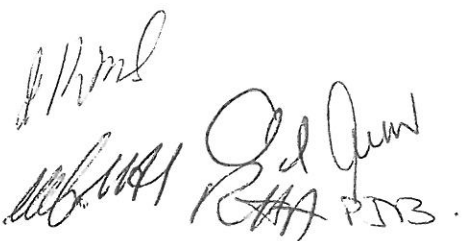
## 22.0 Limitation of Board Members' Liability

- 22.1 The Trust Board and each of its members while acting in good faith in the execution of this Trust shall not be answerable personally for any loss which may be occasioned by the exercise or the failure to exercise all or any of their rights, powers, authorities or discretions and the Trust shall indemnify them in respect of all costs expenses and proceedings incurred by them or brought against them in respect of anything done by them or omitted to be done by them as Trust Board members..

In witness whereof this Deed is executed by each of the parties whose name, address and description is set out in the following schedule.

### SCHEDULE

Name, Address and Description	Signature	Witness
Erena Nepe Public Servant Gisborne		
Pamela Joy Bain Archeologist Gisborne		SB Gines PA, Gisborne
Ingrid Riria Marie Searancke Retired Gisborne		Naomi Mauvire Administration Officer GISBORNE
Sheryl Jean Smail Chief Executive Gisborne		



Michael Dawson Chrisp  
Retired Solicitor  
Gisborne

*M. D. Chrisp*

*Fora Ciro*  
*Solicitor Gisborne*

Waka (Libby) Kerr  
Health Worker  
Gisborne

Ann McGuire  
Polytechnic Tutor  
Gisborne

*Ann McGuire*

*Naomi Mauvirene*  
*Administration Officer*  
*GISBORNE*

Sandy Adsett  
Polytechnic Tutor  
Gisborne

*Sandy Adsett*

*Nateia Lupara.*

*Departmental Secretary*  
*Gisborne.*

Temple Isaacs  
Retired  
Gisborne

Allan Colquhoun de Lautour  
Chartered Accountant  
Gisborne

*A. Colquhoun de Lautour*

*W. Quinn*  
*clerk Gisborne*

Michael Andrew Spedding  
Museum Director  
Gisborne

*M. A. Spedding*

*Administration*  
*Office*  
*GISBORNE*