



# TRUST DEED

[Date]

THIS TRUST DEED adopted by Special Resolution of Delegates at the Annual General Meeting of **UNITED FIRE BRIGADES' ASSOCIATION OF NEW ZEALAND INCORPORATED** (the **Association**) held on the [date] is the Trust Deed of **UNITED FIRE BRIGADES' ASSOCIATION BENEVOLENT FUND**, a Trust Board incorporated under the Charitable Trusts Act 1957 on 3<sup>rd</sup> day of August 1990 under number 454018 and registered under the Charities Act 2005 on 30 June 2008 under number CC33712.

## BACKGROUND

- A. The **UNITED FIRE BRIGADES' ASSOCIATION BENEVOLENT FUND** was established by the Association in 1990 to provide assistance in time of need to enrolled members of fire brigades which were members of the Association.
- B. The Trust Board has, since its establishment, solicited funding from third parties, and acquired property and investments which are held upon charitable trusts for the purposes set out in this Deed.
- C. The Association wishes to adopt the following categories of eligibility for assistance as a beneficiary of the United Fire Brigades' Association Benevolent Fund under this Deed:
  - (i) general eligibility, which is open to any Enrolled Member of the Association who pays, and has fully paid up as at the date of any claim, Subscription Fees to the Association; and
  - (ii) specific eligibility for funded events, which is to open to any individual who is an enrolled member of a fire brigade in New Zealand whether or not that fire brigade is a Member of the Association.
- D. The Association wishes to adopt this Deed in substitution for the Deed dated 28 October 2017 so that this Deed will govern the management of the United Fire Brigades' Association Benevolent Fund.

## 1 INTERPRETATION

In this Deed, unless inconsistent with the context:

**Act** means the Trusts Act 2019 as amended or replaced from time to time;

**Association** means the United Fire Brigades' Association of New Zealand Incorporated, an incorporated society registered under the Incorporated Societies Act 1908 (or any replacement legislation) and under the Charities Act 2005 (registration number CC27476);

**Association Board** means the Board of the Association;

**Association's Rules** means the rules of the Association as amended or replaced from time to time;

**Beneficiary** and "**Beneficiaries of the Trust**" means those individuals eligible to receive benefits from the Fund at the discretion of the Trust Board pursuant to Clause 5 of this Deed;

**Brigade Member** means a group of persons that are identified and recognised by the Association Board as being organised to carry out or support FENZ's principal objectives and main or additional functions as outlined in the FENZ Act that has been admitted as a member of the Association pursuant to the Association's Rules and any Brigade Member admitted under the Superseded Rules

**Chief Executive** means the person for the time being appointed to that role in accordance with Association's Rules;

**Delegate** means an Enrolled Member elected to represent a Brigade Member or an Industry and Defence Member at an annual general meeting or a special meeting of the Association ;

**Enrolled Member** means a person enrolled in a Brigade Member or an Industry and Defence Member;

**FENZ** means Fire and Emergency New Zealand as defined in section 8 of the FENZ Act;

**FENZ Act** means the Fire and Emergency New Zealand Act 2017, as amended or replaced from time to time;

**Fund, Trust Fund and Trust Property** means the property and investments held by the Trustees upon the Trusts declared in this Deed;

**Industry and Defence Member** means a group of persons recognised under section 69 of the FENZ Act, and defence force brigades as defined in section 6 of the FENZ Act that has been admitted as an Industry and Defence Member under the Association's Rules;

**Life Member** means a person who has been elected as a life member of the Association in accordance with Association's Rule 4.3 in accordance with any Superseded Rules s;

**Member** means any person or organisation admitted as a member of the Association pursuant to the Association's Rules;

**President** means the president for the time being of the Association;

**Secretary** means the secretary of the Trust from time to time;

**Special Resolution** means a resolution approved by a majority of not less than 75% of the Trustees;

**Spouse** shall include persons who the Trustees consider to be or have been in a de facto relationship, a same sex relationship, or a civil union with a Beneficiary or a deceased Beneficiary;

Superseded Rules means any previous constitution or rules of the Association

**Subscription Fees** means the annual membership fees of the Association determined under the Association's Rules from time to time;

**Trust** means the charitable Trust administered under this Deed and registered as **UNITED FIRE BRIGADES' ASSOCIATION BENEVOLENT FUND**;

**Trustees or Trust Board** means the board of trustees of the Trust for the time being; and

**Vice President** means the vice president for the time being of the Association.

Words importing the singular shall include the plural and vice versa and words importing the feminine shall include the masculine and words importing persons shall also include companies, incorporated societies and corporations.

For the avoidance of doubt, references to payments and grants made from the Fund to any Beneficiary under this Deed can include in-kind payments.

## **2 OBJECTS AND PURPOSES**

- 2.1 To manage the Trust Property and to apply the funds forming part of the Trust Property wholly to the charitable purposes within New Zealand defined in this part of this Deed.
- 2.2 To pay, apply, or appropriate the whole or any part of the income or capital of the Fund (in specie or otherwise) for the objects in this Deed.
- 2.3 To provide assistance at a time of hardship to any Beneficiary of the Trust, or to the spouse of a Beneficiary (including any person with whom the Beneficiary is or was in a de facto relationship) and on the death of a Beneficiary to a dependent child of such Beneficiary.

- 2.4 To provide when required guidance and advice to Beneficiaries of the Trust and their dependents.
- 2.5 To make payments and grants from the Fund for the temporary relief from distress and hardship of any Beneficiary of the Trust who may be in need and such other persons determined by the Trust Board as may be dependent upon or in any way connected with such Beneficiary.
- 2.6 To accept the ownership, custody, control, and management of any real or personal property either generally or for any special purpose connected with the trusts created by this Deed.
- 2.7 To do any other thing which in the opinion of the Trust Board is conducive to the attainment of any of the objects now declared.
- 2.8 To assist in such way as the Trust Board thinks fit whether by gift or loan or otherwise any object or activity which in the opinion of the Trust Board will advance the objects in this Deed.
- 2.9 The Trust Board will pursue the above-mentioned objects in New Zealand and not elsewhere.

### **3 POWERS AND DUTIES**

- 3.1 To advance its objects the Trust Board may exercise the following powers in addition to all other powers conferred by law:
  - 3.1.1 To purchase, lease, exchange, hire, or acquire and to sell, surrender, mortgage, charge, manage, subdivide, develop, and deal with every kind of real or personal property,
  - 3.1.2 To construct, maintain, restore, repair, alter, and replace and equip any buildings or other structures.
  - 3.1.3 To borrow or raise money and secure the payment of monies borrowed in such manner as the Trust Board shall think fit and in particular by the issue of debentures or by way of mortgage charged upon any of the Trust Property.
  - 3.1.4 To apply the funds of the Trust Board in furthering its objects and pending such application to invest such funds in any manner authorised by the Trust Board. When administering the Fund or exercising any power to invest Trust Property, the Trustees may exercise any power or discretion notwithstanding that any act or omission in the exercise of that power or discretion would be contrary to the principles governing the investment of trust funds, and the default duties in sections 29 and 30 of the Act are modified accordingly.
  - 3.1.5 To employ such staff and to engage such professional services as the Trust Board shall think desirable or necessary for the advancement of the objects of the Trust.
  - 3.1.6 To effect insurances in respect of any undertaking, activity, or assets of the Trust.
  - 3.1.7 To indemnify any person or company against debts, liabilities, claims and proceedings incurred on behalf of, or in the course of, providing any services for the Trust Board and for this purpose to charge any of the assets of the Trust.
  - 3.1.8 To guarantee the payment or repayment of moneys and performance of other obligations.
  - 3.1.9 To carry on any business.
  - 3.1.10 To appoint one or more agents and define their powers and functions.
  - 3.1.11 To commence, conduct or defend any legal proceedings.

- 3.1.12 To make, amend and rescind rules and regulations for the conduct and management and administration of the affairs of the Trust in order to give effect to the objects of the Trust, and in exercising this power, to delegate any of its powers to a committee or committees consisting of such member or members of the Trust Board as it thinks fit and any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Trust Board.
- 3.1.13 To exercise the same powers in relation to the Trust Property as it would if it were the absolute owner beneficially entitled to it provided, however that the Trust Board shall not be authorised to do or permit any act which would cause the Trust created by this Deed to cease to be a charity registered under the Charities Act 2005.
- 3.1.14 To lend the whole or any part of the Trust Property to any person or persons or company with or without interest and with or without security and upon such other terms and conditions as the Trust Board in its discretion thinks fit.
- 3.1.15 To make a gift or gifts to any person or company for the purpose of furthering the objects of the Trust or to assist other charitable organisations for charitable purposes within New Zealand.
- 3.1.16 To open accounts either on its own behalf or jointly with others at any Bank and to overdraw any such account with or without giving security and to make arrangements with any Bank for any two or more members of the Trust Board or any one Member together with another person named in writing by the Trust Board to operate on any account from time to time subsisting at any bank and to operate a working account of not less than \$5,000.00 at any such bank.
- 3.1.17 To reimburse all expenses incurred by any member of the Trust Board in connection with the operation of the Fund.
- 3.1.18 Generally, to carry out such other functions as the Trust Board may consider necessary for the advancement of the objects of the Trust.
- 3.2 The default duties as set out in sections 29 to 38 of the Act are excluded to the extent such duties are inconsistent with any express provision of this Deed.

#### **4 CONSTITUTION AND MEMBERSHIP OF THE BOARD**

- 4.1 The Trust Board shall comprise eight (8) members all of whom shall be permanent residents of New Zealand.
- 4.2 The members of the Trust Board shall be:
  - 4.2.1 Five (5) members who shall be appointed by the Association Board following nomination in writing by the Trustees;
  - 4.2.2 The President for the time being;
  - 4.2.3 The Vice President for the time being;
  - 4.2.4 The Chief Executive for the time being, who shall also act as Secretary.
- 4.3 The office of a member of the Trust Board shall become vacant on the happening of any of the following events:
  - 4.3.1 The death of the member; or
  - 4.3.2 The bankruptcy of the member; or
  - 4.3.3 The mental incapacity of the member; or

- 4.3.4 The resignation of the member by notice in writing to the Association Board and the Trust Board; or
  - 4.3.5 The removal of the member by Special Resolution of the Trust Board and confirmation by the Association Board.
- 4.4 Whenever a vacancy in the office of a member of the Trust Board shall occur pursuant to clause 4.3 such vacancy shall be filled in the manner set out in clause 4.2.1.

## **5 BENEFICIARIES OF THE TRUST**

- 5.1 The following persons shall be Beneficiaries of the Trust and eligible at the discretion of the Trust Board to receive assistance from the Fund:
- 5.1.1 For general claims, any Enrolled Member of the Association who pays, and has fully paid up as at the date of any claim, Subscription Fees to the Association;
  - 5.1.2 For claims relating to specific funded events, any individual who is a member of a fire brigade in New Zealand, whether or not that fire brigade is a Member of the Association;
  - 5.1.3 Any other person who is determined by a Special Resolution of the Trust Board to have made a significant contribution to a fire brigade in New Zealand;
  - 5.1.4 The Spouse or dependent child of an Enrolled Member; and
  - 5.1.5 Any Life Member of the Association.

## **6 PROCEEDINGS OF THE BOARD**

- 6.1 The Trust Board shall meet at such times and places as it determines (either physically, or via electronic means) and shall elect a Chairperson from amongst its members at each Annual Meeting.
- 6.2 The Chairperson, elected by members of the Trust Board for a one-year term, renewable, shall preside at all meetings of the Trust Board at which he is present. In the absence of the Chairperson from any meeting the members present shall appoint one of their number to preside at that meeting.
- 6.3 The Trust Board shall meet not less than once a year.
- 6.4 The quorum of the Trust Board shall consist of not less than three members of the Trust Board. The Secretary shall give not less than seven days' notice in writing to all members of the Trust Board, specifying date, time and place of meeting in addition to the general nature of the business to be conducted.
- 6.5 Questions arising for decision by the Trust Board shall be decided by a majority of votes of the members present at the meeting and in the case of equality of voting the person chairing the meeting shall have a second or casting vote, and the default duty in section 38 of the Act is modified accordingly.
- 6.6 The Trust Board shall keep minutes of all its proceedings in relation to Trust affairs and the production of any minutes so recorded shall be prima facie evidence of the matters referred to in that minute having been authorised by the Trust Board.
- 6.7 The Secretary shall be responsible for:
- 6.7.1 the keeping of minutes of all meetings. Such minutes shall be signed by the Chairman of the meeting at which the proceedings were held or by the Chairman of the next succeeding meeting, as a true record of that meeting; and

- 6.7.2 filing any notices and documents required to be filed with Charities Services and the Registrar of Incorporated Societies of any change to this Deed, the Trust or Trustees as soon as practicable, and in any event within the timeframes required by the Charities Act 2005 and/or the Charitable Trusts Act 1957.
- 6.8 The acts and decisions of the Trust Board shall not be deemed to be invalid by reason of the fact that the number of members of the Trust Board is less than the number required by clause 6.4 of this Deed.
- 6.9 No member of the Trust Board shall incur any personal liability (except in the event of wilful negligence or fraud) in connection with any act done in relation to the affairs of the Trust, the Trust Property or any act done in relation to any of the business transactions of the Trust.
- 6.10 Any Trustee who is in any way interested in any contract or arrangement entered into by or on behalf of the Trust Board (**Interest**) may still exercise any power or discretion provided that:
- 6.10.1 he or she must first disclose such Interest to the other Trustees prior to any discussion or deliberation of the matter; and
- 6.10.2 if determined by a simple majority of the other Trustees (excluding the interested Trustee), that the interested Trustee shall not be entitled to vote upon or participate in any consideration of the matter by the Trust Board, then that Trustee must not take part in the relevant deliberations and must not exercise the relevant power or discretion,
- and the default duty in section 34 of the Act is modified accordingly.
- 6.11 The Trust Board shall have a common seal which shall not be affixed to any instrument except by the authority of a resolution of the Trust Board and in the presence of two Trustees and those Trustees shall sign every instrument to which the common seal of the Trust Board is so affixed in their presence.
- 6.12 The Chairman of the Trust Board or any two members of the Trust Board may at any time require the Secretary to convene an extraordinary general meeting.
- 6.13 The following provisions shall apply to all electronic meetings of the Trust Board.
- 6.13.1 Each of the members of the Trust Board taking part in such a meeting must be able to hear each of the other members taking part throughout the meeting;
- 6.13.2 At the commencement of the meeting each member of the Trust Board must acknowledge his or her presence for the purpose of a meeting of the Trust Board to the other members taking part; and
- 6.13.3 A member of the Trust Board may not leave the meeting by disconnecting unless he or she has previously obtained the consent of the meeting and a member shall be conclusively presumed to have been present and to have formed part of the quorum at all times at such meeting unless he or she has previously obtained the consent of the meeting to leave the meeting. Neither the meeting nor any business conducted at the meeting shall be invalidated if a member does leave a meeting conducted in this manner without the consent of the meeting.
- 7 INCOME, BENEFIT OR ADVANTAGE TO BE APPLIED TO CHARITABLE PURPOSES**
- 7.1 **Application:** All income, benefit or advantage shall be applied for the charitable purposes of the Trust.
- 7.2 **Influence:** no member or person associated with a member of the Trust Board shall derive any income, benefit or advantage from the Trust where they can materially influence the

payment of the income, benefit or advantage except where that income, benefit or advantage is derived from:

7.2.1 Professional services to the Trust rendered in the course of business charged at no greater rate than current market rates; or

7.2.2 interest on money lent at no greater rate than current market rates.

7.3 Trustees shall be entitled to receive all such professional and other charges for work done in relation to the administration or execution of the Trust as he or she would have been entitled to had he or she not been a Trustee, as determined by the Trust Board, and the default duties in sections 36 and 37 are modified accordingly.

## **8 ANNUAL REPORT**

8.1 Members of the Trust Board shall attend the Annual General Meeting of the Association when the annual report and financial statement of the Trust Board shall be presented.

## **9 AUTHORISATION OF PAYMENTS**

9.1 No payment to a Beneficiary will be made from the Fund without the approval of the Trust Board provided that the Trust Board may authorise a sub-committee to deal with routine matters.

9.2 All payments shall be by electronic banking and shall be authorised by the Trust Board.

9.3 Proper books of account shall be kept to record all financial transactions of the Fund. In conjunction with the Association financial year the Secretary shall cause a Financial Statement to be prepared in the form required by Charities Services.

## **10 AMENDMENT OF THE CONSTITUTION**

10.1 This Trust Deed may be amended by a Special Resolution of Delegates present at any Annual General Meeting of the Association, provided however that no amendment shall be made which would:

10.1.1 Negate impeach limit or set aside the Trust Objects and Purposes set out in Clause 2 of this Deed; or

10.1.2 Result in the Trust losing its approval as a charitable entity under the Charities Act 2005 or any amendment or any statutory provision in substitution thereof.

## **11 WINDING UP**

11.1 The Trust may be wound up by a Special Resolution of Delegates present at a Special General Meeting of the Association called for the purpose.

11.2 In the event of the winding up of the Trust, subject to the directions of the High Court pursuant to Section 27 of the Charitable Trusts Act 1957, all surplus assets are to be applied for such charitable purposes as shall be approved by the Association and the Trust Board and be as close as possible to the objects and purposes of the Trust.

## **SIGNATURES**

SIGNED BY

**Alan Cockburn**

) \_\_\_\_\_



in the presence of: ) Alan Cockburn

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness name

\_\_\_\_\_  
Witness occupation

\_\_\_\_\_  
Witness town of residence

SIGNED BY )  
**Bryan Styles** )

in the presence of: ) \_\_\_\_\_  
Bryan Styles

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness name

\_\_\_\_\_  
Witness occupation

\_\_\_\_\_  
Witness town of residence

SIGNED BY )  
**Alan Burgess** )

in the presence of: )

\_\_\_\_\_  
Alan Burgess

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness name

\_\_\_\_\_  
Witness occupation

\_\_\_\_\_  
Witness town of residence

SIGNED BY )  
**Graeme Booth** )

in the presence of: )

\_\_\_\_\_  
Graeme Booth

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness name

\_\_\_\_\_  
Witness occupation

\_\_\_\_\_  
Witness town of residence

SIGNED BY )  
**Ray Topia** )

in the presence of: )

\_\_\_\_\_  
Ray Topia

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness name

\_\_\_\_\_  
Witness occupation

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Witness town of residence