

**ASSISTIVE TECHNOLOGY ALLIANCE NEW ZEALAND
TRUST**

TRUST DEED

MAY 2003

THIS DEED is made the Fifth day of May 2003

PARTIES: **Fraser Scott; Ann Smail; Jim Palmer; Carolyn Drew; Viviane Mulgrew**
(in this deed referred to as “the Trustees”).

BACKGROUND

- A The parties to this deed wish to establish a charitable trust (the “Trust”) for the purposes described in Clause 4 of this deed.
- B The parties have agreed to enter into this deed specifying the purposes of the Trust and providing for its control and government (“Deed”).
- C The parties have agreed to settle by way of an initial gift to the Trust to establish the Trust, and have paid at the time of execution of this Deed, \$10.00 to be held by them in their capacity as Trustees.

THIS DEED RECORDS:

1. NAME

The name of the Trust will be the **ASSISTIVE TECHNOLOGY ALLIANCE NEW ZEALAND TRUST**.

2. OFFICE

The office of the Trust will be in such place in New Zealand as the Board may from time to time determine

3. DECLARATION OF TRUST

The Trustees will hold the sum of \$10.00 and any further sum or sums or any type of property or interest whatsoever received by them whether by way of donation, bequest, gift or otherwise (“the Trust Fund”) upon the Trusts and with the powers set out in this Deed.

4. PURPOSES

- 4.1 The Trustees may carry out any purpose recognised by law as charitable and for the public benefit

4.2 Without limitation the charitable purposes of the Trust will include the following:

- (a) to raise awareness of assistive technology in the community;
- (b) to promote excellence in assistive technology practice in New Zealand;

for the benefit of people with disabilities and their families.

4.3 In pursuit of these purposes the Trust will, amongst other things:

- (a) seek funding support and sponsorship to promote the Trust's purposes;
- (b) act as navigator and to initiate links nationally and internationally to promote the Trust's purposes;
- (c) foster and develop relevant communication, media and research initiatives, and technologies to promote the Trust's purposes.

4.4 The benefit of the Trust is to be limited to New Zealand, and will not be for the private pecuniary benefit of any individual person or commercial or industrial company or society.

5. **NOMINATING MEMBER**

Any person eighteen (18) years or over may apply to become a nominating member of the Trust. Admission as a nominating member is:

- (a) at the sole discretion of the Board; and
- (b) dependent on the payment of an annual subscription on 1st day of January of each calendar year. The annual subscription is to be set by the Board prior to the end of each financial year;

("Nominating Member")

6. **TRUSTEES TO INCORPORATE AS A BOARD**

Upon the execution of this Deed the Trustees will make application for incorporation as a Board pursuant to the provisions of Part II of the Charitable Trusts Act 1957 under the name **ASSISTIVE TECHNOLOGY NEW ZEALAND TRUST BOARD**.

7. **NUMBER AND TENURE OF TRUSTEES**

7.1 The Board of Trustees (the "Board") will consist of not less than five (5) nor more than seven (7) members. The initial members will be the signatories to this Deed.

7.2 Term of the Board

Unless otherwise specified in this Deed each member of the Board will hold office for a term of not more than two (2) years or until he/she:

- (a) dies;
- (b) is declared bankrupt;
- (c) is found to be mentally disabled within the meaning of the Mental Health Act 1969;
- (d) indicates in writing that she or he wishes to resign from the Board; or
- (e) has been absent for two consecutive Board meetings without obtaining leave of absence from the Chairperson.

7.3 Retirement of initial Board members

The initial Trustees will retire on the following rotation:

- (a) at the first annual general meeting:
 - (i) Ann Smaill; and
 - (ii) Fraser Scott;
- (b) at the second annual general meeting:
 - (i) Carolyn Drew; and
 - (ii) Jim Palmer; and
 - (iii) Viviane Mulgrew

will retire;

Any retiring member will be eligible for re-appointment, if nominated by a Nominating Member for a maximum of two (2) further consecutive terms to a total of not more than six (6) consecutive years.

- 7.4 If the office of Trustee becomes vacant pursuant to clause 7.2 before the end of their term and a new Trustee is appointed by the Board, the new Trustee will be appointed for the remainder of the departing Trustee's term.
- 7.5 The Board may at any time appoint up to two (2) further Trustees for terms which will expire no later than the time when the terms of the nominating member of the Board retires.
- 7.6 The Board may by a motion decided by a two-thirds majority of votes terminate a member's membership of the Board if it believes that such action is in the best interest of the Trust.

8. ELECTION OF TRUSTEES

- 8.1 Any candidate for election as Trustee will be nominated in writing by a Nominating Member and lodged with the secretary not less than fourteen (14) days prior to the annual general meeting where the election of trustees is to take place.
- 8.2 Notwithstanding the provisions of clause 8.1 in the event that there are insufficient nominations to fill the number of vacancies for the office of Trustee nominations for the office of Trustee may be made at the annual general meeting
- 8.3 The secretary will notify the Nominating Members of nominees at least seven (7) days prior to the annual general meeting.

9. PROCEEDINGS OF THE BOARD

- 9.1 The Board will meet at least four (4) times each year for any meetings at such times as they determine. The place of such meetings will be determined by the Board. Meetings may be held by the Board members being present in person or by communication by teleconference, email, or facsimile transmission.
- 9.2 At the first meeting of the Board the Board will elect a chairperson who will chair the meetings until such time as a majority of the Board determine that a new chairperson should be elected, or until the chairperson retires as a Trustee, or until the chairperson retires as chairperson by giving at least one months written notice of his or her intention to do so.
- 9.3 At the first meeting of the Board the Board members will appoint a secretary. This office may or may not be a Trustee, and may be subject to change from time to time as determined by the Board.
- 9.4 The chairperson will preside at all meetings of the Board at which he or she is present. In the absence of the chairperson from any meeting the Board members present will appoint one of their number to preside at that meeting.
- 9.5 At any meeting of the Board a majority of the members will form a quorum, and no business will be transacted unless a quorum is present either in person or by contact as specified in clause 9.1.
- 9.6 All questions before the Board will be decided by consensus. However, where a consensus decision cannot be reached on a question, it will, unless otherwise specified in this Deed, be put as a motion to be decided by a majority of votes. If the voting is tied, the motion will be lost.
- 9.7 The secretary will keep minutes of all Board meetings. All minutes will be approved by the Board at the meeting following that to which the minutes relate, and will be signed off by the chairperson presiding at the meeting to which the minutes relate.

10. **INTERESTED TRUSTEES**

- 10.1 A Board member who directly or indirectly has an interest in any proposed contract, arrangement or dealing with the Board must disclose the nature of that interest at a meeting of the Board and that disclosure must be recorded in the minutes of that meeting.
- 10.2 A Board member required to disclose an interest may be counted in a quorum but must not vote in respect of the matter in which the Board member is interested provided that the Board member may be expressly permitted to vote by a unanimous vote of the other Board members present, given after the disclosure of the interest.
- 10.3 If any question arises at any meeting as to the materiality of a Board member's interest or as to the entitlement of any Board member to vote and any such question is not resolved by the Board member voluntarily agreeing to abstain from voting, the question must be referred to the chairperson and his or her ruling in relation to any such Board member will be final.
- 10.4 Subject to clause 10.2, any Board member who is directly or indirectly employed by the Board to provide specific services will be entitled to charge all usual and proper reasonable fees at the accepted market rate for such professional and other services performed on behalf of the Board.

11. **POWERS**

11.1 General

In addition to the powers implied by the general law of New Zealand or contained in the Trustee Act 1956 and/or the Charitable Trusts Act 1957 the Board will be vested with all powers of a natural person to do all things and to carry out all acts in furtherance of and for the purposes of the implementation of the purpose and objectives of the Trust.

In exercising such powers the Board will have proper regard to and take into account any reasonable directions of the Nominating Members.

11.2 Employment

Under rule 11.1 the Board may employ as agents, officers and staff persons who are members of the Board.

11.3 New Zealand

The activities of the Trust will be limited to New Zealand.

12. **POWER TO DELEGATE**

- 12.1 The Board may from time to time appoint any committee and may delegate any of its powers and duties to any such committee or to any person, and the committee or person, as the case may be, may without confirmation by the Board exercise or perform the delegated powers or duties in the like manner and with the same effect as the Board could itself have exercised or performed them.

- 12.2 Any committee or person to whom the Board has delegated powers or duties will be bound by the charitable terms of the Trust.
- 12.3 Every such delegation will be revocable at will, and no such delegation will prevent the exercise of any power or the performance of any duty by the Board members.
- 12.4 It will not be necessary that any person who is appointed to be a member of any such committee, or to whom any such delegation is made, is a Trustee.

13. **ANNUAL GENERAL MEETING**

- 13.1 The annual general meeting of the Nominating Members will be held not less than six (6) months after the conclusion of the financial year.
- 13.2 The election of Trustees will be dealt with at the annual general meeting.

14. **FINANCE**

- 14.1 The financial year of the Trust will be from the 1st day of July to the 30th day of June in any year.
- 14.2 Proper financial accounts will be maintained with the regular reporting to the Board, in a format determined by the Board.
- 14.3 The Board will, as soon as practicable after the end of every financial year of the Trust, have the accounts of the Trust for that financial year audited by a practicing chartered accountant appointed for that purpose.
- 14.4 All monies received by or on behalf of the Trust will be paid to the credit of the Trust with a bank or savings account from time to time nominated by the Board.
- 14.5 All payments, except petty cash payments, will be paid by cheque from a bank account of the Trust and signed by a minimum of two (2) signatories from a list of signatories determined from time to time by the Board.

15. **INCOME, BENEFIT OR ADVANTAGE TO BE APPLIED TO CHARITABLE PURPOSES**

- 15.1 Any income, benefit or advantage will be applied to the charitable purposes of the Trust.
- 15.2 No person associated with the Trust will 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:
 - (a) professional services to the Trust rendered in the course of business at no greater rate than current market rates; or
 - (b) interest on money lent at no greater rate than current market rates.

15.3 Any salary or wages paid by the Trust will be:

- (a) for services actually rendered; and
- (b) at a reasonable rate and relative to market value.

16. **COMMON SEAL**

The Board will have a Common Seal which will be kept in the custody of the secretary, or such other officer as will be appointed by the Board and will be used only as directed by the Board. When affixed to any document the Common Seal must be accompanied by the signature of two (2) Board members.

17. **ALTERATIONS OF RULES AND RESETTLEMENT OF TRUST**

The Board may by consensus or pursuant to a motion decided by a two thirds majority of votes, by supplemental deed make alterations or additions to the terms and provisions of this deed provided that no such alteration or addition will:

- (a) take effect unless it is confirmed by majority resolution of the Trustees; or
- (b) 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; or
- (c) be made to rules 4, 15 or 17 unless it is first approved in writing by the Department of Inland Revenue.

18. **WINDING UP AND DISPOSITION OF SURPLUS ASSETS**

On the winding up of the Trust or on its dissolution by the Registrar, all surplus assets after the payment of costs, debts and liabilities will be given to such exclusively charitable organisation or organisations within New Zealand of a similar nature to the Trust as the Trustees by majority decide, to be used for exclusively charitable purposes, or, if the Trustees are unable to make such decision by a majority, will be disposed of in accordance with the directions of the High Court pursuant to section 27 of the Charitable Trusts Act 1957.

19. **INDEMNITY**

No Trustee will be liable for any loss by the Trust other than a loss attributed to his or her dishonesty or the wilful commission of any act known to be a breach of trust. Each Trustee will be indemnified by the Trust against all costs reasonably incurred in successfully defending any proceedings or claims in his or her capacity as a Trustee of the Trust.

IN WITNESS WHEREOF these presents have been executed the day, month and year first hereinbefore written.

SIGNED by the said)
FRASER SCOTT)
as Trustee in the presence of:)

Witness: _____

Occupation: _____

Address: _____

SIGNED by the said)
ANN SMALL)
as Trustee in the presence of:)

Witness: _____

Occupation: _____

Address: _____

SIGNED by the said)
JIM PALMER)
as Trustee in the presence of:)

Witness: _____

Occupation: _____

Address: _____

SIGNED by the said)
CAROLYN DREW)
as Trustee in the presence of:)

Witness: _____

Occupation: _____

Address: _____

SIGNED by the said)
VIVIANE MULGREW)
as Trustee in the presence of:)

Witness: _____

Occupation: _____

Address: _____