

Trust Deed for:
The Christchurch Heroes
LGBTI+ Inclusive Sports Teams
Charitable Trust

THIS DEED is made the 10th day of December 2018

BETWEEN

Rāwā Karetai of 19/245 Montreal Street, Christchurch Central, Christchurch 8013 -
Christchurch Heroes Manager;

Stephen Carr of 68 Glenmark Drive, Waipara, Hurunui 7483 – Christchurch Heroes
Webmaster;

Andrew Rusbatch of 2 Mathias Place, Kaiapoi, Canterbury 7630 – Co-Manager of Christchurch
Heroes Rugby; and

Jeremy Elgin of 6/518 Tuam Street, Phillipstown, Christchurch 8011, Christchurch Heroes
Webmaster.

WHEREAS:

- A. The parties to this Deed wish to establish a charitable trust (in this Deed referred to as "the Trust") for the purposes described in Clause 3 of this Deed, and
- B. The parties to this Deed have agreed to contribute the sum of one dollar each to establish the Trust; and
- C. They have agreed to enter this Deed specifying the purposes of the Trust and providing for its control and government.

1. NAME

The name of the Trust is The Christchurch Heroes, LGBTI+ Inclusive Sports Teams, Charitable Trust, hereafter called 'The Trust' or the 'Christchurch Heroes'.

2. DEFINITIONS

In this Trust Deed, unless inconsistent with the context, the following terms shall have the identified definitions:

- 2.1 'Rainbow People' refers to people of minority sexual orientations, gender identities, and expression including but not limited to the following:

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- a) bisexual;
 - b) fa'afafine;
 - c) gay;
 - d) gender-queer;
 - e) homosexual;
 - f) intersex;
 - g) lesbian;
 - h) queer;
 - i) takatapui;
 - j) tangata ira tāne;
 - k) trans;
 - l) transgender;
 - m) transsexual; and
 - n) whakawahine.
- 2.2 'Rainbow Communities' refers to diffuse and geographical communities of Rainbow People as defined in 2.1.
- 2.3 'Takatāpui' refers to people of New Zealand Māori descent who identify as being 'Rainbow People' as defined in 2.1.
- 2.4 'Kaitiaki' refers to a person who serves as a (The Christchurch Heroes Trust), the Trust's Board of Trustees.
- 2.5 'Te Kāhui Kaitiaki' or 'Te Kāhui' refers to the Kaitiaki collectively exercising their powers as the Board of the Trust.
- 2.6 'The Christchurch Heroes Management' or 'Te Mana Whakahaere' both refer to the Operational Leadership Group of the organisation, comprising the Kaitiaki plus such other Kaiārahi as the Kāhui Kaitiaki decides to appoint to that body from time to time under Clause 11.3 hereof.
- 2.7 'Kaiārahi' refers to a person appointed to the Mana Whakahaere of the Christchurch Heroes, LGBTI+ Inclusive Sports Teams, Charitable Trust under Clause 11.3 hereof.
- 2.6 'Te Waipounamu' refers to the South Island of Aotearoa – New Zealand.

3. VALUES

The Trust is committed, in attaining its purposes, to:

- 3.1 Upholding and promoting Māori and all relevant tikanga including respecting Te Tiriti o Waitangi as the founding document of New Zealand.
- 3.2 Upholding the primacy of oranga whānau, including by whakapapa, whanaungatanga, and whakawhanaungatanga
- 3.3 Upholding the core values of:

- 3.3.1 Tika (To be correct, true, upright, right, just, fair, accurate, appropriate, lawful, proper, valid);
 - 3.3.2 Pono (to be true, valid, honest, genuine, sincere);
 - 3.3.3 Aroha (to love, feel pity, feel concern for, feel compassion, empathise);
 - 3.3.4 Cultural and sporting connectedness;
 - 3.3.5 Cultural and sporting community; and
 - 3.3.6 Cultural and sporting celebration.
- 3.4 Respecting the diversity of sexual orientation, gender identity, gender expression, sex characteristics and cultures of all people and encouraging Takatāpui people, Rainbow People and Rainbow Communities from all backgrounds to access the Trust's facilities, services and activities;
 - 3.5 Inspiring people to reach their full potential through sport;
 - 3.6 Working cooperatively with others in the broad community who have objects congruent with those of the Trust; and
 - 3.7 Maintaining the highest standards of professionalism and integrity always.

4. PURPOSE

4.1 The primary purposes of the Trust will be

- 4.1.1 To encourage the development of cultural and sporting life of the members of the Trust in Christchurch, the Christchurch rainbow community and the community at large through the promotion and advancement of the wellness, welfare, wellbeing, education, leadership, and social cohesion of Takatāpui people, Rainbow people, and the Rainbow and Mainstream communities using sport as the vehicle to do so;

4.2 The secondary purposes of the Trust will be

- a) to provide support and development services, projects or programmes for Takatāpui people and rainbow people especially those wanting to participate in sport and enabling them to realise their full potential in sport;
- b) to foster, promote and provide sporting opportunities and information matters relevant to Takatāpui people and rainbow people;
- c) to work to counter stigma, discrimination and marginalisation associated with being Takatāpui people and rainbow people;
- d) to work to be inclusive and considerate of people who live in poverty and other economic disadvantages for Takatāpui people and rainbow people to participate in sport;
- e) to provide advocacy for issues relevant to Takatāpui people and rainbow people in conjunction with recognised Takatāpui people supporting organisations;

- f) to advance the civil, political, economic, social and cultural rights of Takatāpui people and Rainbow people;
- g) to provide, foster or support the development and maintenance of facilities that assist with the advancement of the objectives of the Trust;
- h) to collaborate with others working in areas relevant to Takatāpui people, Rainbow People and the wider Rainbow Community including people and organisations working with Takatāpui people, Rainbow Communities and Rainbow People.
- i) to foster the primary charitable purposes, in particular, but not limited to those organisations in the social, health, justice, educational and spiritual fields that are accessible to Takatāpui people and Rainbow people in their orientation and or cultural identity, or are dedicated to quality work with Takatāpui people and Rainbow people, and the people who support relevant initiatives within these organisations;
- j) to sponsor or financially support other organisations working with Takatāpui people, Rainbow Communities, Rainbow People and the community at large that have objectives consistent with those of the Trust;
- k) to provide and acknowledge service to Takatāpui people and Rainbow people; and
- l) to provide other support and assistance consistent with the primary charitable purposes.

5. ACTIVITIES LIMITED TO AOTEAROA/NEW ZEALAND

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

6. OFFICE

The office of the Trust will be in such place in New Zealand as the Kāhui Kaitiaki (Board of Trustees) may from time to time determine.

7. THE KĀHUI KAITIAKI (BOARD OF TRUSTEES)

7.1 The Kāhui (Trustee) will serve as the Board of Trustees and will comprise of no less than three (3) Kaitiaki (Trustees) and no more than seven (7) Kaitiaki (Trustees).

7.2 The signatories to this Deed will be the first Kāhui Kaitiaki (Board of Trustees). The Kaitiaki (Trustees) will elect from among themselves a Manukura / President. A Secretary and Treasurer will also be appointed from among themselves or from non-trustees. The positions of Secretary and Treasurer may be combined. The designation of additional office-bearers may be made upon resolution of the Kāhui Kaitiaki (Board of Trustees). An election of office-bearers will be held at the first meeting of the Kāhui Kaitiaki (Board of Trustees) following the execution of this Deed and subsequently at the Hui-a-Tau (AGM) held under 8.3.

7.3 Subject to 7.4, 7.6 and 7.7, each Kaitiaki (Trustee) shall hold office for three years and shall be eligible for re-appointment.

7.4 One (1) Kaitiaki (Trustee) on the first Kāhui Kaitiaki (Board of Trustees) shall be appointed for a three-year term, one (1) Kaitiaki (Trustee) for a two (2) year term, and one (1) Kaitiaki (Trustee) for a one (1) year term. The Kāhui Kaitiaki (Board of Trustees) shall agree by resolution as to which Kaitiaki (Trustee) will serve for each term, and if failing to agree then the matter shall be determined by lot. Subsequent terms for such Kaitiaki (Trustee) shall be of three (3) years, and Kaitiaki (Trustees) shall ensure that the rotational expiry of terms which results remain in place, and that the expiry terms of additional Kaitiaki (Trustee) are spaced out as evenly as possible in a likewise manner.

7.5 The Kāhui Kaitiaki (Board of Trustees) will have the power to appoint Kaitiaki (Trustees) subject to the provisions of Clause 7 of this Deed. All appointments, except under 7.2 and 7.8, shall be made only after inviting expressions of interest from Takatāpui and Rainbow people in Te Waipounamu and considering the responses received.

7.6 A person will immediately cease to be Kaitiaki (Trustee) when they resign in writing, die, or are declared bankrupt.

7.7 The Kāhui Kaitiaki (Board of Trustees) may, by a motion decided by a two-thirds (2/3rd) of the majority of votes, terminate a person's position as a Kaitiaki (Trustee) and member of the Kāhui Kaitiaki (Board of Trustees), if it believes that such action is in the best interests of the Trust following a mediation and arbitration process which would deem to have followed natural process.

7.8 The Kāhui Kaitiaki (Board of Trustees) may continue to act notwithstanding any vacancy, but if their number is reduced below the minimum number of Kaitiaki as stated in this Deed (3 Kaitiaki [Trustees]), the continuing Kaitiaki (Trustee) may act to increase the number of Kaitiaki (Trustees) to that minimum but for no other purpose.

7.9 The name of the Kāhui Kaitiaki (Board of Trustees) will be 'Te Kāhui o te Ōtautahi Tuahangata' or 'The Trust Board of the Christchurch Heroes'.

8. MEETINGS OF THE KĀHUI KAITIAKI (BOARD OF TRUSTEES)

8.1. The procedure for Kāhui Kaitiaki (Board of Trustees) meetings will be as follows:

8.1.1 A quorum will be more than 1/3rd of its current membership or 20 members, whichever is more. This shall include any sitting board members.

8.1.2 If a Kaitiaki (Trustee), including an office-bearer, does not attend three (3) consecutive meetings of the Kāhui Kaitiaki (Board of Trustees) without leave of absence that member may, at the discretion and on the decision of the Kāhui Kaitiaki (Board of Trustees), be removed as a Kaitiaki (Trustee), and from any office of the Trust which they hold.

- 8.1.3 All questions will if possible be decided by consensus. If a consensus cannot be reached, then a decision will be made by a majority vote by show of hands, unless otherwise determined by the Kāhui.
- 8.1.4 If the voting is tied, the motion will be lost.
- 8.1.5 The Manukura / President shall chair the Kāhui Kaitiaki (Board of Trustees), and in their absence, the Kāhui Kaitiaki (Board of Trustees) will elect a person to chair the meeting from among the Kaitiaki present.
- 8.2 The Kāhui Kaitiaki (Board of Trustees) will meet at least three (3) times every year. Meetings may be held in person or by any other means of communicating as decided on by the Kāhui Kaitiaki (Board of Trustees) from time to time. The Secretary will ensure that all members of the Kāhui Kaitiaki (Board of Trustees) are notified of the meeting, either verbally or in writing with a minimum of 24 hours notice.
- 8.3 One meeting of the Kāhui Kaitiaki (Board of Trustees) under 8.2, designated the Hui-a-Tau or Annual General Meeting, shall be held within six months of the end of the financial year, at which the Annual Report, including the Annual Accounts for the previous year, shall be presented.
- 8.4 The Secretary will ensure that a minute record is maintained which is available to any member of the Kāhui Kaitiaki (Board of Trustees) and which, for each meeting of the Kāhui, records
- 8.4.1 the names of those present;
 - 8.4.2 all decisions made by the Kāhui; and
 - 8.4.3 any other matters discussed at the meeting.

9. POWERS

In addition to the powers provided by the general law of New Zealand or contained in the Trustee Act 1956, the powers which the Kāhui Kaitiaki (Board of Trustees) may exercise to carry out its charitable purposes are as follows:

- 9.1 to use the funds of the Trust as the Kāhui Kaitiaki (Board of Trustees) thinks necessary or expedient in payment of the costs and expenses of the Trust, including the employment and dismissal of professional advisors, agents, officers and staff, according to principles of good employment and the Employment Relations Act 2000 or any subsequent enactment;
- 9.2 to purchase, take on, lease or in exchange or hire or otherwise, acquire any real or personal property and any rights or privileges which the Kāhui Kaitiaki (Board of Trustees) thinks necessary or expedient in order to attain the purpose of the Trust and to sell, exchange, let, bail or lease, with or without option of purchase or, in any other manner, dispose of such property, rights or privileges;

- 9.3 to invest surplus funds in any way permitted by law for the investment of Charitable Trust funds and upon such terms as the Kāhui Kaitiaki (Board of Trustees) thinks fit;
- 9.4 to enter into any business venture as the Kāhui Kaitiaki (Board of Trustees) thinks fit;
- 9.5 to borrow or raise money from time to time with or without security and upon such terms as to prioritise or otherwise as the Kāhui Kaitiaki (Board of Trustees) thinks fit; and
- 9.6 to do all things as may from time to time be necessary or desirable to enable the Kāhui Kaitiaki (Board of Trustees) to give effect to and attain the charitable purposes of the Trust.

10. TE MANA WHAKAHAERE OF THE CHRISTCHURCH HEROES, LGBTI+ INCLUSIVE SPORTS TEAMS, CHARITABLE TRUST

- 10.1 Te Mana Whakahaere (The Operational Leadership Group) of the Christchurch Heroes, LGBTI+ Inclusive Sports Teams, Charitable Trust (Te Mana Whakahaere) is established as the operational leadership group for the Trust.
- 10.2 All Kaitiaki (Trustees) of Te Kāhui Kaitiaki (the board of Trustees) are automatically members of Te Mana Whakahaere (The Operational Leadership Group).
- 10.3 The Kāhui Kaitiaki (Board of Trustees) will have the power to appoint additional members (Kaiārahi) to Te Mana Whakahaere (The Operational Leadership Group). All appointments shall be made only after inviting expressions of interest from Takatāpui people, Rainbow People and the wider Rainbow Community including people and organisations working with Takatāpui people, Rainbow Communities and Rainbow People in Canterbury and considering the responses received; they shall ensure as far as possible that the membership of Te Mana Whakahaere (The Operational Leadership Group) both incorporates the leadership of the Trust's activities and reflects the diversity of the Trust's beneficiaries.
- 10.4 The membership of Te Mana Whakahaere (The Operational Leadership Group) at any one time shall be limited to no more than ten (10) people, inclusive of the Kaitiaki (Trustees) who are automatically members.
- 10.5 Te Manukura / President shall Chair meetings of Te Mana Whakahaere (The Operational Leadership Group).
- 10.6 The Kāhui Kaitiaki (Board of Trustees), the Secretary and the Treasurer of Te Mana Whakahaere (The Operational Leadership Group) can be the same people who hold those offices for Te Kāhui Kaitiaki (Board of Trustees).
- 10.7 Te Kāhui Kaitiaki (Board of Trustees) shall approve a Terms of Reference for Te Mana Whakahaere (The Operational Leadership Group) that is aligned with Clause 12 below.

11. INCOME, BENEFIT OR ADVANTAGE TO BE APPLIED TO CHARITABLE PURPOSES

11.1 Any income, benefit or advantage will be applied to the charitable purposes of the Trust.

11.2 No Kaitiaki (Trustee) or any person associated with a Kaitiaki (Trustee), shall participate in or materially influence any decision made by the Kāhui Kaitiaki (Board of Trustees) in respect of any payment to or on behalf of that Kaitiaki (Trustee) or associated person of any income, benefit or advantage whatsoever. Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value).

11.3 No Kaiārahi or any person associated with a Kaiārahi, shall participate in or materially influence any decision made by Te Mana Whakahaere (The Christchurch Heroes Trust) in respect of any payment to or on behalf of that Kaiārahi or associated person of any income, benefit or advantage whatsoever. Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value).

11.4 The provision and effect of this clause shall not be removed from this Deed and shall be implied into any document replacing this Deed of Trust.

12. POWER TO DELEGATE

12.1 The Kāhui Kaitiaki (Board of Trustees) may from time to time appoint any committee and may delegate any of its powers and duties to any such committee or any person. The committee or person may without confirmation by the Kāhui Kaitiaki (Board of Trustees) exercise or perform the delegated powers or duties in the same way and with the same effect as the Kāhui Kaitiaki (Board of Trustees) could itself have done.

12.2 Any committee or person to whom the Kāhui Kaitiaki (Board of Trustees) has delegated powers or duties will be bound by the terms of the Trust and any terms or conditions of the delegation set by the Kāhui.

12.3 The Kāhui Kaitiaki (Board of Trustees) will be able to revoke such delegation at will, and no such delegation will prevent the exercise of any power or the performance of any duty by the Kāhui.

12.4 It will not be necessary for any person who is appointed to be a member of any such committee, or to whom such delegation is made, to be a Kaitiaki (Trustee).

13. FINANCIAL ARRANGEMENTS

13.1 The financial year of the Trust will be from 1 April to 31 March.

13.2 At the first meeting of Te Kāhui, and after that from time to time, Te Kāhui Kaitiaki (Board of Trustees) will decide by resolution the following:

- 13.2.1 how the money will be received by the Trust;
 - 13.2.2 who will be entitled to produce receipts;
 - 13.2.3 what bank accounts will operate for the ensuing year, including the purposes of and access to accounts;
 - 13.2.4 who will be allowed to authorise the production of cheques and the names of cheque signatories; and
 - 13.2.5 the policy concerning the investment of money by the Trust, including what type of investment will be permitted.
- 13.3 The Treasurer will ensure that true and fair accounts are kept of all money received and expended by the Trust.

14. COMMON SEAL

- 14.1 The Common Seal of Te Kāhui, following its incorporation, will be kept in the custody and control of the Secretary, or such other officer appointed by Te Kāhui.
- 14.2 When required, the Common Seal will be affixed to any document following a resolution of the Kāhui Kaitiaki (Board of Trustees) and will be signed by the Manukura (or a Kaitiaki [Trustee] acting as the Chair) and one other Kaitiaki (Trustee) appointed by Te Kāhui Kaitiaki (The board of Trustees).

15. ALTERATION OF THIS DEED

- 15.1 The Kāhui Kaitiaki (Board of Trustees) may, by consensus or under 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:
- 15.1.1 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
 - 15.1.2 be made to the Purpose Clause (4), the Activities Limited to Aotearoa / New Zealand Clause (5), the Pecuniary Interests Clause (10) or the Disposition of Surplus Assets Clause (18) unless it is first approved in writing by the Department of Inland Revenue and/or the charity registration authority in Aotearoa-New Zealand as required.

16. MEDIATION & ARBITRATION

- 16.1 Any dispute arising out of or relating to this Deed may be referred to mediation, a non-binding dispute resolution process in which an independent mediator facilitates negotiation between parties. Mediation may be initiated by either party writing to the other party and identifying the dispute which is being suggested for mediation. The other party will either agree to proceed with mediation or agree to attend a preliminary meeting with the mediator to discuss whether mediation would be helpful in the circumstances. The parties will

agree on a suitable person to act as a mediator or will ask the Arbitrators' and Mediators' Institute of New Zealand Inc. to appoint a mediator. The mediation will be by the Mediation Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc.

16.2 The mediation shall be terminated by:

16.2.1 The signing of a settlement agreement by the parties; or

16.2.2 Notice to the parties by the mediator, after consultation with the parties, to the effect that further efforts at mediation are no longer justified; or

16.2.3 Notice by one or more of the parties to the mediation to the effect that further efforts at mediation are no longer justified; or

16.2.4 The expiry of sixty (60) working days from the mediator's appointment, unless the parties expressly consent to an extension of this period.

16.3 If the mediation should be terminated as provided in 16.2.2, 16.2.3 or 16.2.4 any dispute or difference arising out of or in connection with this Deed, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in New Zealand in accordance with New Zealand law and the current Arbitration Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc. The arbitration shall be by one arbitrator to be agreed upon by the parties and if they should fail to agree within twenty-one (21) days, then to be appointed by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc.

17. KAITIAKI (TRUSTEES) LIABILITY

It is declared that:

17.1 The Kaitiaki (Trustees) are chargeable respectively only in respect of the money and securities they receive, or which, but for their acts, omissions, neglects, or defaults they would have received, notwithstanding their signing any receipt for the sake of conformity; and

17.2 They are each answerable and responsible respectively only for their own acts, receipts, omissions, neglects and defaults and not for those of each other, or of any banker, broker, auctioneers, or other person with whom, or into whose hands, any Trust money or security is properly deposited or has come;

17.3 No Kaitiaki (Trustee) shall be liable personally for the maintenance, repair, or insurance of any charges on such property;

17.4 No Kaitiaki (Trustee) hereof shall be liable for any loss arising from any cause whatsoever including a breach of the duties imposed by Section 13B and Section 13C Trustees Act 1956 (as enacted by the Trustee Amendment Act 1988) (or any statutory replacement or equivalent) unless such loss is attributable:

17.4.1 To their dishonesty; or

17.4.2 To the wilful commission by him or her of an act known by him/her

to be a breach of Trust.

And under Section 13D of the Trustees Act 1956 it is intended by this clause that the duties imposed by Section 13B and 13C of the Trustees Act 1956 shall not apply to any Trustee hereof.

17.5 No Trustees shall be bound to take any proceedings against a co-Trustee for any breach or alleged breach of Trust committed by that co-Trustee.

17.6 Notwithstanding the procedure or otherwise of retaining assets in the Trust Fund no Trustee shall be liable for any loss suffered by the Trust Fund because of the Trustees retaining any asset forming part of the Trust Fund.

17.7 The Trustees shall from time to time and at all times be indemnified by and out of the Trust property from and against all costs, charges, losses, damages, and expenses sustained or incurred by them or in or about the execution and discharge of their office or in or about any claim, demand, action, proceeding or defence at law or in equity in which they may be joined as a party.

18. 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 other charitable organisation/s within New Zealand as the Kāhui Kaitiaki (Board of Trustees) will decide. If the Trust is unable to make such a decision, the surplus assets will be disposed of by the directions of the High Court under section 27 of the Charitable Trusts Act 1957 or subsequent enactment.

IN WITNESS OF WHICH this Deed has been executed:

SIGNED by the above named: Rāwā Karetai

) _____

as Kaitiaki (Trustee) in the presence of:) _____

Full Name of Witness: Jeremy Simon Elgin

Occupation: Christchurch Heroes Webmaster.

Residential address: 6/518 Tuam Street, Phillipstown, Christchurch 8011

SIGNED by the above named: Stephen Carr

) _____

as Kaitiaki (Trustee) in the presence of:) _____

Full Name of Witness: Jeremy Simon Elgin

Occupation: Christchurch Heroes Webmaster.

Residential address: 6/518 Tuam Street, Phillipstown, Christchurch 8011

SIGNED by the above named: Andrew Rusbatch

) _____

as Kaitiaki (Trustee) in the presence of:) _____

Full Name of Witness: Jeremy Simon Elgin

Occupation: Christchurch Heroes Webmaster.

Residential address: 6/518 Tuam Street, Phillipstown, Christchurch 8011

SIGNED by the above named: Jeremy Elgin

) _____

as Kaitiaki (Trustee) in the presence of:) _____

Full Name of Witness: Rāwā Mahu Karetai

Occupation: Interim Christchurch Heroes Manager

Residential address: 19/245 Montreal Street, Christchurch Central, Christchurch 8013

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