

RAD Bikes Charitable Trust

THIS DEED is made the 22 of Feb 2015

BETWEEN

Richard Peter SEWELL of 367 Cashel Street, Christchurch
Jessica Jean SMALE of 107 Neville Street, Christchurch
Nicholas David SEWELL of 107 Neville Street, Christchurch
Oliver McLAREN of 403a C/Quest Apartments, 113 Worcester Street, Christchurch
Rachel COPE of 403a C/Quest Apartments, 113 Worcester Street, Christchurch

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 2 of this Deed, and
- B They have agreed to enter into this Deed specifying the Purposes of the Trust and providing for its control and government, and
- C They hold the sum of \$10 as the initial Trust Fund, on trust along with any other money or property received by the Trust to carry out the Purposes described in Clause 2 of this Deed, and
- D They are entitled to apply as a Board under the Charitable Trust Act 1957 to carry out the aims, powers and rules set out in this Deed

NOW THIS DEED WITNESSES that the Constitution and Rules of the Trust are as follows:

1 NAME

The name of the Trust shall be the 'RAD Bikes Charitable Trust', in this Deed called 'the Trust'

2 PURPOSE

The core Purpose of the Trust will be to benefit the community by improving access to cycling, minimising waste and developing community wellbeing, specifically by

- 2.1 facilitating cycling for transport, exercise, sport, recreation and a low fossil-fuel society through improved access to bicycles, tools, parts and advice;
- 2.2 minimising waste going to the landfill through the
 - 2.2.1 collection of unwanted bicycles;
 - 2.2.2 separation and sorting of useful parts;
 - 2.2.3 new lives given to pre-loved bikes/parts;

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2.2.4 education and awareness of repairing, recycling, lifespan of items and sorting of waste;

2.2.5 financially viable option of repairing/restoring by doing-it-yourself with support from volunteers;

2.3 ~~providing a safe environment for disparate members of the community to connect;~~

2.4 providing a safe environment for people to learn new skills and try new things;

2.5 providing a place where people are encouraged to help each other;

2.6 collaborating with organisations that have similar or complementary aims.

3 ACTIVITIES TO BE FOCUSED IN CHRISTCHURCH

The activities of the Trust shall be primarily focused in Christchurch but the Board of Trustees may use their discretion to undertake or support activities elsewhere.

4 OFFICE

The office of the Trust will be in such place in Christchurch as the Board of Trustees may from time to time determine.

5 THE BOARD OF TRUSTEES

5.1 The Board of Trustees (referred to as "the Board" in this Deed) will consist of no less than three (3) and no more than nine (9) people. The initial members of the Board will be the signatories to this Deed;

5.2 Unless otherwise specified in this Deed, each Trustee will hold office until he or she

5.2.1 resigns;

5.2.2 is unable to perform his or her duties;

5.2.3 is removed from the Board according to Clauses 5.4 and 5.5;

5.2.4 dies.

5.3 The Board will have the power to fill any vacancy that arises in the Board or to appoint any additional Trustees subject to Clause 5.1;

5.4 The Board may, by a motion decided by a two-thirds majority of votes, terminate a person's position as a member of the Board, if it believes that such action is in the best interests of the Trust;

- 5.5 The Board Member concerned must be given
- 5.5.1 at least 14 days notice of the proposed removal;
 - 5.5.2 the reasons for the proposed removal;
 - 5.5.3 an opportunity to reply at the meeting considering his or her removal.
- 5.6 Any Board Member may resign from the Board by giving notice in writing to the Secretary, and the resignation will take effect from the date notice is received by the Secretary.

6 ADMINISTRATION OF THE TRUST

- 6.1 **Meetings:** The Trustees must regulate and conduct meetings as follows:
- 6.1.1 The Board will meet a number of times every year and will elect a Chair, Secretary and Treasurer from among its members at its first meeting and annually thereafter;
 - 6.1.2 The Secretary will ensure that all members of the Board are notified of the meeting, either verbally or in writing;
 - 6.1.3 A quorum will be at least half of its members;
 - 6.1.4 All questions will if possible be decided by consensus. In the event that a consensus cannot be reached then a decision will be made by a majority vote by show of hands, unless otherwise determined by the Board;
 - 6.1.5 If the voting is tied, the Chair will have a second, casting vote;
 - 6.1.6 Each meeting will be chaired by the Chair of the Trust or, in his or her absence, the Board will elect a person to chair the meeting from among the Trustees present.
- 6.2 **Annual General Meetings**
- 6.2.1 **Annual General Meeting:** within four months of the end of each Financial Year, the Trustees must hold an annual general meeting;
 - 6.2.2 **Notice:** the Secretary must give no less than 30 days' written notice of the annual general meeting to the Trustees;

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6.2.3 Business: the business to be transacted at the annual general meeting will be the:

- (a) receipt of the financial statements;
- (b) appointment of the auditor (if any); and
- (c) setting of the Trustees' remuneration; and any other business will be treated as special business and will be dealt with in accordance with clause 6.2.4.

6.2.4 Special Business: written notice of any special business must be given to the Secretary no less than 21 days before the annual general meeting and the Secretary must circulate a written agenda including all special business to the Trustees no later than 14 days before the annual general meeting;

6.2.5 Other Meetings: the Trustees may otherwise meet at any times and places, which they may agree, provided that any two or more Trustees may at any time requisition a meeting of Trustees by giving written notice to the Secretary and the Secretary must, within 10 days of receipt of that notice, convene a special general meeting by giving, subject to clause 6.1.6(b), not less than 10 days' notice of the meeting to the Trustees; and

6.2.6 Particulars of Notice: every notice of meeting given by the Secretary to the Trustees must:

- (a) be in writing; and
- (b) state the date, time and place of the meeting; and every notice of a meeting requisitioned under clause 6.2.5 must state the matters to be discussed at that meeting, but notice of any meeting may be abridged or waived if all the Trustees consent in writing to that abridgment or waiver.

7 POWERS

In addition to the powers provided by the general law of New Zealand, the powers

which the Board may exercise in order to carry out its charitable purposes are:

- 7.1 to use the funds of the Trust as the Board 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 Contracts Act 1991 or any subsequent enactment;
- 7.2 to purchase, hire, exchange, take on, lease or otherwise acquire any real or personal property and any rights or privileges that the Board thinks necessary or expedient in order to attain the Purpose of the Trust and to sell, exchange, let, on-hire or otherwise dispose of such property, rights or privileges;
- 7.3 to provide premises, machinery, vehicles, furniture, implements, tools, utensils, fittings and properties of every description to attain the Purpose of the Trust;
- 7.4 to construct, alter or maintain any buildings or works necessary or convenient to attain the Purpose of the Trust;
- 7.5 to carry on any business;
- 7.6 to invest funds of the Trust not immediately required in any way permitted by law for the investment of Charitable Trust funds and upon such terms as the Board determines appropriate;
- 7.7 to borrow or raise money from time to time with or without security and upon such terms as the Board thinks fit, and to solicit and receive donations;
- 7.8 to amalgamate with any other charitable association having objects wholly or in part similar to those of the Trust;
- 7.9 to promote or oppose bills, legislation or other measures affecting the Purpose of the Trust;
- 7.10 to do all things as may from time to time appear necessary or desirable to enable the Board to give effect to and attain the Purpose of the Trust.

8 TRUSTEE REMUNERATION AND EXPENSES

- 8.1 Any income, benefit or advantage will be applied to the charitable Purposes of the Trust;
- 8.2 **Professional Remuneration:** Subject to clause 8.4 any Trustee being a lawyer, accountant or other person engaged in any profession, business or trade is entitled to be paid all usual professional, business and trade charges for services provided by that person or that person's employee or partner in

connection with the Trust including acts, which a Trustee, not being in any profession, business or trade, could have done personally.

8.3 General Remuneration: Subject to clause 8.4 each Trustee is entitled to ~~such remuneration for services provided as may be reasonable having regard~~ to that Trustee's duties and responsibilities and to any remuneration paid to that Trustee in accordance with clause 8.2 for those services.

8.4 Proviso: Any payment to a Trustee referred to in clauses 8.2 and 8.3 must not exceed fair market value for services provided and, where any such payment is a benefit or advantage to which clauses 9.2 to 9.4 apply, no Trustee receiving such payment and no person associated with such Trustee may:

8.4.1 Take Part: take part in any deliberations or proceedings relating to that payment; or

8.4.2 Determine or Influence: in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid.

8.5 Expenses: Each Trustee is entitled to be indemnified against, and reimbursed for, all travelling, hotel and other expenses properly incurred in connection with the Trust.

9. RESTRICTIONS RELATING TO BUSINESS INCOME

9.1 General Restrictions: In any tax year, for the purposes of the Income Tax Act 2007, where any business, within the ambit and scope of the Income Tax Act 2007 and in particular section CW 42 of that Act, is carried on by or for the benefit of the Trust:

9.1.1 Tax Exempt Business Income: the Trustees must not derive directly or indirectly from any such business any amount of income that is not exempt from income tax under section CW 42 of the Income Tax Act 2007; and

9.1.2 Benefits/Advantages to Certain Persons: within the ambit and scope of clauses 9.2 to 9.4, no person with some control over the

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business may direct or divert, to their own benefit or advantage, any amount derived from that business.

9.2 Persons who may have Control: For the purposes of clause 9.1.2, a person ~~who may have some control over the business is a person who is, within the~~ ambit and scope of sub-sections CW 42(5) to (7) of the Income Tax Act 2007:

9.2.1 Settlor or Trustee: a settlor or trustee of a trust carrying on the business or of a trust that is a shareholder in a company carrying on the business; or

9.2.2 Director or Shareholder: a director or shareholder of a company carrying on the business; or

9.2.3 Associated Person: a person associated with any person described in clauses 9.2.1 and 9.2.2.

9.3 Relevant Benefits/Advantages: For the purpose of clause 9.1.2, an amount is directed or diverted to the benefit or advantage of a person described in clause 9.2 if that person is given or receives from the business any benefit or advantage, whether or not convertible into money, within the ambit and scope of sub-sections CW 42(6) to (8) of the Income Tax Act 2007, or any income of a kind specified in and not excluded by those sub-sections.

9.4 Control over the Business and Ability to Direct or Divert Amounts: For the purpose of clause 9.1.2, a person described in clause 9.2 has some control over the business and is able to direct or divert amounts from the business to their own benefit or advantage if, by virtue of their position described in clause 9.2 and within the ambit and scope of sub-sections CW 42(5) to (8) of the Income Tax Act 2007, that person is, in any way, whether directly or indirectly, able to determine or materially influence in any way the determination of:

9.4.1 Nature/Extent of Benefit/Advantage: the nature or extent of any benefit, advantage or income described in clause 9.3; or

9.4.2 Circumstances of Receipt: the circumstances in which any benefit, advantage or income described in clause 9.3 is, or is to be, given or received.

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10 POWER TO DELEGATE

- 10.1 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. The committee or person may without confirmation by the Board exercise or ~~perform the delegated powers or duties in the same way and with the same effect as the Board itself could have done;~~
- 10.2 Any committee or person to whom the Board 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 Board;
- 10.3 The Board 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 Board.

11 FINANCIAL ARRANGEMENTS

- 11.1 The financial year of the Trust will be from 1 April to 31 March in the following year;
- 11.2 At the first meeting of the Board each financial year, and at subsequent meetings as necessary, the Board will decide by resolution
 - 11.2.1 how money will be received by the Trust;
 - 11.2.2 who will be entitled to produce receipts;
 - 11.2.3 what bank accounts will operate for the ensuing year, including the purposes of and access to accounts;
 - 11.2.4 who will be allowed to authorise the production of cheques and the names of cheque signatories;
 - 11.2.5 the policy concerning the investment of money by the Trust.
- 11.3 The Treasurer will ensure that true and fair accounts are kept of all money received and expended by the Trust;
- 11.4 The Board will, as soon as practicable after the end of the financial year of the Trust, arrange for the accounts of the Trust for that financial year to be reviewed by a chartered accountant appointed for that purpose. The reviewed accounts will be made available to the public.

12 COMMON SEAL

- 12.1 The Common Seal of the Trust will be kept in the custody and control of the Secretary, or such other officer appointed by the Board;

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- 12.2 When required, the Common Seal will be affixed to any document following a resolution of the Board and will be signed by the Chairperson or Vice-Chairperson and one other person appointed by the Board.

13 INDEMNITY

the Board Members and others acting under delegation by the Board will be indemnified by the Board from and against all losses and expenses properly incurred by them in or about the discharge of their respective duties.

14 ALTERATION OF RULES

- 14.1 Any General Meeting of the Trust may, by consensus or pursuant to a motion decided by a two-thirds majority of votes, make alterations, additions or cancellations to the terms and provisions of this Deed provided that no such alterations, additions or cancellations are in conflict with

14.1.1 the exclusively charitable nature of the Trust;

14.1.2 the aims of the Trust;

14.1.3 the Charitable Trust Act 1957;

14.1.4 the conditions of any exemption granted by the Department of Inland Revenue.

15 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 charitable organisation or organisations within New Zealand as the members of the Trust in a General Meeting will decide. If the Trust is unable to make such a decision, the remaining assets will be disposed of in accordance with the directions of the High Court pursuant to section 27 of the Charitable Trusts Act 1957.