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Trust Deed – Women At Risk Trust

Yourtoolkit.com Limited

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Parties

Settlor	Benjamin Fong Address: c/- Lavan, Level 18, 1 William Street PERTH WA 6000 Attention: Benjamin Fong Email: ben.fong@lavan.com.au
Trustee	Yourtoolkit.com Limited ACN 666 106 707 Address: Level 11, 2 Mill Street, PERTH WA 6000 Attention: Elisa Fear Email: info@financialtoolbox.org.au

Background

- A The Trustee wishes to establish a public benevolent institution known as the Women at Risk Trust to provide support for women and their children in need who are facing, or have faced, domestic violence and/or financial abuse.
- B The public benevolent institution established by this deed is operated by the Trustee.
- C The Settlor has paid the Settled Sum to the Trustee to hold on the trusts outlined in this deed and in accordance with the Law.
- D The Trustee intends that the public may from time to time contribute to the Trust Fund.
- E The Trust shall be subject to public control and accountability, having three or more unrelated responsible persons (being the directors of the Trustee).
- F The Trust is to be known as the **WOMEN AT RISK TRUST**.

1 Definitions and interpretation

Definitions

- 1.1 In this deed the following definitions apply:

Act	means the <i>Income Tax Assessment Act 1997</i> (Cth) and the <i>Income Tax Assessment Regulations 1997</i> (Cth).
Advisory Committee	means a committee established under clause 10.
Associate	has the meaning outlined in section 318 of the <i>Income Tax Assessment Act 1936</i> (Cth).

Board	means the board of directors from time to time of the Trustee, which must comprise at a minimum 3 directors.
Business Day	means a day other than that is not a Saturday, Sunday or public holiday in Western Australia.
Commissioner	means the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of the Act.
Charity	means a charity registered with the Australian Charities and Not-for-profits Commission.
DGR	means a deductible gift recipient in the terms of Subdivision 30-B of the Act.
Donor	means the donor of a Gift to the Trust Fund.
Eligible Charity	means a fund, authority or institution, which has similar objects to the Principal Purpose, and to which income tax deductible gifts can be made under the Act.
Financial Year	means the period from the date of this deed to the following 30 June and then each period of 12 months beginning on 1 July and ending on 30 June in each year or such other period as agreed to by the Commissioner.
Gift	means a gift or contribution of money or property as described in item 1 of the table in section 30-15 of the Act for the purpose of the Gift Fund.
Gift Fund	means the separate fund established by clause 3.5 which is to be operated in accordance with the provisions of clause 7.
Law	includes any requirement of any statute, regulation, proclamation, ordinance or by-Law, present or future and whether State, Federal, local or otherwise.
Officer of the Trustee	means a director, a member of a committee of management or any other controlling body of the Trustee.
Principal Purpose	means the purpose described in clause 3.
Settled Sum	means \$1.00.
Trust	means the trust established under this deed.
Trustee	means the person named in this deed as the Trustee and any other Trustee for the time being of the Trust.
Trust Fund	means the trust fund established by clause 3.3, and includes: <ol style="list-style-type: none">1 the Settled Sum;

- 2 all money, investments and assets paid or transferred to and accepted by the Trustee as additions to the Trust Fund;
- 3 all income of the Trust Fund including income earned or to which it is entitled;
- 4 all accretions to the Trust Fund;
- 5 all money, investments and property from time to time representing the above or into which they are converted;
- 6 the Gift Fund; and
- 7 any part of the Trust Fund.

Uncommercial Transaction

means the provision of a financial or other benefit on terms which:

- 1 would not be reasonable in the circumstances if the benefit were provided on an arm's length basis; or
- 2 are more favourable to the recipient than the terms referred to in 1 above;

and which a reasonable person in the position of the Trustee would not have entered into having regard to all relevant circumstances.

Interpretation

- 1.2 In this deed, unless the context otherwise requires:
- 1.2.1 Headings or subheadings are for convenience only and do not affect the interpretation of any provision of this deed.
 - 1.2.2 A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time.
 - 1.2.3 The singular includes the plural and vice versa.
 - 1.2.4 Words expressed in one gender include the other gender.
 - 1.2.5 A "person" includes an individual, partnership, firm, company, government, joint venture, association, authority, corporation or other body corporate.
 - 1.2.6 References to the parties, background, parts, clauses, schedules and annexures are references to the parties, background, parts, clauses, schedules and annexures to this deed.
 - 1.2.7 The expression "this deed" includes the agreement, arrangement, understanding or transaction recorded in this deed.
 - 1.2.8 References to a party to this deed include that party's executors, administrators, substitutes, successors and permitted assigns.
 - 1.2.9 A reference to a group of people is a reference to all of them collectively and to each of them individually.
 - 1.2.10 References to time are to time in Perth, Western Australia.
 - 1.2.11 If the date on or by which any act must be done under this deed is not a Business Day, the act must be done on or by the next Business Day.

- 1.2.12 A covenant or agreement made by, or for the benefit of, two or more persons binds, and is enforceable against, or may be exercised by (as the case may be), those persons jointly and each of them severally.
- 1.2.13 A reference to any statute or to any statutory provision includes any amendment, re-enactment or consolidation of it or any statutory provision substituted for it, and all ordinances, by-Laws, regulations, rules and statutory instruments (however described) issued under it.
- 1.2.14 "\$" or "dollars" is a reference to Australian currency.
- 1.2.15 A reference to a thing or an amount includes the whole or part of that thing or amount.

References to the 'Settlor'

- 1.2.16 If, for whatever reason, the person described as the Settlor in this deed is unable or unwilling to perform his role as Settlor (which, for the avoidance of doubt, includes the obligations of the Settlor under clauses 13.7.3 and 13.8.2 below), then a reference to the Settlor is a reference to:
- (a) a partner of Lavan; or
 - (b) if Lavan has amalgamated with another law firm or has changed its name, then a partner of that practice.

2 Declaration of trust

- 2.1 The Settlor and the Trustee declare that the Trustee must hold the Trust Fund on trust, subject to the provisions of this deed.

3 Trust purpose

Principal Purpose of the Trust

- 3.1 The **Principal Purpose** of the Trust is to provide support for women and their children facing, or having faced, domestic violence and/or financial abuse.
- 3.2 The Principal Purpose is promoted and advanced through (without limitation):
- 3.2.1 online resources;
 - 3.2.2 the provision of information to, and advancing the education of, women, and also to those who seek to support and advocate for them in furtherance of the Principal Purpose of the Trust; and
 - 3.2.3 other activities, events or resources, as they arise and meet the Principal Purpose of the Trust.
- 3.3 The Trustee will establish and maintain a bank account to be called the 'Women At Risk Trust Fund' for the specific purpose of funding the activities of the Trust (**Trust Fund**).

- 3.4 Subject to clause 3.5, all money received for the purposes, or on account, of the Trust must be credited to the Trust Fund.
- 3.5 The Trustee will also establish and maintain a separate bank account to be called the 'Women At Risk Gift Fund' (**Gift Fund**) for the purpose of receiving Gifts which are deductible from the Donor's income tax. The Gift Fund must not receive any other money or property and it must comply with section 30-130 of the Act. The Gift Fund is to be governed by the terms of clause 7.

Factors Trustee may consider

- 3.6 In exercising any power or carrying out any activity under this Trust, the Trustee must promote the Principal Purpose of the Trust.
- 3.7 The Trustee may carry out activities that are ancillary and incidental to the Principal Purpose of the Trust.
- 3.8 In carrying out any activities under this Trust, the Trustee may have regard to any recommendations of an Advisory Committee.

Policies and rules

- 3.9 For the purpose of paying or applying the Trust Fund, the Trustee may:
- 3.9.1 formulate policies;
 - 3.9.2 make rules in connection with a policy; and
 - 3.9.3 revoke or amend a policy or rule and formulate others.

Not-for-profit entity

- 3.10 The Trust is established as and must operate on a not-for-profit basis. Accordingly:
- 3.10.1 The income and property of the Trust shall be used and applied solely in promotion of its Principal Purpose; and
 - 3.10.2 no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to the Trustee, any management committee, members or directors (if applicable) of the Trust.
- 3.11 The restrictions in clause 3.10.2 do not prohibit the Trust from making any payment in good faith which promotes its Principal Purpose, including payments for any out-of-pocket expenses incurred by the Trustee or a management committee in performing duties on behalf of the Trust in accordance with this deed and the Law.

In Australia

- 3.12 The Trust and Trust Fund is established in and must operate only in or from Australia.

Invited to contribute

- 3.13 The public must be invited to contribute to the Gift Fund.

Uncommercial Transactions

- 3.14 The Trustee may not enter into any Uncommercial Transaction, unless the transaction is:
- 3.14.1 with a deductible gift recipient covered by item 1 in the table in section 30-15 of the Act;
 - 3.14.2 in course of bona fide furtherance of the Principal Purpose of the Trust; and

- 3.14.3 on terms more favourable to the Trust than would otherwise be expected under an arm's length transaction.
- 3.15 No part of the Trust Fund may be paid or applied, directly or indirectly, to or for:
- 3.15.1 the Settlor;
 - 3.15.2 a member, director, employee, agent or Officer of a Trustee;
 - 3.15.3 the Trustee;
 - 3.15.4 a Donor; or
 - 3.15.5 an Associate of the Settlor, the Trustee or a Donor,
- by way of an Uncommercial Transaction unless otherwise required by this deed.
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4 Qualifications of Trustee

- 4.1 The Trustee must be a corporation to which paragraph 51(xx) of the *Commonwealth of Australia Constitution Act 1900* (Cth) applies, or a body corporate that is incorporated in a Territory, or an individual, or group of individuals.
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5 Trustee's powers

Powers

- 5.1 The Trustee must hold, invest and deal with the money and other property of the Trust Fund and Gift Fund in a way in which Trustees are so permitted under the Laws of Australia or of any applicable State or Territory of Australia, and in accordance with the terms of this deed. Specifically the Trustee may:
- 5.1.1 accept as part of the Gift Fund any Gifts (by will or otherwise) or donations to or in favour of the Gift Fund and either retain them in their original form without selling or converting them into money, or invest, apply or deal with them in any way that the Trustee may invest, apply or deal with the Gift Fund under this deed;
 - 5.1.2 decline or otherwise refuse to accept as part of the Gift Fund any Gift (by will or otherwise) or donation;
 - 5.1.3 accept as part of the Trust Fund any gifts (by will or otherwise), donations, settlements or other dispositions in money, moneys worth or property to or in favour of the Trust Fund and either retain them in their original form without selling or converting them into money, or invest, apply or deal with them in any way that the Trustee may invest, apply or deal with the Trust Fund under this deed;
 - 5.1.4 decline or otherwise refuse to accept as part of the Trust Fund any gift (by will or otherwise), donation, settlement or other disposition in money, moneys worth or property;
 - 5.1.5 change an investment for any others or vary the terms and conditions on which an investment is held;

- 5.1.6 sell or otherwise dispose of the whole or any part of the investments or property of the Trust Fund;
- 5.1.7 sell or otherwise dispose of the whole or any part of the investments or property of the Gift Fund, provided always that the net proceeds of such sale or disposal are reinvested in the Gift Fund exclusively;
- 5.1.8 borrow or raise or secure the payment of money and secure the repayment of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge, lien, encumbrance, debenture or other security, fixed or floating, over any present or future asset of any kind and wherever situated;
- 5.1.9 take and act on the opinion of a lawyer practising in Australia in relation to the interpretation or effect of this deed or any of the trusts or powers of this deed without responsibility for any loss or error resulting from doing so, but this provision does not stop the Trustee from applying to a court of competent jurisdiction;
- 5.1.10 take any action for the adequate protection or insurance of any part of the Trust Fund and/or Gift Fund;
- 5.1.11 purchase, draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, and other negotiable or transferable instruments of any kind;
- 5.1.12 subject to this deed, generally:
 - (a) perform any administrative act; and
 - (b) pay or deduct all costs, charges, commissions, stamp duties, imposts, outgoings and expenses of or incidental to the Trust Fund or its management (whether or not the Trustee is under any legal obligation to make the payment) or in connection with the preparation and execution of this deed, as though the Trustee were the absolute owner of the Trust Fund;
- 5.1.13 attract and encourage donations, Gifts (by will or otherwise), contributions, endowments, trust distributions and other forms of financial assistance to or for the benefit of the Trust;
- 5.1.14 employ and pay or provide any benefit for any employee without being responsible for the default of the employee or for any loss occasioned by the employment;
- 5.1.15 engage and pay any agent, contractor or professional person without being responsible for the default of the agent, contractor or employee or for any loss occasioned by the engagement;
- 5.1.16 sponsor, organise and undertake fund raising activities and arrange for the issue of appeals to the public for donations;
- 5.1.17 manage any real property it holds with all the powers of an absolute owner.
- 5.1.18 in respect of the Trust, Trust Fund or Gift Fund do any other thing that an individual can lawfully do, provided always that any action or dealing must always be consistent with the Principal Purpose of the Trust;



- 5.1.19 do all other things incidental to the exercise of the Trustee's powers under this deed.

Acting jointly

- 5.2 Where the Trustee is a group of individuals, the powers of the Trustee under this Trust must be exercised jointly.

Powers are supplementary

- 5.3 The powers and discretions in clause 5.1 are to be treated as supplementary or additional to the powers vested in the Trustee by Law.

6 Liability for breaches of trust

Indemnity

- 6.1 Subject to clause 6.2, the Trustee and any Officer, agent or employee of the Trustee, where purporting to act in the exercise of the Trust or in the exercise of powers or discretions under this deed is:
- 6.1.1 not liable for any loss or liability; and
 - 6.1.2 entitled to be indemnified from the Trust Fund in respect of any loss, liability, costs and expenses relating to:
 - (a) entering into this deed or any deed amending this deed;
 - (b) establishing, operating, administering, amending, terminating and winding up the Trust; or
 - (c) all matters incidental to the Trust; and
 - (d) all liability incurred (including liability for income tax and any other taxes and all fines and penalties payable in relation to those taxes) and acts and things done in connection with or resulting from the matters referred to in clause 6.1.2(b) including, but not limited to, the Trustee performing its duties and exercising its powers and discretions under this deed.

Limitations

- 6.2 Notwithstanding clause 6.1, the Trustee and an Officer, agent or employee of the Trustee is prohibited from being indemnified from the Trust Fund if the loss, liability, cost or expense is attributable to:
- 6.2.1 the dishonesty of that Trustee, Officer, agent or employee of the Trustee;
 - 6.2.2 gross negligence or recklessness of that Trustee, Officer, agent or employee of the Trustee; or
 - 6.2.3 a deliberate act or omission known by that Trustee, Officer, agent or employee of the Trustee to be a breach of trust.

7 Gift Fund

Establishment

- 7.1 The Gift Fund is established in accordance with clause 3.5.
- 7.2 The objective of the Gift Fund is to support only the Principal Purpose of the Trust.
- 7.3 Members of the public are to be actively encouraged and invited to make Gifts to the Gift Fund to promote the Principal Purpose of the Trust.
- 7.4 These Gifts will be kept separate from other funds of the Trust and will only be used to further the Principal Purpose of the Trust. Investment of monies in the Gift Fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- 7.5 The Trust is to open a separate bank account for the Gift Fund. Donations in the form of money, including interest accruing thereon, and Gifts will be deposited into this bank account and are to be kept separate from any other funds of the Trust. These monies will only be used to further the Principal Purpose of the Trust. Investment of these monies will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- 7.6 No monies/assets in this fund will be distributed to members or office bearers of the Gift Fund, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- 7.7 The Gift Fund will be operated on a not-for-profit basis.
- 7.8 Receipts are to be issued in the name of the Gift Fund and proper accounting records and procedures are to be kept and used for the Gift Fund.

Operation of Gift Fund

- 7.9 The Gift Fund will be administered by the Board, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the Principal Purpose of the Trust.
- 7.10 The Gift Fund will comprise only the following:
 - 7.10.1 Gifts made to the Gift Fund.
 - 7.10.2 any money received because of the Gifts including, without limitation, interest received on any monies in the Gift Fund account.
- 7.11 No other money or property must be deposited to the credit of the Gift Fund.
- 7.12 The Trustee must issue a receipt of all Gifts and deductible contributions to the Gift Fund. The receipts will be issued in the name of the Gift Fund and must include:
 - 7.12.1 the name of the Donor;
 - 7.12.2 the amount of the Gift;
 - 7.12.3 the date the Gift was received;
 - 7.12.4 the name of the organisation;
 - 7.12.5 the Australian Business Number of the organisation;
 - 7.12.6 the signature of the person authorisation to act on behalf of the Gift Fund;

- 7.12.7 the fact that the Gift is a gift; and
 - 7.12.8 any other matter required to be included in the receipt pursuant to the requirements under Act (or any other tax related legislation).
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8 Winding-up or revocation of endorsement

- 8.1 At the first occurrence of:
 - 8.1.1 the winding up or dissolution of the Trust, Gift Fund or Trustee; or
 - 8.1.2 the revocation of the Trustee's endorsement as a DGR in relation to the Trust under Subdivision 30-BA of the Act,any surplus assets of the Trust Fund remaining after the payment of liabilities attributable to it, will not be distributed amongst the members of the Trust, but shall instead be given or transferred to one or more Eligible Charities as determined by the Trustee at the time.
 - 8.2 Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in subdivision 30-B of the Act are satisfied, a transfer under this Rule must be made in accordance with those conditions.
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9 Accounts and receipts

Returns

- 9.1 If required by Law or by the Commissioner to do so, the Trustee must give to the Commissioner a return for each Financial Year within the period required by the Commissioner.

Trustee to keep accounts

- 9.2 The Trustee must keep or cause to be kept proper accounts in respect of all receipts and payments on account of the Trust Fund and Gift Fund and of all dealings connected with the Trust Fund and Gift Fund, and must comply with the record keeping obligations of deductible gift recipients.

Financial statements

- 9.3 As soon as practicable after the end of each Financial Year, the Trustee must prepare or cause to be prepared financial statements showing the financial position of the Trust Fund and Gift Fund at the end of that Financial Year and statements of financial performance for that Financial Year in accordance with the accounting standards.

Audit

- 9.4 The financial statements must be audited before the Trustee is required to give the Commissioner a return by a person registered as an auditor under Part 9.2 of the *Corporations Act 2001* (Cth).

Receipts

- 9.5 The Trustee may receive capital and other money and give valid receipts for all purposes including:
- 9.5.1 those of any statute; and
 - 9.5.2 the receipt of any capital money which may or may not be deemed to be capital money for the purposes of any Law.
- 9.6 The Trustee must issue a receipt for each Gift upon request.
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10 Advisory Committees

- 10.1 The Trustee may establish Advisory Committees and appoint and remove, or make provision for the appointment and removal of, members of Advisory Committees.
- 10.2 Each Advisory Committee may consist of a single individual or the number of individuals that the Trustee decides.
- 10.3 The functions of each Advisory Committee will be decided by the Trustee.
- 10.4 The Trustee may specify:
- 10.4.1 the manner in which proceedings of each Advisory Committee are to be conducted;
 - 10.4.2 the matters which the Advisory Committee must have regard to in carrying out its functions; and
 - 10.4.3 any other matters concerning the Advisory Committee or its functions that the Trustee decides.
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11 Patrons and Ambassadors

- 11.1 The Trustee may appoint one or more patrons and ambassadors of the Trust.
- 11.2 Patrons and ambassadors have no inherent powers under the Trust. It is intended that they may be advocates of the Trust and assist in the promotion of the Objects of the Trust.
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12 Notices

Form and delivery

- 12.1 A notice, consent, information or request that must or may be given or made to a party under this deed is only given or made if it is:
- 12.1.1 delivered or posted to that party at the address stated in this deed;
 - 12.1.2 faxed to that party at the fax number stated in this deed; or
 - 12.1.3 emailed to that person at the email address stated in this deed,

or at such other address, fax number or email (as the case may be) that has been notified by that party to the other party in writing, from time to time.

Execution of emails

- 12.2 If notice is given by email, the sending party must ensure that it is either signed by means of an electronically produced signature of a person authorised by that party to send the email or states that it is being sent by a person authorised to send the email on behalf of that person.

Receipt and effect

- 12.3 A notice, consent, information or request is to be treated as given or made at the following time if it is:
- 12.3.1 delivered, when it is left at the relevant address.
 - 12.3.2 sent by post, 3 Business Days after it is posted.
 - 12.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
 - 12.3.4 sent by email, as soon as it enters the recipient's information system.
- 12.4 If:
- 12.4.1 a notice, consent, information or request is delivered;
 - 12.4.2 an error free transmission report in relation to a fax of a notice, consent, information or request is received; or
 - 12.4.3 the email enters the recipient's information system,
- after the normal business hours of the party to whom it is delivered or sent, it is to be treated as having been given or made at 9.00am the next Business Day.

13 General

Receipts by others

- 13.1 The receipt of the person purporting to be the treasurer, secretary or other proper officer of any recipient of a payment or application of income or capital from the Trust Fund or Gift Fund is a sufficient discharge to the Trustee and the Trustee need not see to the application of the payment or application.

Trustee's discretions and powers

- 13.2 Except where there is an express contrary provision in this deed, every discretion given to the Trustee is absolute and uncontrolled and every power given to it is exercisable at its absolute and uncontrolled discretion.

Personal interest of Trustee

- 13.3 Subject to the requirements of clause 6 and the Law, the Trustee and any Officer of the Trustee may exercise or concur in exercising all powers and discretions given by this deed even though the Trustee or that person:

- 13.3.1 has or may have a direct or personal interest or a conflict of fiduciary duty in the method or result of exercising the power or discretion; or
- 13.3.2 may benefit either directly or indirectly from the exercise of any power or discretion;

and even though the Trustee is a sole Trustee.

Delegation of powers

- 13.4 Subject to the requirements of this deed and the Law, the Trustee may by power of attorney or otherwise delegate to any person any of the discretions or powers given to it under this deed. The exercise of any of the discretions or powers of this deed by an attorney or delegate is valid and effectual and binds all persons interested under this deed.

Trustee's decisions

- 13.5 The Trustee may decide:
 - 13.5.1 whether any money is to be considered as capital or income;
 - 13.5.2 whether any expense, outgoing or other payment ought to be paid out of capital or income; and
 - 13.5.3 all questions and matters of doubt arising in the execution of the trusts of this deed.
- 13.6 Every decision on these matters, whether made on a question actually raised or implied in the acts or proceedings of the Trustee, is conclusive and binds all persons interested under this deed.

Trustee

- 13.7 The following provisions apply with respect to the Trustee:
 - 13.7.1 the Trustee enters into this deed in its own right and as trustee of the Trust;
 - 13.7.2 if the Trustee no longer wishes to act as trustee of the Trust, then the Trustee may by deed entered into with a replacement trustee appoint such replacement trustee to act as the trustee of the Trust, subject to any regulatory approvals, as may be required at Law to maintain the Trust's status as a Charity and a DGR; and
 - 13.7.3 if the Trustee is liquidated or becomes subject to external administrators or is no longer able to act as Trustee of the Trust, then the Settlor may by deed appoint a replacement trustee to act as trustee of the Trust, subject to any regulatory approvals, as may be required at Law to maintain the Trust's continuing status as a Charity and a DGR.

Variation

- 13.8 This deed, including the schedules, can only be varied in the manner following:
 - 13.8.1 if the variation is of an administrative and/or non-substantive nature to facilitate the efficient working of the Trust and without change to the Principal Purpose of the Trust, then by the Trustee by deed poll;
 - 13.8.2 otherwise, by deed between the Trustee and the Settlor;

subject to any regulatory approvals, as may be required at Law to maintain the Trust's continuing status as a Charity and a DGR.

Waiver

- 13.9 The fact that a party fails to do, or delays in doing, something that party is entitled to do under this deed does not amount to a waiver of that party's right to do it.
- 13.10 A waiver by a party is only effective if it is in writing.
- 13.11 A written waiver by a party is:
- 13.11.1 only effective in relation to the particular obligation or breach in respect of which it is given; and
 - 13.11.2 is not to be taken as an implied waiver of:
 - (a) any other obligation or breach; or
 - (b) that obligation or breach in relation to any other occasion.

Entire agreement

- 13.12 This deed contains everything that the parties have agreed on in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party (or a director, officer, agent or employee of that party), before this deed was executed.

Severability

- 13.13 If:
- 13.13.1 a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way;
 - 13.13.2 any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this deed, but the rest of this deed is not affected; and
 - 13.13.3 the removal of a clause or part of a clause under clause 13.13.2 materially alters the commercial allocation of benefit and risk (or management of risk) under this deed, the parties agree to negotiate in good faith to amend or modify the terms of the document as may be necessary or desirable having regard to the original terms of the bargain and the prevailing circumstances.

Further cooperation

- 13.14 Each party must do anything (including executing a document) another party reasonably requires in writing to give full effect to this deed.

Relationship of the parties

- 13.15 This deed does not create a partnership, agency, fiduciary or any other relationship, except the relationship of contracting parties, between the parties.
- 13.16 No party is liable for an act or omission of another party, except to the extent set out in this deed.

No merger

- 13.17 The provisions of this deed do not merge with any action performed or document executed by any party for the performance of this deed.

Assignment

- 13.18 Except as expressly permitted by this deed, a party must not assign any of its rights and obligations under this deed without the prior written consent of the other parties. That consent may be given or withheld at a party's absolute discretion.

Third party rights

- 13.19 A person who is not a party to this deed does not have any rights under or in connection with it.

Exclusion of contrary legislation

- 13.20 To the full extent permitted by Law, any legislation that adversely affects a right, remedy or obligation of a party, under or relating to this deed is excluded.

Execution of separate documents

- 13.21 This deed is properly executed if each party executes this deed or an identical document. In the former case, this deed takes effect when the last party executes this deed. In the latter case, this deed takes effect when the last of the identical documents is executed.
- 13.22 Evidence of execution of this deed by a party may be shown by email or a PDF copy of this deed.

Governing Law and jurisdiction

- 13.23 This deed is governed by the Law of the State of Western Australia. The parties submit to the non-exclusive jurisdiction of its courts. The parties will not object to the exercise of jurisdiction by those courts on any basis.



Execution

Executed as a deed in Perth, Western Australia

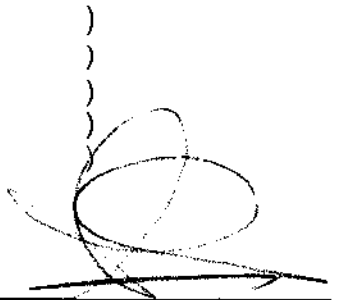
Date: 31/03/23

Trustee

Executed as a deed by
Yourtoolkit.com Limited
ACN 666 106 707
in accordance with section 127 of
the *Corporations Act 2001* (Cth) by:


Signature of Director

Elisa Fear
Print name of Director


Signature of *Director/*Secretary

Steven Cole
Print name of *Director/*Secretary

**delete that which does not apply*


Date: 31/03/2023

Settlor

Signed as a deed by
Benjamin Fong
as Settlor of the Trust
in the presence of:



Witness:

Signature: 

Full Name: FRANCESCA LYDA NOLAN

Address: 4/39-41 BRONTE STREET EAST PERTH 6003, WA

Occupation: RECEPTIONIST

Date: 31/03/2023