

JAMES ALEXANDER NIKITINE

GEOFFROY LAMARCHE

BEN LEWIS PARKER

JOCELYN GAE PAPPRILL

Donors

JAMES ALEXANDER NIKITINE

GEOFFROY LAMARCHE

BEN LEWIS PARKER

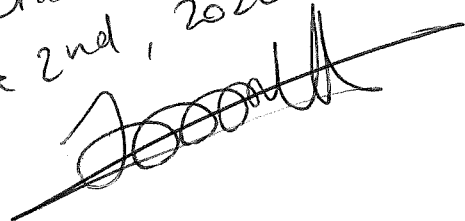
JOCELYN GAE PAPPRILL

Trustees

DEED OF TRUST ESTABLISHING BLUE CRADLE FOUNDATION

*" I hereby certify that
this is a correct copy
of the trust deed or
rules of the Blue
Cradle Foundation "*

June 2nd, 2020



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DEED dated *June 2nd*, 2020

2020

PARTIES

1. JAMES ALEXANDER NIKITINE of Christchurch, CEO ("Donor" and "Trustee")
2. GEOFFROY LAMARCHE of Wellington, Chief Adviser ("Donor" and "Trustee")
3. BEN LEWIS PARKER of Christchurch, CEO ("Donor" and "Trustee")
4. JOCELYN GAE PAPPRIILL of Christchurch, Educator for Sustainability ("Donor" and "Trustee")

(hereinafter together with such further trustee or trustees as are hereafter appointed in terms of this Deed referred to as "the Trustees")

INTRODUCTION

- A. The Donors wish to create a Charitable Trust in New Zealand as set out in this Deed and to give effect to such desire is at the same time giving to the Trustees the sum of TEN DOLLARS (\$10.00).
- B. The Trustees acknowledge receipt of the sum of TEN DOLLARS (\$10.00) and have consented to become and act as Trustees of this Trust which is to be known as Blue Cradle Foundation.

OPERATIVE PROVISIONS

1. DEFINITIONS & INTERPRETATION

- 1.1 Unless the context otherwise requires the following expressions shall have the meaning ascribed to them:
 - (a) "Trust Fund" shall mean the ten dollars referred to in clause A above and all other property which the Donors or any other person shall at any time or from time to time later transfer or give to the Trustees to be held upon the trusts set out in this Deed. The Trust Fund also includes the sale proceeds or conversion of any asset in the Trust Fund and the annual net income from the same.
 - (b) The "Charitable Purposes" shall mean the charitable purposes set out in clauses 2.1 and 2.2 of this Deed.
 - (c) The "Trustees" or the "Board" shall mean those Trustees described above together with others appointed in terms of this Deed and except where the context otherwise requires "Trustees" shall, after incorporation under the Charitable Trusts Act 1957, mean the incorporated Trust Board.
 - (d) The "Trust" is the trust created by this Deed.
 - (e) Clause headings in this Deed appear as a matter of convenience only and shall not affect the construction or interpretation of this Deed.

2. CHARITABLE PURPOSES

- 2.1 The purposes and aims of the Trust are to devote or apply both capital and income of the Trust Fund to or for any charitable purposes which are from time to time selected by the Trustees and are valid charitable purposes.
- 2.2 Subject to clause 2.1 and without in any way derogating from it, the Trustees may also devote or apply both capital and income of the Trust to further charitable purposes, in particular to promote the conservation of the ocean's ecosystems and working towards:
- (a) promoting the conservation and regeneration of the ocean's ecosystems and species;
 - (b) promoting and supporting communities working on ocean health impact solutions in Aotearoa New Zealand and beyond;
 - (c) promoting ocean literacy, marine science and conservation education and ocean science for sustainable development.

PROVIDED HOWEVER the Trustees shall be vested with an absolute discretion as to the apportionment from time to time of the Trust Fund amongst or for the benefit of the Charitable Purposes referred to above and may from time to time set apart the whole or any part for the benefit of any specified Charitable Purpose or Charitable Purposes to the exclusion of the other or others if the Trustees so desire.

3. CHARITABLE PURPOSES PARAMOUNT

- 3.1 Notwithstanding anything contained or implied in this Deed:
- (a) The Charitable Purposes are paramount. Nothing in this Deed authorises the Trustees to do anything that does not accord with the Charitable Purposes. All capital and income of the Trust and any other benefit or advantage belonging to the Trust Fund shall be applied to the Charitable Purposes.
 - (b) The Trustees must not pay, provide or allow to be derived any benefit or advantage of any kind referred to in sections CW42(1)(c) and CW42(3)-(8) of the Income Tax Act 2007 to or by any person who has some control over any business carried on by, for, or for the benefit of the Trust (as defined in section CW42 of the Income Tax Act 2007) in circumstances which would disqualify the Trust or any company owned by or business carried on by the Trust from the benefit of exempt status under section CW 42 of the Income Tax Act 2007.

4. EMPLOYMENT AND REMUNERATION OF TRUSTEES AND OTHER PERSONS

- 4.1 No private pecuniary profit shall be made by any person from the Trust Fund, except that, subject to clauses 2 and 3:
- (a) The Trustees may in good faith pay reasonable remuneration to any Trustees or other person for services rendered provided such remuneration:
 - (i) is for services rendered directly or indirectly for the benefit of the Trust;
 - (ii) is reasonable, relative to the services supplied;

- (iii) is not greater than the consideration that would be paid or supplied in an arms-length transaction (being the open market value) for such services;
 - (iv) is not directly or indirectly fixed or determined by the said recipient Trustee or person; and
 - (v) is confirmed by independent market evidence of market rates for such services.
- (b) Any Trustee may receive full reimbursement for all reasonable expenses properly incurred by that Trustee in connection with the affairs of the Trust.
 - (c) The Trustees may pay any person for providing professional services to the Trust in the course of and as part of carrying on, as a business, a professional public practice.

5. TRUSTEES POWERS

- 5.1 In carrying out the Charitable Purposes, and subject to clause 3, the Trustees shall have, in addition to all other powers conferred by law (including, without limitation, in the Trustee Act 1956), the same powers as a natural person acting as beneficial owner of the Trust Fund including, without limitation, the following powers:
- (a) To take all steps which they may consider expedient or necessary for the effective constitution and incorporation of the Trustees as a Board pursuant to the Charitable Trusts Act 1957, and for registration on the Charities Register pursuant to the Charities Act 2005;
 - (b) To use the Trust Fund as the Board thinks necessary or proper in payment of the costs and expenses of the Trust, including the employment of professional advisers, agents, officers and staff (which may include a Trustee or Trustees) as appears necessary or expedient;
 - (c) To purchase, take on lease or licence or in exchange or hire or otherwise acquire, develop, improve or otherwise deal with any land or personal property and any rights or privileges which the Board thinks necessary or expedient for the purpose of attaining the objects of the Trust, and to sell, exchange, bail or lease, with or without option of purchase, or in any manner dispose of any such property, rights or privileges as aforesaid;
 - (d) To accept money or property as a gift, legacy, devise or loan on any terms acceptable to the Trustees;
 - (e) To apply, secure, acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise and to exercise, carry out and enjoy any charter, licence, power, authority, franchise, concession, right or privilege which any government or authority or any corporation or other public body may be empowered to grant and to pay for, aid in and contribute towards carrying the same into effect;
 - (f) To agree to settle accounts with all persons liable to account to the Trustees, to compromise all questions relating to the Trust Fund including questions affecting any Trustee or all the Trustees and to grant effectual receipts, discharges and releases;

(g) To carry on any business...

- (h) To sell, reinvest, call in or convert all or any part of any real or personal property forming part of the Trust Fund in such manner and subject to such terms and conditions as the Trustees deem appropriate;
- (i) To invest surplus funds in any way permitted by law for the investment of trust funds and upon such terms as the Board thinks fit;
- (j) To incorporate any company or enter into any partnership for the purposes of carrying on any business for the benefit of the Trust;
- (k) To indemnify, guarantee and secure any company, firm or person against debt or liability incurred or undertaken on behalf of the Trust and against any costs, losses or expenses in connection with the affairs of the Trust and in connection with the foregoing to charge the assets of the Trust Fund;
- (l) To borrow or raise money from time to time with or without security and upon such terms as to priority and otherwise as the Board thinks fit;
- (m) To retain the Trust Fund (or any part of it, or the income from it or any part of such income) for such time as the Trustees in their absolute and uncontrolled discretion shall think fit and whether or not that part of the Trust Fund is of a wasting or speculative nature;
- (n) To make payment or contribute to any charitable organisation which has purposes similar to the Trust;
- (o) To amalgamate or merge the Trust with any other exclusively charitable trust or organisation and to transfer all or part of the Trust Fund to such amalgamated or merged Trust or organisation;
- (p) To pay any Trustee hereof who is engaged in any profession such professional charges or fees for any business done by that Trustee or that Trustee's firm in and about the trusts hereby declared which that Trustee would have been entitled to charge and receive if that person had not been a Trustee; and
- (q) To do all things which are incidental to or conducive to or desirable to enable the Trustees to give effect to and to attain the Charitable Purposes of the Trust.

6. RULES

- 6.1 The Trustees shall comply with the rules as to conducting the affairs of the trust set out in the First Schedule ("the Trust Rules"). The Trust Rules may be amended or added to from time to time by resolution of a majority of not less than sixty-six percent of the Trustees for the time being of this Trust provided that any amendment to the Trust Rules does not breach the Charitable Purposes.

7. POWER TO AMEND

- 7.1 The Trustees for the time being may amend the powers and terms of this Deed as they see fit by unanimous resolution PROVIDED THAT the Trustees may not amend this Deed in any manner which would:

- (a) Negate impeach limit or set aside the Charitable Purposes set out in this Deed except to the extent required to register the Trust as a charitable trust under the Charities Act 2005 or any amendment or any statutory provision in substitution thereof; or

- (b) result in the Trust losing its status as a "charitable entity" under the Charities Act 2005 or any amendment or any statutory provision in substitution thereof.

8. NAME

- 8.1 The Trust hereby created shall be called and known as **Blue Cradle Foundation** or such other name approved by the Trustees by unanimous resolution.

9. NUMBER OF TRUSTEES

- 9.1 The number of trustees shall be a minimum of two (2) and a maximum of seven (7).

10. APPOINTMENT OF TRUSTEES

- 10.1 Subject to clause 9.1 above, the power to appoint new, additional or replacement Trustees of the Trust is by way of Resolution vested in a majority of not less than sixty-six percent of the Trustees for the time being of the Trust (or the survivor or survivors of them or in the executor or administrator of the last survivor or survivors of them).

11. REMOVAL OF TRUSTEES

- 11.1 If any Trustee shall:

- (a) In the opinion of a majority of all other Trustees become physically or mentally incapable of acting as a Trustee;
- (b) Commit an act of bankruptcy;
- (c) Be convicted of a criminal offence which in the opinion of a majority of the other Trustees makes his or her position as Trustee undesirable;
- (d) Tender a written resignation;
- (e) Be requested to resign by notice in writing signed by not less than two-thirds of all other Trustees;

then and in any such case the said Trustee shall by resolution of the Board forthwith be removed from office as a Trustee and cease to be a Trustee of the Trust immediately.

- 11.2 Clauses 11.1(a) and (e) shall not apply to the Donors.

12. TRUSTEE LIABILITY

- 12.1 It is declared that:

- (a) The Trustees are chargeable respectively only in respect of the money and securities they actually receive, or which, but for their own acts, omissions, neglects, or defaults they would have received, notwithstanding their signing any receipt for the sake of conformity;
- (b) Each Trustee shall be 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, Auctioneer, or other person with whom, or into whose hands, any trust money or security is properly deposited or has come;

- (c) No Trustee shall be liable personally for the maintenance, repair, or insurance of any property included in the Trust Fund; or for the payment of any charges on such property;
- (d) No Trustee hereof shall be liable for any loss arising from any cause whatsoever including a breach of the duties imposed by Section 13B and/or Section 13C Trustee Act 1956 (as enacted by the Trustee Amendment Act 1988) (or any statutory replacement or equivalent);

UNLESS such loss is attributable:

- (i) To his or her own dishonesty; or
- (ii) To the wilful commission by him or her of an act known by them to be a breach of trust

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

- (e) No Trustee shall be bound to take any proceedings against a co trustee for any breach or alleged breach of trust committed by that co trustee;
- (f) Notwithstanding the prudence or otherwise of retaining assets in the Trust Fund no Trustee shall be liable for any loss suffered by the Trust Fund by reason of the Trustees retaining any asset forming part of the Trust Fund; and
- (g) Subject to clause 12.1(d) above, a Trustee (including a retiring Trustee) shall be entitled to an indemnity out of the Trust Fund for any loss or liability that Trustee incurs while acting (or failing to so act) as a Trustee.

13. COMMON SEAL

- 13.1 The Board shall have a common seal ("the Common Seal") which shall be kept in the custody of the secretary (or such other officer as shall be appointed by the Board) and which shall be used only by authority of the Trustees previously given at a meeting of the Board to any document requiring execution by the Trustees. Each such use of the seal shall be performed in the presence of and accompanied by the signatures of at least two Trustees and shall be sufficient evidence of the authority to use such seal. No person dealing with the Trustees shall be bound or concerned to see or enquire as to the authority under which any document is sealed and in whose presence it was sealed.

14. TRUST CONTRACTS

- 14.1 Contracts on behalf of the Trust may be made as follows:

- (a) A contract which if made by private persons would be by law required to be by deed may be made on behalf of the Trust in writing under the Common Seal of the Trust attested as referred to above;
- (b) A contract which is made between private people would be by law required to be in writing, signed by the parties to be charged herewith, may be made on behalf of the Board in writing signed by any person acting under its authority, express or implied; and

- (c) A contract which if made between private people would by law be valid although made verbally only, and not reduced into writing, may be made verbally on behalf of the Board by any person acting under its authority, express or implied

PROVIDED HOWEVER no such contract shall be entered into by any person on behalf of the Trust except with the authority of a resolution passed by the Trust at a properly constituted meeting.

15. COUNTERPARTS

- 15.1 This Deed may be executed in any number of counterparts (including email and facsimile copies), all of which, when taken together, will constitute one and the same instrument. A party may enter into this Deed by executing any counterpart.

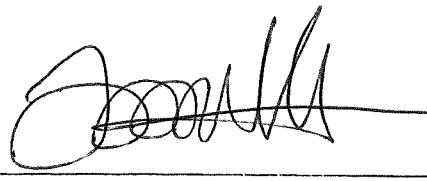
16. DISSOLUTION OR WIND UP OF TRUST

- 16.1 The Trust may be wound up at any time on the passing of a resolution to wind up carried by a unanimous resolution of the Trustees at a meeting called for such purpose.
- 16.2 If at any time the Charitable Purposes of the Trust shall fail or if for any other reason the Charitable Purposes shall become wholly frustrated and incapable of being carried out or if the Trust Fund shall no longer be used or required for the Charitable Purposes or Objects declared hereof then and in such case the Trustees shall proceed to wind up the Trust.
- 16.3 Upon a winding up for any reason, any remaining portion of the Trust Fund, or the net proceeds arising from the sale of the assets of the Trust shall be applied, after payment of all liabilities, towards such Charitable Purposes in New Zealand as may be determined by the Board, or in default of its determination, as may be decided on application to a judge of the High Court of New Zealand.

SIGNED AS DEED

SIGNED by the said
JAMES ALEXANDER NIKITINE
 as Donor and Trustee
 in the presence of:

)
)
)
)



 JAMES ALEXANDER NIKITINE

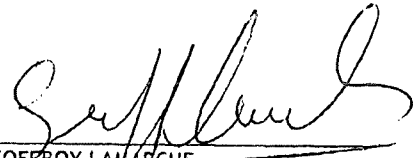
Signature

 TALISKER SCOTT HUNTER
 Print Name


 COMMUNITY & EVENTS MANAGER, MOA
 Occupation

 CHRISTCHURCH
 Town/City of Residence

SIGNED by the said
GEOFFROY LAMARCHE
as Donor and Trustee
in the presence of:



GEOFFROY LAMARCHE



Signature

Paula Fielden

Print Name

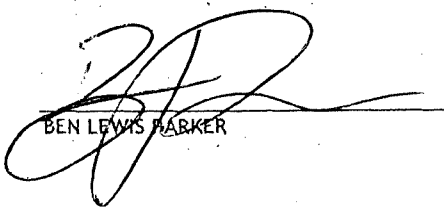
Psychologist

Occupation

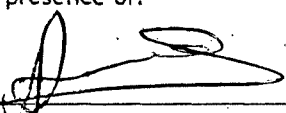
Wellington

Town/City of Residence

SIGNED by the said
BEN LEWIS PARKER
as Donor and Trustee
in the presence of:



BEN LEWIS PARKER



Signature

Rakotonirainy Rabirime B.

Print Name

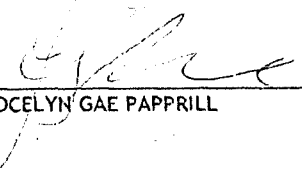
Field project coordinator, VHF

Occupation


Tamatave / Madagascar.

Town/City of Residence

SIGNED by the said
JOCELYN GAE PAPPRILL
as Donor and Trustee
in the presence of:



JOCELYN GAE PAPPRILL



Signature

Corinne Anne Paine

Print Name

Events Organiser

Occupation

Christchurch

Town/City of Residence

FIRST SCHEDULE

Subject to the terms of clause 6.1, the Trustees shall conduct the Trust in accordance with the following Trust Rules they may make and amend from time to time as they consider fit, subject to the terms of this Deed:

- (a) The Trustees shall hold meetings at such times as they shall determine PROVIDED HOWEVER that any Trustee may request a meeting of the Board (a "Special Meeting") by notice in writing directed to the secretary. Upon receiving any such notice the Secretary shall arrange such Special Meeting of the Board and shall give to the Trustees fourteen (14) days' notice in writing of such Special Meeting.
- (b) No meeting of Trustees shall transact any business unless a quorum of Trustees is present. A quorum shall be such number of Trustees as shall be two thirds of the number of Trustees for the time being, provided that the quorum for a Special Meeting shall be not less than seventy-five percent of the number of Trustees.
- (c) Upon any matter to be decided or business to be transacted at a meeting of the Trustees each Trustee personally present shall have one vote. The number of votes required to reach any decision shall be:
 - (i) For a general meeting, not less than seventy-five per cent of the number of Trustees present at such meeting; and
 - (ii) For a Special Meeting, not less than one hundred per cent of the number of Trustees present at such meeting.
- (d) A resolution in writing (including by way of email) signed or assented to by not less than seventy-five percent of the number of Trustees shall be as valid and effectual as if it had been passed at a general meeting of the full Board, and a resolution in writing signed by all Trustees shall be as valid and effectual as if it had been passed at a Special Meeting of the full Board. Any such resolution may consist of several documents (including email messages assenting to the resolution, scanned copies of signed resolutions and other similar means of communication) each signed or assented to by 1 or more Trustees.
- (e) Meetings may be conducted by telephone conference, video conference or any similar means of electronic, audio or audio-visual communication, provided that the Trustees can hear each other throughout the meeting. For the purposes of establishing a quorum and voting on any matter to be decided or business to be transacted as a meeting of Trustees, a Trustee attending in accordance with the provisions of this clause (e) shall be deemed to be present at the meeting.
- (f) Where any procedural requirement set forth in the Trust Rules contained herein shall be found not to have been complied with, any subsequent meeting of the Trustees may ratify and confirm any earlier action purported to have been taken or done by or on behalf of the Trust.

