

■ PHILLIPS FOX ■

DATED *30 January* 1997

PARTIES

1. THE WELLINGTON CITY COUNCIL
2. WELLINGTON REGIONAL COUNCIL
3. THE WELLINGTON REGIONAL STADIUM TRUST
INCORPORATED

FUNDING DEED
WELLINGTON REGIONAL STADIUM TRUST

Phillips Fox
Solicitors
Wellington and Auckland
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PARTIES

1. THE WELLINGTON CITY COUNCIL a local authority constituted under the Local Government Act 1974 (' the City Council')
2. WELLINGTON REGIONAL COUNCIL a regional council constituted under the Local Government Act 1974(' the Regional Council')
3. THE WELLINGTON REGIONAL STADIUM TRUST INCORPORATED a charitable trust, incorporated under the Charitable Trusts Act 1957(' the Trust')

BACKGROUND

- A. The Councils have established a charitable trust called the Wellington Regional Stadium Trust Incorporated to own and operate a multi-purpose regional stadium to be built in Wellington.
- B. The Councils and the Trust have agreed to enter into this Deed to define their respective obligations to each other in respect of the funding of the Trust.

OPERATIVE PART

1.0 ADVANCES

- 1.1 The City Council agrees, subject to the terms of this Deed, to advance the sum of \$15,000,000 to the Trust. Of that sum, \$5,365,000 has been lent to the Development Trust. That liability together with any other advances made by the City Council to the Development Trust for proper and legitimate development costs for the Stadium will be assumed by the Trust. The balance of the \$15,000,000, will be advanced to the Trust in accordance with clauses 4 and 5.
- 1.2 The Regional Council agrees, subject to the terms of this Deed, to advance to the Trust the sum of \$25,000,000.
- 1.3 While not obliged to do so, the City Council may elect to increase the amount of its advance (currently \$15,000,000) to the Trust under clause 1.1. Should the City Council elect to increase its advance under this Deed the percentage of each payment to be made under clauses 5.2 and 5.4 of this Deed shall be amended accordingly.

1.4 The City Council shall not provide any other financial assistance (whether by way of underwrite, guarantee or loan) to the Trust, without the prior written consent of the Regional Council, to the terms and provision of such other financial assistance, (such consent will not be unreasonably withheld).

2.0 PROJECT PLAN

2.1 As soon as is practicable, the Trustees shall provide the Councils with a Project Plan for Councils' approval. The Project Plan will be based on the current business plan for the Stadium completed by the Development Trust but shall be updated so as to enable the Councils to satisfy themselves that the Stadium can be built within either confirmed funding or with a manageable shortfall, and that the Stadium when complete will be financially viable so as to achieve the objects of the Trust. The Project Plan shall include:

- (a) A complete set of outline plans and specifications describing the Stadium and its facilities for which resource consents have been obtained;
- (b) Details of the land acquired for the Stadium site, and the tenure and basis upon which it is controlled by the Trust;
- (c) Details of all resource and other consents, and all permits either obtained or necessary to enable construction of the Stadium and which permit its use as intended;
- (d) Details of all assets, rights, obligations and liabilities to be assumed by the Trust from the Development Trust;
- (e) Detailed projections of all costs necessary to complete construction of the Stadium and all necessary facilities, together with reasonable information on how that projected cost is protected, either through the use of fixed price construction contract or otherwise;
- (f) Confirmation of the availability of the majority of funding necessary to meet all costs in having the Stadium completed and ready for use and with reasonable detail on the prospects of arranging and funding any shortfall;
- (g) An updated Business Plan for the first year of operation of the Stadium showing the Trustees' estimate of all income and expenses during such year so as to demonstrate that the Stadium can operate on a financially viable basis;



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- (h) A Strategic Plan for the Trust outlining proposals for the operation of the Trust and the Trust Assets for a 5 year period in accordance with clause 9.1;
 - (i) Details of the establishment including the constitution of an operating subsidiary company or other appropriate management regime to manage and operate the Stadium together with evidence that the appropriate management and governance provisions have been established so as to protect the Trust's assets;
 - (j) A cashflow plan showing how construction of the Stadium is to be funded detailing the proposed dates that the Councils' advances will be called upon to be paid to meet the construction programme, such payments to be made only following the achievement of agreed milestones during the construction programme;
 - (k) Details of contingent liabilities not contained in the Stadium cost projections in terms of clause 2.1(e) or in the income and expenses estimate contained in the Business Plan in terms of clause 2.1(g); and
 - (l) Such other information regarding the project as the Councils may reasonably require to satisfy themselves that the Trust's objectives will be met.

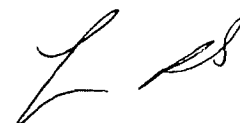
2.2 The Project Plan lodged for the Councils' approval shall be accompanied by a certificate from the Trust confirming that, save for the satisfaction of any conditions contained in the Project Plan (for example granting of final resource consents), in the reasonable opinion of the Trustees they have confidence in and are satisfied as to the viability of the Project Plan and that in their reasonable opinion no impediment exists which would preclude the completion of the Stadium in accordance with the Project Plan submitted.

2.3 The Councils will consider the Project Plan provided by the Trustees as quickly as practicable and will consult with the Trustees to obtain clarification of any matter so that approval of the Project Plan can be given at the earliest possible date. The Trustees shall supply all information reasonably required by the Councils when the Councils are considering the Project Plan.

3.0 APPROVAL OF ADVANCES

3.1 The Councils shall not be obliged to make any of their advances until:

- (a) The Project Plan has been approved in writing by the Councils;
- (b) The Trust has been validly established as a charitable trust and has completed an agreement approved by the Councils acquiring all of the



assets, rights, benefits and liabilities relating to the Stadium held by the Development Trust in accordance with the Project Plan; and

(c) The Trust has provided the Councils with a certificate confirming that:

- all necessary resource consents for construction, completion and intended use of the Stadium have been obtained and remain valid (with details to demonstrate the receipt of the consents) and there is nothing which is likely to affect the continuing validity of those consents;
- a suitable construction contract is available for the Stadium in line with clause 2.1(e) which will enable the Stadium to be constructed within the cost projections contained in the approved Project Plan;
- all other sources of funding necessary to meet the costs of completing the Stadium and all necessary facilities have been identified and commitments to provide such funding obtained, or to the extent that such commitments have not been obtained, that the Trustees are reasonably satisfied that such uncommitted funding can be secured by the time that the funds will be required;
- any other conditions contained in the Project Plan have been met; and
- in the reasonable opinion of the Trustees they believe that no impediment exists which would preclude or, which may affect in an adverse manner, the completion of the Stadium in accordance with the Project Plan.

3.2 Councils' approvals under clause 3.1 shall not be unreasonably withheld, and the Councils will consider the Project Plan and if satisfied with the Project Plan, the Councils will give all approvals required promptly, so that there is no unreasonable delay in commencing or continuing the construction of the Stadium.

3.3 Notwithstanding clauses 3.1 and 5.5, the Regional Council shall be under no obligation to make any advance under clause 5 until the Regional Council has finalised and approved the terms and conditions upon which a Stadium purposes rate is to be levied pursuant to section 5 of the Wellington Regional Council (Stadium Empowering) Act 1996, provided that the Regional Council shall, upon execution of this Deed, proceed as quickly as is practicable to finalise and approve the terms and conditions of the said rate.



3.4 The Trustees will advise the Councils, from time to time and as quickly as is practicable if, in the Trustees' opinion any circumstance has arisen which will or may affect, in an adverse manner, the prospect of the Trust completing the Stadium in accordance with the approved Project Plan.

4.0 DEVELOPMENT ADVANCES

4.1 In order to provide funds to the Trust to enable it to meet planning and development expenses necessarily incurred for the establishment of the Stadium, the City Council has advanced part of its \$15,000,000 advance to the Development Trust. Once the Trust assumes responsibility for the ongoing planning and development of the Stadium from the Development Trust, the City Council agrees to provide further advances to the Trust to meet such preliminary expenses. All such funds advanced by the City Council shall be treated as a part advance of its \$15,000,000 advance. The City Council may make such preliminary advances from time to time as is agreed between it and the Trust and the City Council may require such additional reports, information or verification of the proper and necessary incurring of such expenses before making any preliminary advance. Before the City Council advances any part of its advances under this clause 4, it will be provided with a certificate from either the Trust or the Trust's project manager stating that all funds advanced by the City Council will be expended solely for appropriate and necessary costs incurred in the planning, development and construction of the Stadium. Advice of all such advances, together with a copy of the Trust's certificate, shall be provided to the Regional Council.

5.0 TIME OF PAYMENT

5.1 The Project Plan submitted for the Councils' approval under clause 2 shall contain a schedule of the anticipated drawdown dates for the payment of the Councils' advances which shall include:

- the anticipated date that each drawdown will be requested; and
- the amount of each drawdown.

5.2 In consideration of the City Council's prior funding of the Development Trust and the Trust under clauses 1.1 and 4.1 respectively, on the first drawdown date recorded in the Project Plan approved by the Councils, the Regional Council shall make an initial payment from its advance so that of the total sum advanced by the City Council and the Regional Council they shall have each paid:

- Regional Council 62.5%
- City Council 37.5%



or such amended percentage resulting from any increase, pursuant to clause 1.3 in the City Council's advance, which is required to reflect the ratios of the Councils' contributions to the total advances made under this Deed.

5.3 The Councils will pay the balance of their advances to the Trust in accordance with the payment schedule contained in the approved Project Plan immediately after receiving a certificate prior to each drawdown signed by the Trustees confirming that:

- the event or milestone specified in the Project Plan justifying the payment of the advance has been met; and
- in the reasonable opinion of the Trustees nothing has changed to alter their opinion given to the Councils in the certificate under clause 3.1(c).

5.4 Payments by the Councils' under clause 5.3 shall be funded by:

- Regional Council as to 62.5%
- City Council as to 37.5%

from the balance of their advances yet to be paid or such amended percentage resulting from any increase, pursuant to clause 1.3, in the City Council's advance which is required to reflect the ratios of the Councils' contributions to the total loan made under this Deed.

5.5 Subject to clauses 3.1 and 3.3, the Councils agree that they will each immediately take all steps necessary to ensure the availability of their respective advances to ensure payment can be made promptly to the Trust so as not to impede the construction of the Stadium, in accordance with the payment schedule contained in the Project Plan.

5.6 The Councils shall only be entitled to withhold making any payment due under clause 5 if:

- prior to the anticipated drawdown date specified in the Project Plan the Councils do not receive a certificate signed by the Trust pursuant to clause 5.3; or
- a Default Event has occurred and has not been remedied.

5.7 Notwithstanding the provisions of clauses 5.2, 5.3 and 5.4 either Council may at its discretion make payment of any part or all of its advances due under clauses 5.2 and 5.3 in advance of its obligation to do so.



5.8 In the event that either Council forwards any part or all of its advance to the Trust in advance of its obligation to do so, such advance payment shall not affect the other Council's obligation to make payment to the Trust in accordance with the provisions in clauses 5.2, 5.3 and 5.4.

6.0 NATURE OF ADVANCES

6.1 The Councils' advances under this Deed are a loan ('the loan'). Subject to clause 6.2, the loan shall be interest free, unsecured and the Councils shall have limited rights of recourse to claim repayment of the loan as provided in this Deed. The loan shall be repaid to the Councils from the Surplus funds in the manner described in clause 14 or from such other monies of the Trust as the Trustees may determine.

6.2 From any date on which it is determined by any statutory authority having the force of law (or, if not having the force of law, an authority with whose determinations it is customary for local authorities generally to comply), that the Trust is, or is deemed to be, a LATE, the Trust shall, upon demand by the Councils, pay interest to the Councils on the outstanding amount of the loan at the Interest Rate.

6.3 If demand is not made in accordance with clause 6.2, no interest will have accrued or be payable and the Trust shall not be under, nor shall the Trust at any time become subject to, an obligation to pay interest in respect of the loan.

6.4 Payment of any interest accrued in accordance with clause 6.2 shall be made after the loan has been repaid in full in accordance with clause 14.

6.5 Where demand has been made in accordance with clause 6.2, interest on the loan shall accrue, and be calculated on the outstanding amount of the loan, from day to day and shall be calculated on the basis of a year of 365 days and the actual number of days elapsed.

6.6 The parties acknowledge that it is their intention that the Trust not be a LATE. The Trustees shall use their best endeavours to structure the Trust's activities in a way that ensures that the Trust is not deemed to be a LATE.

7.0 TERM

7.1 The term of this Deed shall commence on the Commencement date, and shall expire on the date of full repayment of the loan.

8.0 REVIEW OF FUNDING DEED

8.1 The parties shall meet to review, in good faith, all of the terms of this Deed on every fifth anniversary of the Commencement date.



9.0 STRATEGIC PLAN

9.1 The Trust shall prepare a Strategic Plan for the Trust outlining proposals for the operation of the Trust and the Trust Assets for a 5 year period on the following basis:

- the first Strategic Plan will be prepared as soon as is practicable and shall be included as part of the Project Plan; and
- updated versions of the Strategic Plan will be prepared and presented to the Councils by 30 April in each year of the term of this Deed thereafter.

9.2 The Councils shall by the 28th of February in each year supply to the Trustees a statement of the long term objectives and outcomes which they believe are desirable for the Stadium. The Trustees shall have regard to those views in completing the Strategic Plan and the Business Plan for the forthcoming year. Before finalising the Strategic Plan, the Councils and the Trustees shall meet to resolve any divergence of views regarding the objectives and outcomes for the Trust so that there is an agreed policy to be included in the Strategic Plan.

9.3 The Strategic Plan for the Trust shall include the following information:

- (a) The objectives and outcomes proposed for the operation of the Stadium in the following 5 years;
- (b) The nature and scope of the activities to be undertaken to achieve the proposed objectives and outcomes;
- (c) An indicative rolling 5 year forecast of the financial position including any significant intended capital expenditure;
- (d) Broad performance targets and other measures by which the performance of the Trust in achieving or moving towards achieving the objectives and outcomes in the Strategic Plan may be judged; and
- (e) Such other matters as are agreed to between the Councils and the Trust.

9.4 Before its adoption the Strategic Plan shall be made available to the Councils for their approval, such approval will not be unreasonably withheld.

10.0 STATEMENT OF TRUSTEE INTENT

10.1 The Trustees shall deliver to the Councils a draft Statement of Trustee Intent not later than 1 April in each year.



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- 10.2 The Councils may informally advise the Trust by the end of February in each year of any significant governance issues that the Councils wish the Trustees to consider incorporating into the draft Statement of Trustee Intent. The Trustees shall consider any governance issues raised by the Councils prior to completing the draft Statement of Trustee Intent.
- 10.3 The Statement of Trustee Intent shall specify in respect of each Financial Year in which it is delivered, and each of the immediately following 2 Financial Years the following information:
- (a) The objectives of the Trust;
 - (b) The nature and scope of the activities to be undertaken;
 - (c) The ratio of total Trust Assets to Trust liabilities and definitions of those terms;
 - (d) The accounting policies of the Trust;
 - (e) The governance related performance targets and other measures by which the Trust's performance may be judged in relation to the Trust's objectives;
 - (f) The kind of information to be provided to Councils by the Trust during the course of those Financial Years;
 - (g) Any significant obligations to third parties;
 - (h) Confirmation that the Trust will comply with all relevant legislation; and
 - (i) Such other matters as are agreed by the Councils and the Trustees.
- 10.4 The Trustees shall:
- (a) Consider any comments by the Councils on the draft Statement of Trustee Intent that are made to the Trust by 30 June each year; and
 - (b) Deliver the completed Statement of Trustee Intent to the Councils within 1 month of the commencement of the Financial Year.
- 11.0 BUSINESS PLAN
- 11.1 The Trust shall prepare a Business Plan for the management of the Trust and the Trust Assets for each Financial Year either concurrent with, or



immediately following the updating of, the Strategic Plan for the Trust in each year.

- 11.2 The Business Plan will be completed for the Trust, and any subsidiary company or controlled entity of the Trust, and shall cover the Financial Year to which it relates together with projections for the following 2 Financial Years. The Business Plan shall be completed in accordance with usual business practices and shall be consistent with the approved Strategic Plan. The Business Plan shall contain an appropriate level of financial information and detail prepared in accordance with generally accepted accounting standards and practice, together with the performance targets and other measures by which the performance of the Trust may be judged in relation to its objectives.
- 11.3 The Trust will provide the Councils with a copy of the Business Plan in each year forthwith after it is adopted by the Trustees.
- 11.4 The Trustees shall manage and operate the business of the Trust in each Financial Year within the terms of the annual Business Plan adopted by the Trust for that year.
- 11.5 The Business Plan shall contain sufficient details to enable the Councils to comply with their reporting obligations under the Local Government Act 1974.

12.0 APPROVAL TO MAJOR TRANSACTIONS

- 12.1 The Trust shall obtain the written consent of the Councils prior to the Trustees exercise of any power to:

- give any guarantee;
- borrow any money (other than advances under this Deed); or
- give any security over any of the Trust Assets,

where the liability guaranteed, the sum borrowed, or the liability or obligation intended to be secured, exceeds an amount equivalent to 20% of the value of the Trust Assets, including any existing liability of the Trust (other than the Councils advances under this Deed).

- 12.2 The Trust shall obtain the written consent of the Councils prior to the Trustees exercise of any power to undertake any one or a series of transactions in any one Financial Year involving an acquisition, new development or any expenditure on any existing Trust Asset where the total projected cost over the period exceeds 20% of the value of the Trust Assets.



12.3 Consent required from the Councils under this clause shall not be unreasonably withheld.

13.0 ACCOUNTS AND REPORTS TO THE COUNCILS

13.1 The Trust will provide to the Councils, within 90 days of the end of each Financial Year, the financial statements as required by the Trust Deed.

13.2 Until the Stadium is open and operating, the Trust will within 28 days of the end of each quarter in each Financial Year prepare and submit an unaudited report to the Councils setting out progress made by the Trust in achieving the objectives and outcomes and other proposals contained in the Business Plan. During this period the Trust will also meet quarterly with the Councils to update them on progress and to answer questions. Thereafter the Trust will provide unaudited six monthly reports to the Councils to be provided within 28 days of the end of each six monthly period.

13.3 In addition to the reports as set out above, the Trust will also provide such other reports or financial information regarding the position of the Trust and meet with the Councils as may be reasonably required by the Councils from time to time.

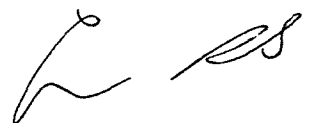
14.0 REPAYMENT OF COUNCILS' ADVANCES

14.1 The Councils acknowledge that the Trust's overriding objective is to meet and achieve the objects of the Trust recorded in the Trust Deed and that the objectives specified in subclauses 3.1(a) to (d) of the Trust Deed are predominant. The Trustees shall operate the Trust prudently and on a sound commercial financial basis so that while continued operation and maintenance to a high standard of the Stadium is the first priority in accordance with the Trust Deed objectives, every effort shall be made to reduce and ultimately repay the Councils' advances.

14.2 The Trust shall be entitled to make at any time, payments to the Councils in reduction of their advances in addition to any payments made from Surplus funds at the end of the Financial Year.

14.3 On the completion of each year's annual accounts for the Trust, any Surplus funds shall, unless the obligation to repay is waived or suspended by the Councils, be repaid to the Councils as a reduction of their respective advances.

14.4 Any repayments made to the Councils shall be paid to each Council in proportions equal to the amounts outstanding and owing to each Council under this Deed from time to time.



15.0 REGULATORY POSITION

15.1 The Councils' ability to act under this Deed shall in all things be subject to any and all statutory or regulatory requirements establishing or recording powers or functions or delimiting the same and/or the exercise thereof by the Councils and nothing in this Deed shall be read or construed as abrogating delimiting or otherwise affecting the proper or valid undertaking or exercise of any such power or function by the Councils or their instrumentalities.

15.2 The Trust acknowledges that the Regional Council is statutorily empowered to lend the Trust no more than \$25,000,000.

16.0 NO PARTNERSHIP

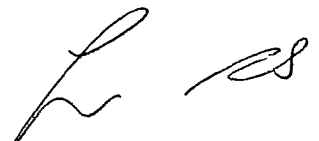
16.1 Nothing in this Deed or in the relationship of the parties hereunder shall be construed as creating a partnership or as conferring upon the parties or any of them any of the rights, or subjecting them or any of them to any of the liabilities of a partner.

17.0 TERMINATION

17.1 The Councils have the right to terminate this Deed at any time after the happening of any of the following events ('a Default Event'):

- (a) an encumbrancer takes possession or a receiver or manager is appointed of any of the property or assets of the Trust;
- (b) the winding up of the Trust;
- (c) the Trustees committing any material breach of their obligations under the Trust Deed or this Deed, and such breach continuing for a period of not less than 30 days after written notice has been given to each of the Trustees requiring them to remedy the breach within that period; or
- (d) there has occurred a significant and material adverse change to the financial position of the Trust which in the Councils' reasonable opinion threatens the continued financial viability of the Trust as a financially autonomous entity.

17.2 Upon termination the outstanding balance of the Councils' advances shall be immediately repayable to the Councils.



18.0 TRUSTEES LIABILITY

18.1 The parties acknowledge that the liability of the Trustees shall be limited to the capital assets and income of the Trust that are for the time being in the Trustees' hands as Trustees of the Trust.

18.2 Notwithstanding the right of Councils' to have their loan repaid pursuant to the provisions of this Deed, it is acknowledged and agreed by the parties that the Trustees have, and shall continue to have, a lien or charge over the Trust Assets which entitles the Trustees to a prior right to be indemnified out of the Trust Assets, as provided in clause 11.2 of the Trust Deed.

19.0 CONFIDENTIAL INFORMATION

19.1 The parties agree that any material identified as commercially sensitive or confidential by all or any of the parties shall be kept confidential by the parties.

19.2 The parties will use their best endeavours to ensure that their officers, employees, agents and subcontractors who are in possession of any such information observe and comply with clause 19.1.

20.0 DISPUTES

20.1 In the event of any dispute arising between the parties to this Deed in respect of or in connection with this Deed (including validity, breach or termination of it) the parties shall, without prejudice to any other right or entitlement they may have pursuant to this Deed or otherwise, immediately explore in good faith whether the dispute can be resolved by agreement between them using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other alternative dispute resolution technique. The rules governing any such technique shall be as agreed between the parties or if no such agreement is reached within seven days as selected by the Chairman for the time being of the New Zealand Chapter of Lawyers Engaged in Alternative Dispute Resolutions. All parties agree to use their best endeavours to achieve resolution in this way and further agree that no party will initiate arbitration without first pursuing such informal dispute resolution techniques.

20.2 In the event the dispute is not resolved by such agreement within 21 days of written notice by one party to the others of the dispute (or such further period agreed in writing between the parties), any party may refer the dispute to arbitration by a single arbitrator pursuant to the Arbitration Act 1996. The arbitrator shall be agreed between the parties within 10 days of written notice of the referral by the referring party to the others or failing agreement shall be appointed, upon the request of any party, by the President (for the time being) of the Wellington District Law Society. In either case the arbitrator shall not

be a person who has participated in an informal dispute resolution procedure in respect of the dispute. The arbitrator so appointed shall be obliged to proceed with the maximum expedition to deliver an award within two months of his or her appointment, the parties agreeing to cooperate fully in this respect. The parties hereby agree that the arbitral award shall be final and binding and hereby waive any right to appeal against the award or seek judicial review of it in any Court.

- 20.3 In the event that the Councils are unable to agree on any matter requiring a joint decision under this Deed, then either of them may give the other written notice ('the Notice') requiring that matter be determined by the President (for the time being) of the Wellington District Law Society, or by any person appointed by the President of the Wellington District Law Society for that purpose. In that event, both parties will within 10 working days of the Notice, provide written submissions concerning the matter on which they are unable to agree for consideration by the President of the Wellington District Law Society or his or her nominee. Both Councils agree that the determination of the President of the Wellington District Law Society or his or her nominee shall be binding upon both of them.

21.0 NOTICES

- 21.1 All notices and other communications provided for or permitted hereunder shall be sent by certified or registered mail with postage prepaid, by hand delivery, or by facsimile transmission to:

- (a) The City Council at:-

4th Floor
Council Offices
Wakefield Street
WELLINGTON

Attention: Tony Watson
Facsimile No: (04) 801 3015
E-mail address: watson_a@wcc.govt.nz

and

the Regional Council at:
142-146 Wakefield Street
WELLINGTON

Attention: Greg Schollum
Facsimile No: (04) 384 5023



(b) The Trust at:-

12th Floor
89 The Terrace
P O Box 2080
WELLINGTON

Attention: David Gray
Facsimile No: (04) 473 3882

or such other address within New Zealand as that party may specify by notice to the other.


All such notices or communications shall be deemed to have been duly given or made:

- (i) 3 business days after being deposited in the mail with mail postage prepaid;
- (ii) When delivered by hand;
- (iii) If sent by facsimile, on the next business day following receipt of a transmission complete advice (unless a verifiable query as to material illegibility is promptly raised) by or on behalf of the intended recipient; or
- (iv) If sent by email, on the next business day following receipt of an acknowledgement from the intended recipient, that the email has been received.

22.0 WAIVER

22.1 The failure of any party at any time or times to require performance of any provision of this Deed shall in no manner affect its right to enforce such provision at a later time.

22.2 No waiver by any party of any condition nor the breach of any term covenant representation, warranty or undertaking contained in this Deed whether by conduct or otherwise in any one or more instances shall be deemed to be or be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition, or deemed to be or be construed as the breach of any other term, covenant, representation, warranty or undertaking in this Deed.



23.0 MODIFICATIONS

23.1 This Deed may be amended only by an instrument in writing signed by all of the parties to this Deed.

23.2 Before entering into any amendment to this Deed the Trustees shall obtain a Special Resolution to do so in accordance with clause 24.7 of the Trust Deed.

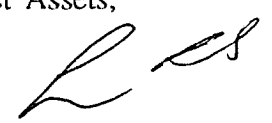
24.0 INTERPRETATION

24.1 The following words and expressions shall (except where the context otherwise requires) have the following meanings:-

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| ‘ the Auditor’ | means the auditor of the Trust. |
| ‘ business day’ | means a day (other than a Saturday or Sunday) on which registered banks are open for general banking business in Wellington; |
| ‘ Business Plan’ | means the Business Plan referred to in clause 11. |
| ‘ Commencement Date’ | means the date of execution of this Deed. |
| ‘ Councils’ | unless the context otherwise requires means the City Council and the Regional Council acting jointly. |
| ‘ Development Trust’ | means the Wellington Stadium Development Trust established by deed dated 30 November 1995 and such expression includes all amendments from time to time made in respect of such deed. |
| ‘ Deed’ | means this Funding Deed. |
| ‘Default Event’ | means an event described in clause 17.1. |
| ‘ Financial Year’ | means during the currency of this Deed each year ending on the 30th day of June or ending on such other date that the Councils and the Trustees shall agree upon. |
| ‘Interest Rate’ | means the rate which would be charged from time to time on the outstanding amount of the loan if the Councils had (without charging any rate or rate revenue as security) borrowed the outstanding amount of the loan. |



‘LATE’	means a local authority trading enterprise as defined in section 594B of part XXXIVA of the Local Government Act 1974.
‘ Project Plan’	means the plan described in clause 2.
‘ Trust’	means the trust established by the Trust Deed, and includes any subsidiary company or other entity controlled by the Trust.
‘ Trust Assets’	means all money, investments, property and assets and leases of property and assets from time to time owned or beneficially held by the Trust.
‘ Trust Deed’	means the deed of trust made between the Councils and the Trustees dated and such expression includes all amendments from time to time made in respect of such deed.
‘ Trustees’	mean the trustees of the Trust.
‘ Stadium’	means the multi purpose sporting and cultural venue described in the Trust Deed.
‘ Statement of Trustee Intent’	means the Statement of Trustee Intent referred to in clause 10.
‘ Strategic Plan’	means the Strategic Plan referred to in clause 9.
‘ Surplus funds’	means in respect of the Trust and any controlled entity of the Trust the difference in each Financial year between: <ul style="list-style-type: none">• the sum of all income of any nature, gifts, donations, legacies and grants, funds received on the disposal of any asset, and any funds of a capital nature including by way of loan, received by the Trust, and including the release of any provision or reserves to the general purposes of the Trust, and• the sum of all costs, expenses, taxes or charges of any nature, any appropriate provisions or reserves to meet liabilities and maintenance of the Trust Assets,



any appropriate reserve to provide for capital works to replace or improve Trust Assets, appropriate capital expenditure in furtherance of the Trust's objects and any debt reduction, including any periodic repayment of Councils' loan made during the Financial Year (other than Surplus funds repaid from any prior financial period).

- 'year' means a calendar year.

24.2 Any reference to:-

- (a) Any provision of any Act shall include any modification re-enactment or extension thereof for the time being in force and also any corresponding provision in repealed enactments;
- (b) The singular includes a reference to the plural and vice versa;
- (c) Any gender includes a reference to all other genders;
- (d) Any recital, clause, sub-clause or schedule is (save where the context otherwise requires) to a recital, clause, sub-clause or schedule (as the case may be) of or to this Deed.

24.3 The headings contained in this Deed are for the purposes of convenience only and do not form part of and shall not affect the construction of this Deed or any part thereof.

25.0 EXECUTION

25.1 This Deed was executed on the 30 day of January 1998.

THE COMMON SEAL of)
THE WELLINGTON CITY)
COUNCIL was hereunto affixed)
in the presence of:)





Authorised Signatory



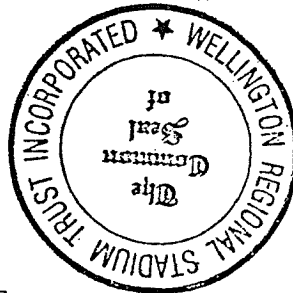
THE COMMON SEAL of)
WELLINGTON REGIONAL)
COUNCIL)
was affixed in the presence of:)



[Signature] Authorised Signatory

[Signature] Authorised Signatory

THE COMMON SEAL of)
THE WELLINGTON REGIONAL)
STADIUM TRUST)
INCORPORATED)
was affixed in the presence of:)



[Signature] Trustee

[Signature] Trustee

[Handwritten initials]