



Trust Deed

relating to

The Asia New Zealand Foundation

The Minister of Foreign Affairs of New Zealand

and

**Those Persons Named in Schedule 1 as the
Trustees, together with all other Trustees from
time to time appointed under this Trust Deed**

APRIL 2010

Registered Charity No: CC28892

Table of Contents

1. Date and authority	1
2. Introduction and history.....	1
3. Definitions	2
4. Mission and Objects of the Trust	3
5. The Board of Trustees	4
6. Committees of the Board	6
7. Powers and responsibilities of Trustees.....	7
8. The Board's powers in relation to the Trust Fund	8
9. Payments to Trustees	8
10. Operational and Financial Reporting.....	9
11. Liability of Trustees and Crown.....	10
12. Amendment of the Trust Deed.....	10
13. Winding up	10
14. Common Seal.....	11
15. Registered Office	11

1. Date and authority

This **Deed of Trust** is made on 6 April 2010 **between**

- (1) **The Minister of Foreign Affairs of New Zealand** (the "Responsible Minister"); and
- (2) **Those Persons Named in Schedule 1 as the Trustees, together with all other Trustees from time to time appointed under this Trust Deed** (the "Trustees").

2. History of the Trust and the Trust Deed

- A. In 1994, the Government of New Zealand established a trust called "The Asia 2000 Foundation of New Zealand (Asia 2000)" for the purpose of assisting New Zealanders to develop more extensive and effective relationships in the Asian region. A trust deed dated 7 September 1994 (the **Deed**) established and governed the operation of the trust. The Trust was established as an entity under the 4th Schedule of the Public Finance Act 1989.
- B. Special resolutions amending the Deed were passed on 11 March 1996 and 14 October 1997.
- C. The original Deed required the Trustees, five years after the execution of the Deed, to consider whether the Trust should be wound up or amended. The Trustees resolved on 24 June 1999 to modify the provisions of the Deed to allow Asia 2000 to continue beyond the initial five year period set out in the Deed and to set new guidelines as to when the Trust should be wound up and to consolidate and amend the Deed. The Minister of Foreign Affairs and Trade and the Minister of Finance approved this resolution on 31 January 2000.
- D. On 1 December 2004, by Special resolution, The Asia 2000 Foundation of New Zealand changed its name to the Asia New Zealand Foundation (Asia:NZ).
- E. In 2006, The Ministry of Foreign Affairs and Trade and New Zealand Treasury appointed HSR Governance Ltd (HSR) to review Asia:NZ. The purpose of the review was to evaluate Asia:NZ in terms of:
 - its Mission scope and the activities developed in pursuance of its Mission;
 - the effectiveness of governance, management and operational processes;
 - and whether the Government receives value for money from the services purchased from Asia:NZ.The final HSR report was published in April 2007 and recommended a number of changes to the Deed and governance structure at Asia:NZ. The changes approved by the Board are now incorporated into this Trust Deed.
- F. Asia:NZ obtained charitable status under the Charities Act 2005 on 30 June 2008. The Charities Act registration number is CC28892.

It is agreed that the Deed is replaced by this Trust Deed with effect from the date in clause 1 above.

3. Definitions

The following definitions are used in this Trust Deed. When used in the text of this document, they will be shown with a capital letter to clarify that the following meaning applies.

Board	means the governing Board of Trustees which will consist of all the Trustees constituted by clause 5;
Financial Year	means a 12 month period from 1 July to 30 June inclusive;
Mission	means the Mission of the Trust as set out in clause 4.1 of this Trust Deed;
Objects	means the Objects of the Trust as set out in clause 4.1 of this Trust Deed;
Person	includes an individual or a body of persons whether corporate or unincorporated;
Responsible Minister	means the Minister ultimately responsible for Asia: NZ (currently Minister of Foreign Affairs);
Special Resolution	means a resolution passed by a majority of not less than two-thirds of the Trustees present at a meeting of the Board of which not less than fourteen (14) days notice specifying the intention to propose the resolution as a special resolution has been given;
Trust	means the Asia New Zealand Foundation;
Trustee	means any Board member appointed by the Responsible Minister;
Trust Fund	means the sum of \$1,000 settled on the Trust on 7 September 1994 together with: <ul style="list-style-type: none">(i) all further monies or property delivered into the control of the Trustees for the benefit of the Trust;(ii) all monies or property both real and donated, bequeathed, vested or gifted to the Trust by any person or organisation; and(iii) where the context permits any accretion of income to the Trust.

A word importing the singular number or plural number includes the plural or singular number respectively.

Reference to a statute or statutory provision includes that statute or provision as amended, modified, re-enacted or replaced from time to time.

4. Mission and Objects of the Trust

4.1 The Mission of the Trust will be:

“to build and sustain New Zealanders' knowledge and understanding of the countries, peoples, cultures and languages of Asia so that they can develop more extensive and effective economic and cultural relationships in the region.”

In pursuit of the Mission, its Objects will be:

- (a) To contribute to New Zealand's increased economic development;
- (b) To build New Zealand's relationships and profiles in the region; and
- (c) To prepare New Zealanders to increase their engagement with Asia

These Objects will be achieved through a series of strategies developed as part of a strategic planning cycle.

4.2 The Trustees hold the Trust Fund upon trust to promote the Mission and Objects of the Trust. The Trust is a not-for-profit organisation and has charitable status.

4.3 In order to promote and advance its Mission and Objects, the Trust may:

- (a) develop relationships with organisations within New Zealand that can assist or partner with Asia:NZ to foster new initiatives supporting the Mission;
- (b) develop ties with organisations overseas, especially those in Australia and the Asia Pacific region more generally that can assist or partner with Asia:NZ to foster new initiatives supporting the Mission;
- (c) develop co-operative relationships with those Persons who may from time to time be appointed by the Responsible Minister as Honorary Advisors to the Trust in Asian countries;
- (d) undertake research and publicise results to interested parties;
- (e) make grants to individuals and institutions;
- (f) provide scholarships and educational opportunities for New Zealanders; and
- (g) raise funds in New Zealand and overseas.

4.4 Each Object specified in clause 4.1 will be regarded as an independent Object and will not be limited by reference to each other or by the name of the Trust. If there is any ambiguity in interpretation, each clause will be construed in such a way as to widen and not restrict the powers of the Trustees.

5. The Board of Trustees

- 5.1 The governing body of the Trust will be the Board of Trustees and its key role will be governance and leadership. It will be responsible for the control, management and administration of the Trust's affairs and the Trust Fund.
- 5.2 The Chairperson of the Board of Trustees will be appointed by the Responsible Minister by way of a letter addressed to the full Board.
- 5.3 The Board of Trustees will consist of not less than eight (8) Trustees and not more than twenty-one (21) Trustees.

Three of the Trustees will be "ex-officio" trustees:

- (i) Secretary – Ministry of Foreign Affairs and Trade
- (ii) Chief Executive Officer – New Zealand Trade and Enterprise
- (iii) Secretary – Ministry of Education

By convention, there will be one Trustee to represent the Government and one to represent the main opposition party, with such representatives to generally be Members of Parliament. The Government and main opposition party may nominate their own representative but it is the Responsible Minister who has sole discretion to approve and appoint each Trustee.

- 5.4 The Board, on recommendation of the Chairperson, will appoint up to two (2) Trustees to act as Deputy Chairpersons.
- 5.5 The number of Trustees required to make a quorum will be eight (8). No business will be transacted at any meeting unless a quorum is present
- 5.6 In the absence of the Chairperson and the Deputy Chairperson from a meeting of the Trustees, the Trustees present will appoint an acting Chairperson for the specific meeting, and the Trustee while so acting, will have all the powers of the Chairperson.
- 5.7 Board decisions will generally be made by a consensus of those present. Should a specific vote be required, all questions will be decided by a majority of votes. Each of the Trustees present will have one vote. The Chairperson will have a casting vote. Votes will be indicated by voice or by hand, as decided by the Chairperson.
- 5.8 A resolution in writing signed by all the Trustees will be as valid and effectual as if it had been passed at a meeting of the Board. Such a resolution may consist of several like documents each signed by one or more of the Trustees and may be sent by electronic or facsimile transmission.
- 5.9 The Trustees in place at the date of signing this Trust Deed are named and described in Schedule 1.

- 5.10 New Trustees will be appointed by the Responsible Minister based on the recommendation of the Chairperson. The Chairperson will consult with the existing Trustees regarding potential nominees. All new Trustees will execute a deed accepting appointment as a Trustee. A detailed induction pack will be provided to all new Trustees, providing them with information on the governance and history of the Trust.
- 5.11 A Trustee will hold office for a period of up to three years from the date of appointment following which he or she will retire but is eligible to be reappointed as a Trustee. No Trustee will hold office for more than two consecutive periods unless agreed by the Responsible Minister.
- 5.12 The Board may, by Special resolution, recommend to the Responsible Minister the removal of any Trustee before the expiration of his or her term of office. The grounds for removal will include, but will not be restricted to:
- (a) being convicted of an indictable offence; and/or
 - (b) becoming a committed patient under the Mental Health 1992.
- 5.13 The Board may consult independent experts where it considers it necessary or appropriate to carry out its duties. Any such person co-opted to the Board will have a right to speak at any meeting of the Trustees, but not to vote.
- 5.14 The Board will formally delegate the control, management and administration of the Trust to the Executive Director and thereafter to other Asia:NZ staff. These delegations will be managed and recorded under the separate Delegation of Authority documentation.
- 5.15 Trustees are bound by or must comply with this Trust Deed and the following legislation:
- (a) Trustee Act 1956;
 - (b) Charitable Trusts Act 1957
 - (c) Charities Act 2005
 - (d) specific provisions of the Public Finance Act 1989; and
 - (e) specific provisions of the Crown Entities Act 2004.
- The obligations under this and any other applicable legislation will override the provisions in this Trust Deed in the event of conflict.
- 5.16 Trustees may continue to act when there are vacancies on the Board, unless their number is reduced below the minimum shown in clause 5.3.
- 5.17 A Board of Trustees meeting may be held by telephone or audio-visual link provided:
- (a) a quorum is present;
 - (b) all Trustees have received notice of the meeting;
 - (c) each of the Trustees taking part can hear each other at the commencement of the meeting; and
 - (d) at the commencement of the meeting each Trustee must acknowledge his or her presence to all the other Trustees taking part.

Once these provisions have been met, the meeting will constitute a meeting of the Board. The usual rules and provisions of a Board meeting will then apply.

A Trustee may leave the meeting, by disconnecting his or her link, if prior consent is obtained from the Chairperson. A Trustee will be presumed to have been present and to have formed part of the quorum, at all times during the meeting by telephone or video link.

Additional information on the administration of the Board, including secretarial issues, roles and responsibilities, declarations of interest and code of conduct can be found in the separate Board Charter. In the event that any conflict arises between the Board Charter and this Trust Deed, then the Trust Deed prevails.

6. Committees of the Board

- 6.1 In carrying out its responsibilities, the Board may delegate certain tasks and responsibilities to a committee of the Board. Each committee will be appointed for a specific purpose and time period and will report back to the full Board on the tasks assigned to it. Ultimate responsibility for all decisions made will remain with the full Board.
- 6.2 Any Committee of the Board will have power to co-opt Persons who are not Trustees, to be members of such Committee.
- 6.3 The Chairperson of the Board will be ex-officio a member of every committee established by the Board.
- 6.4 The following committees of the Board have been established and will remain in place to assist in specific areas of governance:
 - (a) Executive Committee; and
 - (b) Audit and Risk Committee

Each of these Committees has a separate Terms of Reference detailing its constitution, objectives, terms of office and responsibilities. Any changes to these Terms of Reference will require the approval of the Board.

7. Powers and responsibilities of Trustees

- 7.1 The Trustees may hold property of any nature, except shares or debentures or derivatives thereof in any organisation and interests in real property other than office leases.
- 7.2 The Trustees may not borrow funds, with or without security, nor enter into financial leases or hire purchase arrangements, without the prior written approval of the Minister of Finance.
- 7.3 The Trustees may receive and expend monies in connection with any of the Objects detailed in clause 4.1 and operate, in the name of the Trust, accounts with any bank registered by the Reserve Bank of New Zealand. (For a list of registered banks see www.rbnz.govt.nz.)
- 7.4 The Trustees may enter into contracts consistent with the Mission and Objects of the Trust.
- 7.5 Any money that belongs to the Trust and that is not immediately required for expenditure by the Trust may be invested pursuant to the Public Finance Act 1989, the Crown Entities Act 2004 and within the terms of the Trust's Funds Management Policy as approved by the Board and administered by the Audit and Risk Committee.
- 7.6 The Trustees may not indemnify or provide guarantees to any Person.
- 7.7 The Trustees will effect insurances in respect of all undertakings, activities or assets of the Trust, as the Trustees think fit.
- 7.8 The Trustees will co-operate and maintain connections with organisations, agencies, Persons, firms, companies and corporations in New Zealand and overseas who have similar interests or objects to those of the Trust.
- 7.9 Ex officio appointed Trustees may, with the agreement of the Chairperson of the Board, occasionally appoint in writing a person to act on his or her behalf.

- 7.10 All Trustees will conduct themselves in a manner that is fair, impartial, responsible and trustworthy. This is covered in the separate Code of Integrity and Conduct that is part of the Board induction pack.

All Trustees will complete a declaration of interest form upon appointment and provide any relevant updates at each Board meeting. Information on completing the form is included in the Declaration of Interest policy document included as part of the Board induction pack.

8. The Board's powers in relation to the Trust Fund

- 8.1 The Board will have power to expend the whole or any part of the Trust Fund, towards the Mission or Objects of the Trust.
- 8.2 In setting any expenditure plans, the Board must consider whether such expenditure is necessary and appropriate to carry out or advance the Mission and Objects of the Trust.
- 8.3 Notwithstanding sub-clause 8.1 above, and provided it is consistent with the Mission, the Trust will honour any agreements or contracts it enters into regarding the use of any money it receives.

9. Payments to Trustees

- 9.1 A Trustee may be paid an allowance or remuneration for acting on behalf of the Trust. Any payment made must be discussed and approved at a Board meeting. The amount paid and reasons for payment must be included in the minutes of the meeting. The Trustee concerned must not participate in any Board proceeding which involves the discussion and approval of a payment. If such payment is to be made to the Chairperson then the approval of the Responsible Minister must be obtained.
- 9.2 Trustees will be entitled to receive, from the Trust Fund, payment for all expenses reasonably incurred by them in attending meetings of the Trustees or otherwise in carrying out the Mission and Objects of the Trust.
- 9.3 No Trustee, or associated Person, will receive any benefit (financial or non-financial) from his or her position, if that Trustee or associated Person has been in a position to influence that benefit. Any conflicts of interest will be managed under the separate Declaration of Interest policy.
- 9.4 Any benefit (financial or non-financial) paid to a Trustee or associated Person will be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value).

10. Operational and Financial Reporting

- 10.1 The Board will ensure that accurate and thorough records are maintained in respect of all operational and financial matters relating to the administration of the Trust.
- 10.2 Operational and financial delegations of authority will be documented and reviewed periodically.
- 10.3 Records will be retained in line with legal requirements and current best practice.
- 10.4 All monies paid or transferred from bank accounts will require a two stage level of approval.
- 10.5 At the end of each Financial year, an annual report will be prepared including a report on the operations of the Trust and a set of financial statements for the period. This report will comply with all relevant legislation.
- 10.6 The Trust's financial statements will be audited by the Auditor-General or as delegated or contracted by the Auditor-General.
- 10.7 The Board will hold an Annual General Meeting no later than one hundred and twenty (120) days after the end of the Trust's Financial year. This meeting will include:
 - (a) consideration and adoption of the audited annual financial statements of the Trust; and
 - (b) consideration of the Annual Report of the activities of the Trust for the past Financial year.
- 10.8 The annual report will be provided to the Responsible Minister, for tabling in the House of Representatives, within the time frames set out in section 150 of the Crown Entities Act.

11. Liability of Trustees and Crown

11.1 No Trustee will be personally liable for any act or default done or made by the Trust or by any other Trustee in good faith in the course of operations of the Trust.

11.2 Association liability insurance will be maintained by the Trust.

The Crown will not be liable to contribute towards the payment of any debts or liabilities of the Trust other than pursuant to any guarantee or indemnity given by the Minister of Finance pursuant to section 49 of the Public Finance Act 1989.

12. Amendment of the Trust Deed

12.1 This Trust Deed may be revised by a Special Resolution of the Board.

12.2 Any addition, alteration, amendment or revision must be consistent with the Mission of the Trust and its Objects and not extend such Objects beyond New Zealand.

12.3 Any amendment must be approved by the Minister of Finance and the Responsible Minister.

13. Winding up

13.1 If the Trustees consider that the Trust can no longer, or it is no longer desirable to, carry out the Mission of the Trust (as may be amended from time to time) then the Trustees may wind up the Trust. The Board of Trustees must seek approval of the Responsible Minister prior to the enactment of the decision.

13.2 Upon the winding up of the Trust, all surplus assets after payment of all costs and liabilities will be transferred to another New Zealand based entity having objects similar to the Mission of the Trust. If no such entity exists, the Responsible Minister will identify another suitable charitable entity in New Zealand to receive the assets.

14. Common Seal

- 14.1 The Trust will have a Common Seal which is kept at the Registered Office of the Trust.
- 14.2 The common seal will only be affixed by resolution of the Board and attested by any two Trustees.

15. Registered Office

- 15.1 The registered office of the Trust will be at Level 7, 36 Customhouse Quay, Wellington, 6143. A change in the registered office must be approved by the Trustees.

Schedule 1: Trustees

The Trustees at the date of signing are:

Hon Philip Burdon (C)	Company Director
Dr Ken Douglas ONZ (DC)	Company Director
Mr Richard Nottage CNZM (DC)	Former Secretary of Foreign Affairs and Trade
Ms Patricia Carter	Media consultant
His Worship Peter Chin CNZM	Mayor of Dunedin City
Ms Ruth DeSouza	Senior Research Fellow/Centre Coordinator, Centre for Asian and Migrant Health Research
Mr Gavin Ellis	Media Consultant
Mr Raymond Huo MP	Member of Parliament representing Opposition
Professor Manying Ip	Professor School of Asian Studies, University of Auckland
Ms Melissa Lee MP	Member of Parliament representing Government
Rt Hon Sir Donald McKinnon ONZ, GCVO	Former Minister of Foreign Affairs, former Commonwealth Secretary-General
Mr Anthony Nowell CNZM	Founding Director, Valadenz Limited
Mr Michael Tai-Yang Park	Company Director
Mr Vinogopal Ramayah	Chairman, Cereus Holdings Limited
Mr David Rishworth	Consultant, Bell Gully
Sir Kenneth Stevens KNZM	Executive Chairman, Glidepath Group
Mr Wally Stone	Company Director
Mr Jim van der Poel	Director, Fonterra Co-operative Group
<i>Ex-officio Trustees:</i>	
Mr John Allen	Secretary Ministry of Foreign Affairs and Trade
Mr Karen Sewell	Secretary for Education
<i>vacant</i>	CEO New Zealand Trade and Enterprise

C = Chair

DC = Deputy Chair

Schedule 2: Administration

This Trust Deed is supported by the following set of documentation which provides further detail on the governance structure of Asia:NZ:

Board Charter

Executive Committee Terms of Reference

Audit and Risk Committee Terms of Reference

Declaration of Interest Policy

Delegation of Authority

Code of Integrity and Conduct

Risk Management Policy

Funds Management Policy

Trustee Induction Pack