

DEED OF TRUST

by

SHETLAND ISLANDS COUNCIL

1997

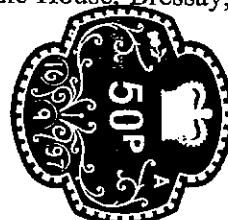
TURCAN CONNELL WS

S O L I C I T O R S

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WE, SHETLAND ISLANDS COUNCIL, incorporated under the Local Government (Scotland) Act 1994 for certain good causes and considerations have resolved to make the Settlement underwritten

THEREFORE we do hereby irrevocably make over to ROBERT IRVINE BLACK, Melview, Bressay; MARY URSULA COLLIGAN, Venndal, Voe; JOAN WILMA EASTEN, Twenty seven Hamarsgarth, Mossbank; CECIL BURGESS EUNSON, Sixty eight Breiwick Road, Lerwick; MAGNUS LAURENCE FLAWS, Westvoe, Virkie; JAMES ROSS GEAR, Magdala, Foula; CHARLES ALEXANDER GOODLAD, Cutts, Trondra; FLORENCE BARBARA GRAINS, Hoove, Whiteness; BRIAN PHILIP GREGSON, The Old Manse, West Sandwick, Yell; LEONARD GEORGE GROAT, Ten Voder View, Lerwick; JOHN PETER NICOLSON, Ten Gibblestone Road, Scalloway; IRIS JEAN HAWKINS, Forty eight Sycamore Avenue, Scalloway; LORETTA HUTCHISON, Millhouse, Hillhead, Symbister; JAMES CHRISTOPHER IRVINE, Twenty Twageos Road, Lerwick; ROBERT LYLE JOHNSON, Eleven Andrewstown Brae, Lerwick; PETER MALCOLMSON, Skersund, Upper Sound, Lerwick; WILLIAM HENRY MANSON, Mangaster, Sullom; GRETA MARY McELVOGUE, North House, Sweening, Vidlin; WILLIAM ANDREW RATTER, Hillhead, Ollaberry; TAVISH HAMILTON SCOTT, Gardie Cottage, Bressay; JAMES LAURENCE BARCLAY SMITH, Bakkabrent, Sandwick; LEWIS SHAND SMITH, One Greenrig, Lerwick; LINDSAY SCOTT SMITH, Seventeen Kantersted Road, Lerwick; WILLIAM ANGUS SMITH, Fourteen Bruce Crescent, Lerwick; WILLIAM NICOLSON STOVE, One Lovers Loan, Lerwick and WILLIAM TAIT, Bonavista, East Ireland, Bigton being respectively the members of the Council for the Districts of Gulberwick, Quarff & Cunningsburgh; Delting East; Unst; Lerwick Breiwick; Dunrossness South; Walls & Sandness; Burra & Trondra; Sandsting & Aithsting; Yell North & Fetlar; Lerwick North; Yell South; Scalloway; Whalsay & Skerries; Tingwall, Whiteness & Weisdale; Lerwick Upper Sound; Lerwick Lower Sound; Northmavine; Nesting & Lunnasting; Delting West; Lerwick Harbour & Bressay; Sandwick; Lerwick Twageos; Lerwick Staney Hill; Lerwick Central; Lerwick Clickimin and Dunrossness North and IAN WILLIAM SPENCE, Forty Murrayston, Lerwick and JOHN HAMILTON SCOTT, Gardie House, Bressay, both Shetland being



respectively Headmaster of the Anderson High School, Lerwick and Lord Lieutenant of Shetland and as such members of Shetland Islands Council and such Headmaster and such Lord Lieutenant being trustees ex officio, and to such other person or persons as may be assumed to act as trustee or trustees hereunder and to the survivors or survivor of the persons before named or to be assumed as aforesaid as trustees and trustee for executing the trust hereby created (all of whom or the trustees or trustee acting for the time are hereinafter referred to as "the Trustees") and to the assignees of the Trustees the sum of One Pound Sterling: And we declare that the said sum of One Pound Sterling and any other property heritable or moveable real or personal which may hereafter be made over by us or by others to the Trustees for the purpose of the trust hereby created and the investments and property representing the same from time to time are all hereinafter referred to as "the Trust Fund" and shall be held in trust for the purposes hereinafter written namely:-

Payment of Expenses

(FIRST) The Trustees shall pay all expenses which may be incurred by them or under their authority in connection with the trust hereby created as the same shall be instructed by an account under their hands or by the discharged accounts hereof paid by their order without any other voucher.

Objects of Trust

(SECOND) The Trustees shall hold the Trust Fund at their sole discretion to make grants or loans with or without interest out of the income or capital of the Trust Fund for any purposes which in the opinion of the Trustees are solely in the interests of the area administered by the local or other governmental authority for the time being of the Shetland Islands or of the inhabitants of the said area (hereinafter referred to as "the community") and provided that any such grant or loan is for charitable purposes: Declaring that without prejudice to the generality of the foregoing such grants or loans may be made towards all or any of the following purposes:-

- (a) In carrying out developments on or in connection with the said area calculated to promote the welfare of the community;

- (b) In encouraging and assisting the holding of meetings of members of the community for purposes of recreation, instruction or education;
 - (c) In improving, maintaining and encouraging the improvement and maintenance of means of communication in the said area, and in particular by (i) building or improving or maintaining ports, harbours, piers, roads, bridges or aerodromes; (ii) hiring or chartering or purchasing and operating any boat, ship, vessel, aeroplane or any kind of land, sea or air vehicle; (iii) laying or maintaining telephone and telegraph wires or cables, whether on land or under the sea; and (iv) installing and operating stations for wireless and television;
 - (d) In promoting directly or indirectly the development of any industry or industries among the community for its benefit in any manner in which the Trustees consider desirable;
 - (e) In promoting directly or indirectly the development of agriculture among the community for its benefit;
 - (f) In encouraging the education of the community by such means as the Trustees may consider desirable;
 - (g) In improving the medical service to the community by such means as the Trustees may consider desirable;
 - (h) In the preservation and improvement of the said area in the manner which in the opinion of the Trustees is most conducive to promoting the said area for the benefit of the community and of the Nation;
 - (i) In the founding, endowing and equipping of schools, colleges, institutions, laboratories, experimental stations, libraries, sports centres, welfare centres or technical education centres for the community;
 - (j) In encouraging the study and practice of any useful branch of human knowledge by the provision of buildings, equipment or otherwise as the Trustees may consider desirable;
 - (k) In the doing of all such other things as are incidental to any of the foregoing purposes:
- Declaring further that no act of the Trustees shall be deemed to be ultra vires by reason only

that individuals or bodies who do not form part of the community may or will benefit indirectly by such act.

Surplus Income

(THIRD) Any income of the Trust Fund not expended in any year may at the discretion of the Trustees be accumulated as the Trustees may determine but with power to resort thereto in future years.

Supplementary Deed

(FOURTH) The Trustees may from time to time by Deed or Deeds revocable or irrevocable supplement or alter or amend the provisions of this Deed to the extent (and to such extent only) as may in the opinion of the Trustees be requisite for the purpose of conferring on the Trustees such further or other powers as may be necessary for the better administration and more effectual execution of the charitable trust hereby created PROVIDED always that nothing in this Clause shall authorise or be deemed to authorise any departure from or modification of the objects declared in Clause (SECOND) hereof or the application of any part of the Trust Fund or the income thereof for any purpose which is not a purpose charitable in law.

Trustees' Powers

The Trustees shall have the fullest powers of administration and management of the Trust Fund as if they were absolute owners thereof and beneficially entitled thereto, and in particular and without prejudice to these general powers the Trustees shall have the powers specified in the Schedule of Powers annexed and executed as relative hereto, such powers to be exercised or not exercised as the Trustees may decide in their sole and absolute discretion at any time and from time to time provided always that no power vested in the Trustees hereunder shall be exercised in such manner that the Trust Fund or the income thereof or any part thereof shall be held, paid or applied other than for purposes charitable in law.

Apportionments

All interest, dividends, rents and other periodical payments of income received by the Trustees after the date of these presents shall be regarded as wholly income of the Trust Fund and that without reference to the periods in respect of which the same are earned or paid and that notwithstanding the provisions of any Statutes dealing with apportionments and similarly on the sale or realisation of any part of the Trust Fund by the Trustees or on the purchase or acquisition by them of any other property heritable or moveable, real or personal, the whole of the proceeds of sale or realisation shall be treated as capital and all the interest, dividends, rents and others received subsequent to such purchase or acquisition shall be treated as income, there being no apportionment of such proceeds or interest, dividends, rents and others as between capital and income.

Persons transacting with Trustees

Purchasers, tenants, debtors and others transacting with the Trustees shall be nowise concerned with the application of the sums to be paid by them to the Trustees or with any of the conditions and provisions contained in these presents nor shall they be entitled to notice or to enquire whether these sums be applied or not towards the uses and purposes of the trust but they shall be sufficiently exonerated and discharged by the conveyances, discharges or other writings to be granted by the Trustees or by any factor, attorney, solicitor, accountant, stockbroker or agent duly authorised by them.

Finality of discretionary powers

Whenever it shall be necessary in connection with the affairs of the trust hereby created for the Trustees to exercise any discretionary power whatever decision or resolution they may act upon shall be final and binding on all parties interested either directly or indirectly and the actings of the Trustees shall not be liable to be called in question upon any ground whatever except fraud.

Trustees' Immunity

The Trustees shall not be in any way liable for any loss suffered as a result of the exercise of any of the powers given to them by these presents or for any fall in value of or for the validity and sufficiency of investments, securities and others held by them or on their account whether made or

retained by the Trustees or for omissions or for neglect in their management or for one another or for factors, attorneys, solicitors, accountants, stockbrokers, agents or others appointed or employed by them except that they were habit and repute responsible at the time of their appointment or employment but each for his or her own actual personal intrusions only.

Irrevocability

And we declare these presents to be irrevocable: IN WITNESS WHEREOF these presents type-written on this and the five preceding pages together with the Schedule of Powers annexed hereto are sealed with the Common Seal of the said Shetland Islands Council and signed for them and on their behalf at Lerwick on the Tenth day of September Nineteen hundred and ninety seven by Brian Crawford Hill, Principal Solicitor, Legal and Property Services Division, Shetland Islands Council.

This is the SCHEDULE OF POWERS referred to in the foregoing DEED of TRUST dated 10th September 1997.

To hold original assets or to sell

1. To hold any assets heritable or moveable, real or personal, which are transferred by the foregoing Deed of Trust or which may subsequently be made over to the Trustees or to sell the same and reinvest the proceeds.

To invest

2. To invest the Trust Fund in the purchase or on the security of such heritable or real property including rights under Leases, corporeal or incorporeal moveables, investments, stocks, shares (including ordinary stocks and shares and including partly-paid shares), deposits and securities, real or personal (including bonds or securities payable to bearer) whether within the United Kingdom or abroad as the Trustees shall in their sole discretion think fit, it being our intention that the Trustees shall not be restricted to the class of investments authorised by law to Trustees but shall have as full and ample powers of investment as if they themselves were absolute owners of the Trust Fund and beneficially entitled thereto.

To enter into Conservation Agreements

3. To enter into Conservation Agreements for the better preservation of the Trust Fund or any part thereof.

To create Advisory Councils or Committees

4. To create, should the Trustees so desire, an Advisory Council or Councils or Committee or Committees to act along with them and/or advise them on any or all of the objects of the Trust provided always that the creation, constitution, membership and continuance of any such Advisory Council or Committee or the individual membership thereof shall be entirely at the discretion of the Trustees.

To use nominees

5. To have registered in the names of a nominee all or any part or parts of the Trust Fund and to pay reasonable fees to such nominee.

To distinguish between capital and income

6. To decide what money represents capital and what represents income of the Trust Fund and the proportion in which the expenses of the Trust are to be charged against capital and income respectively, notwithstanding any rule of law or practice to the contrary, and all similar questions which may arise in relation to the trust.

To repair and improve

7. To expend both capital and income of the Trust Fund as shall appear to the Trustees necessary or desirable to be expended from time to time in insuring, putting and keeping in good repair and replacing any heritable or real property (including without prejudice to the generality buildings, fences, drains, ditches, roads, plantations and others) corporal moveables and other effects forming part of the Trust Fund and in erecting any additional buildings or making any additional fences, drains, ditches, roads or plantations or executing any other works of any kind on such heritable or real property which they may consider necessary or desirable and in keeping up the offices, gardens and other grounds of and the game and fishings on any such heritable or real property.

To cut woods and to plant

8. To thin or cut down woods or plantations forming part of the Trust Fund and to sell or dispose thereof as the Trustees shall judge necessary or desirable and to plant timber.

To pay taxes, etc

9. To expend both capital and income of the Trust Fund -
 - (a) for payment of all duties, rates, taxes, parochial burdens and other charges affecting or payable out of any property forming part of the Trust Fund, and

- (b) for any purposes which the Trustees shall judge to be necessary or desirable for the administration, management, cultivation, letting, working, maintenance or improving of the Trust Fund or of any part thereof.

To deal with minerals

10. To deal with minerals and mineral substances forming part of the Trust Fund either by themselves or in association with another or others and that in such way or ways as the Trustees may think fit provided always that this power is exercised in furtherance only of the terms and purposes of this Trust and that no part of the income or capital of the Trust Fund shall be applied otherwise than for purposes charitable in law.

To grant allowances to tenants

11. To grant to tenants such allowances as the Trustees shall think fit in respect of expenditure made or undertaken by such tenants for improvements or repairs on their houses, farms, farm buildings or other possessions or on any other account which the Trustees may think proper.

To carry on businesses

12. To begin or carry on or join or concur in the beginning or carrying on of any business or businesses where such business or businesses would be in furtherance of the terms and purposes of this Trust provided always that no part of the capital or income of the Trust Fund shall be applied in the exercise of this power otherwise than for purposes charitable in law.

To promote companies

13. To promote or concur in the incorporation, flotation or reconstruction or amalgamation of any company where such company would be in furtherance of the terms and purposes of this Trust provided always that no part of the capital or income of the Trust Fund shall be applied in exercise of this power otherwise than for purposes charitable in law.

To grant proxies

14. To grant proxies in favour of one or more of the Trustees or any other person or persons to attend, act and vote for the Trustees at all meetings of any company, corporation, trust or

undertaking or in any bankruptcy proceedings in which the Trustees may be interested as shareholders, stockholders, debenture holders, creditors or otherwise or at any class meeting of shareholders, stockholders, debenture holders or creditors of such company, corporation, trust, undertaking or bankruptcy.

To settle claims

15. To settle all disputed claims competent to or against the Trust Fund.

To borrow money

16. To borrow money either on the security of the Trust Fund or without security and pay or apply the monies so raised in any manner in which money forming part of the capital of the Trust Fund may be paid or applied.

To appoint agents, etc

17. To appoint one or more of the Trustees or any other person or persons to be factors, solicitors, accountants, stockbrokers or agents for executing and carrying into effect the powers and purposes of the Trust or any of them with or without cautioners for their intromissions and to allow to such factors, attorneys, solicitors, accountants, stockbrokers or agents for their trouble their usual professional charges or if they are not members of a profession such fees as are proper and reasonable as also to employ such specialist and clerical assistance as may be required for the proper and efficient administration and management of the Trust Fund.

To pay expenses

18. To reimburse the Trustees out of the Trust Fund for all expenses reasonably incurred by them in connection with the administration of the Trust without in any way prejudicing their rights, privileges and immunities as gratuitous trustees including the right to resign.

To Delegate

19. To delegate in any way and to any extent to any person or persons, committee or committees, company or authority whatsoever the exercise of any of the powers conferred on the Trustees herein or by law.

To exercise powers conferred on Trustees by Statute

20. In so far as more ample powers are not given by these presents the Trustees shall have the powers conferred on trustees by the Trusts (Scotland) Acts 1921 and 1961 and by any Acts amending the same relating to trustees in Scotland (which powers shall not be held to be at variance with the terms and purposes of this Trust).
21. To renounce irrevocably in whole or in part at any time and from time to time any power given to the Trustees by this Schedule.