

# Deed Of Trust



*Supera Moras Trust*

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# DEED OF TRUST

## SUPERA MORAS TRUST

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THAT

**C Hyland**

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(hereinafter referred to as "the Donors") have declared as follows:

1. **CREATION OF TRUST**

Being friends of the WYNBERG BOYS' HIGH SCHOOL, but acting herein in their personal capacity, wish to create a TRUST for the purposes of providing a Fund which could ensure the present and future academic, sporting and cultural development of the WYNBERG BOYS' HIGH SCHOOL (hereinafter referred to as 'THE SCHOOL'), and subject to the terms and conditions hereafter set forth.

2. **NAME**

The name of the TRUST shall be '**THE SUPERA MORAS TRUST**'.

3. **BENEFICIARY UNDER THE TRUST**

The following shall be beneficiaries under the TRUST:

- 3.1 The School
- 3.2 Any learner who is enrolled at and attending the school
- 3.3 Any teacher or other employee of the School
- 3.4 Any Committee, Club or organization which operates within or is an integral part of the School

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#### 4. SUBJECT MATTER OF THE TRUST

The Capital of the TRUST shall consist of:-

- 4.1 The initial subject matter of the TRUST shall be the sum of R100,00 (One hundred Rand);
- 4.2 The Donors hereby undertake forthwith to make payment to the TRUST of the said amount of R100,00 (One hundred Rand), subject to the terms, conditions and provisions of this TRUST DEED, and they do hereby entirely divest themselves of all ownership and rights in respect thereof.
- 4.3 All monies donated to the TRUST in response to appeals for funds for the aforesaid purposes;
- 4.4 All monies or property, movable or immovable, or assets of whatsoever kind as may hereafter be acquired in any manner whatsoever and which the TRUSTEES may in their discretion accept for the benefit of the TRUST;
- 4.5 The initial subject matter of the TRUST may be added to and increased from time to time. No further Deed shall be required to vest in the TRUSTEES any additional amounts by which the Donors or any other persons may desire to increase the initial subject matter of the TRUST, but the payment of any such additional amount shall be sufficient to vest the same in the TRUSTEES on the terms and conditions and for the purposes set forth in this TRUST DEED.

#### 5. OBJECTS OF THE TRUST

The objects of the TRUST shall be:-

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- 5.2 To provide financial assistance for the furtherance of education generally at the said SCHOOL and for the promotion, encouragement and maintenance of the high academic and cultural standards at the said SCHOOL.
- 5.3 To provide financial assistance for the erection of new School buildings or additions or alterations to existing or new School buildings; for the purchase or hire of movable or immovable property for the use and benefit of the said SCHOOL, for the purchase of equipment, books and other articles for the use and benefit of the said SCHOOL, and for the purpose of providing, improving and maintaining playing fields, amenities, services and resources for the said SCHOOL.
- 5.4 To provide funds for the establishment of bursaries, scholarships and grants for study at the said SCHOOL and for study by a serving teacher at the school, at any University, University of Technology, Teacher Training College or other Educational Institution, whether within or outside the Republic of South Africa.
- 5.5 To provide financial assistance to the said SCHOOL or to an approved Committee or Club or Organization within or otherwise connected with the said SCHOOL for the furtherance of any of the objects herein set out.
- 5.6 Generally to advance the interests of the said SCHOOL.

6. **THE BOARD OF TRUSTEES AND ITS FUNCTIONING**

6.1 The TRUST shall be administered and managed by a Board of not fewer than five TRUSTEES, the first of whom shall be:

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6.1.2 **A FEINSTEIN**

6.1.3 **M KAPLAN**

6.1.4 **M LEWIS**

6.1.5 **O ROGERS**

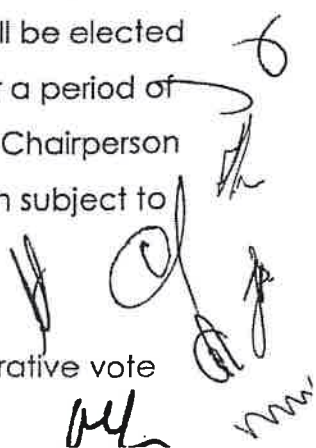
6.1.6 **M WARD**

6.2 A TRUSTEE shall cease to hold Office on his death, resignation, insolvency, permanent departure from the Republic of South Africa, or if removed by order of Court, or if a resolution for his removal is passed unanimously by the other trustees then holding office, or if disqualified from holding Office as a Trustee, Liquidator or Director under the *Insolvency Laws* or *Company Laws* of the Republic of South Africa for the time being. No TRUST property shall, on the happening of such event, vest in a personal Estate of the TRUSTEE.

6.3 Any vacancy on the TRUST which results in there being fewer than five trustees shall be filled by the remaining TRUSTEES within ONE MONTH of the event giving rise to the vacancy.

6.4 The TRUSTEES shall be entitled, under a written instrument, to nominate the person or persons who shall be appointed as TRUSTEE or TRUSTEES to take the place of any TRUSTEE vacating office for any reason and to provide for the order of priority in which any persons so nominated shall be appointed. They shall further have the right by subsequent written instrument to change or vary any nominations so made before effect is given thereto. The TRUSTEES shall make such appointment or appointments, as shall be necessary to give effect to any nomination or nominations made in terms of this sub-clause.

6.5 Notwithstanding anything to the contrary contained herein, the TRUSTEES shall at all times have the right to nominate and appoint such additional TRUSTEE or TRUSTEES as they shall determine.

- 6.6 The Board of Trustees shall meet at least TWICE a year and at all meetings thereof THREE members shall form a quorum. Minutes of such meetings shall be kept in the Minute Book specially provided for that purpose.
- 6.7 The Board of Trustees shall cause proper books of account to be kept in respect of all TRUST transactions, shall cause annual financial statements to be prepared in accordance with generally accepted accounting practice for each year ending 31 December, and shall ensure that these are audited annually at the expense of the TRUST. All investments of whatsoever nature or kind shall be made in the name of the SUPERA MORAS TRUST.
- 6.8 The Minute Book as well as the other records and accounts of the TRUSTEES shall be open to inspection by any TRUSTEE at any reasonable time, subject to such special conditions as may be set out elsewhere in this Deed. Decisions taken or resolutions passed by a simple majority of Members of the Board when not fewer than five TRUSTEES are present and entitled to vote at any Meeting of the Board shall be the decision of the Board. If fewer Members than five form a quorum for the Meeting of Trustees, all decisions at such meetings shall be unanimous.
- 6.9 The TRUSTEES shall at their First meeting elect a Chairperson and Vice-Chairperson who shall hold Office for the following year. Thereafter a Chairperson and Vice-Chairperson shall be elected annually for each successive year which shall be for a period of TWELVE (12) months from date of election. Both the Chairperson and Vice-Chairperson shall be eligible for re-election subject to their remaining TRUSTEES.
- 6.10 The Chairperson of any Meeting shall have a deliberative vote only.
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6.11 The TRUSTES shall appoint an Auditor to the TRUST and may reappoint or remove him from Office from time to time and appoint another Auditor in his stead.

6.12 The TRUSTEES shall open a Banking Account at one of the Commercial Banks, which account shall be operated upon by any TWO of the TRUSTEES, or by ONE TRUSTEE and a SECRETARY if one be appointed.

6.13 The CHAIRPERSON or any two TRUSTEES may convene Meetings of the TRUSTEES. At least SIX (6) days' notice in writing of any Meeting shall be given to the TRUSTEES and this shall be accompanied by an Agenda.

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6.14 The TRUSTEES may delegate any of their functions to a Committee of not less than TWO TRUSTEES and may determine the functions and powers of such committee. The TRUSTEES shall have the right to co-opt non-Trustees, who shall not have a vote, onto such a Committee.

6.15 The TRUSTEES may appoint a SECRETARY, a FINANCIAL ADVISOR, or other official and may determine his or her remuneration, if any.

6.16 The TRUSTEES may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they deem fit

6.17 Notwithstanding anything to the contrary contained or implied in this Trust Deed, any resolution signed by all the TRUSTEES shall be as valid and effective as if it had been passed unanimously at a meeting of the TRUSTEES and such resolution may consist of several documents in the same form, each of which is signed separately and shall be deemed (unless a statement to the

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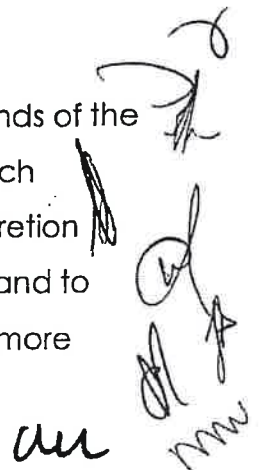
contrary is made in the resolution) to have been passed on the date on which it was signed by the last TRUSTEE who signed it

- 6.18 The TRUSTEES (including their Successors-in-Office) shall not be required to furnish security for the due and proper administration of the TRUST under the Trust Property Control Act No 57 of 1988, or other present or future statutory provision relevant to the administration of the TRUST and TRUST Funds.
- 6.19 Any TRUSTEE professionally engaged and so acting for the TRUST shall be entitled to the usual remuneration for his services as such.
- 6.20 All expenses in connection with the administration of the TRUST, including all expenses incurred in any fund-raising appeal shall, subject to the approval of the TRUSTEES, be a first charge against the assets of the TRUST.

7. **POWERS OF TRUSTEES**

7.1 The TRUSTEES shall have the power to deal with the TRUST property in their discretion and all and any funds, assets, investments, securities or shares now and at any time held by the TRUSTEES for the TRUST shall be held in terms hereof, and the Board of Trustees shall have all powers necessary to give effect to and carry out the objectives of the TRUST as set out above, and shall in particular have the following powers:

7.1.1 The TRUSTEES shall have the power to invest the funds of the TRUST from time to time upon such terms and in such manner as the TRUSTEES may in their absolute discretion decide, with power to vary any such investments and to realize and to reinvest the proceeds thereof, and more particularly to deal with same as set out herein.


  
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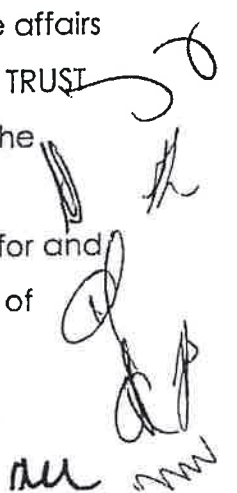
7.1.2 The TRUSTEES may retain any investments held by the TRUST or in their absolute discretion as and when they deem fit may sell and convert the whole or any portion of the assets of the TRUST into cash or other assets, either by Public Sale or Private Treaty. Any funds may be invested or deposited by the TRUSTEES in their absolute discretion in the purchase of any fixed properties, First Mortgage Bonds, securities, shares in Public Companies, Debentures, Stocks, Secured Loans, Unit Trusts, Fixed Deposits, Banking and Savings Accounts, or any other investment of any kind they may deem fit.

7.1.2 The TRUSTEES shall have the power to vary investments from time to time and to realize and re-invest the proceeds thereof as herein provided.

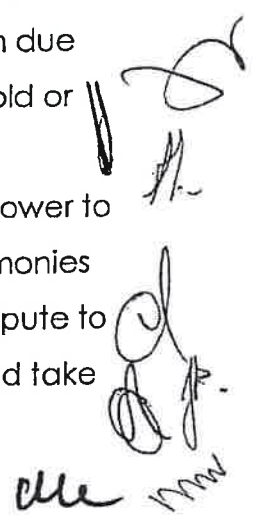
7.1.3 The TRUSTEES shall have the power to provide financial assistance for the attainment of the TRUST'S objects in such manner as they shall in their sole discretion determine, including by way of distributions to any beneficiary, loans (whether with or without interest and whether secured or unsecured), donations, the furnishing of security and suretyships or otherwise.

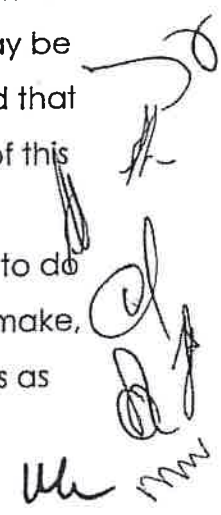
7.1.4 The TRUSTEES shall have the power to borrow any monies required by them for the purpose of conducting the affairs of the TRUST, or for the payment of any debts of the TRUST and may mortgage or charge any of the assets of the TRUST.

7.1.5 The TRUSTEES shall have the power to demand, sue for and recover from any person/s whomsoever such sum/s of money which now are, or shall or may at any time hereafter become owing or belonging to the TRUST.

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- 7.1.6 The TRUSTEES shall have the power to settle and adjust accounts as they shall think fit and proper, and if deemed advisable, to compound for the same and accept a part for the whole.
- 7.1.7 The TRUSTEES shall have the power to let and to hire landed property of any description and to sign and execute on behalf of the TRUST any lease or leases for those purposes and to receive the rents and other monies in respect of any premises let and, in the event of non-payment or any other default, to institute legal proceedings of the recovery or remedy thereof and also to take the necessary steps for execution, ejectment or otherwise and in general to exercise on behalf of the TRUST any rights under any lease including rights of termination or cancellation.
- 7.1.8 The TRUSTEES shall have the power to buy and sell and to exchange or otherwise deal with movable and immovable property and to partition and sub-divide and agree to the partition and sub-division of immovable property and appear before any Commissioner of Oaths and make declarations as to the truth of the purchase price of any immovable property bought or sold on the TRUST'S behalf and to execute any other documents or papers necessary for the giving or taking of delivery or transfer of any movable or immovable property and to appear before any Registrar of Deeds or Registrar of Claims or other proper officer and to make and execute transfer in due and customary form of any immovable property sold or alienated on the TRUST'S behalf.
- 7.1.9 In the case of doubt, the TRUSTEES shall have the power to decide what monies represent Capital and what monies represent Income, and to submit any matters in dispute to arbitration and to sign all necessary documents and take all necessary steps for that purpose.

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- 7.1.10 In regard to any immovable property owned by the TRUST, the TRUSTEES shall have the power to manage and superintend the management thereof with full power to repair, alter, erect, demolish, re-build houses and other building and erections and exploit any Mineral Rights thereon; to improve, subdivide, sell or to lease all or any portion thereof; to eject any tenant; and generally to deal with such property in a proper manner as if beneficially entitled thereto.
- 7.1.11 In the execution of the TRUST, instead of acting personally, the TRUSTEES may from time to time, at the expense of the TRUST, employ such Attorneys or Agents or employees as they may in their sole discretion think necessary.
- 7.1.12 The TRUSTEES shall not be liable for any loss of Capital or Income sustained by the TRUST, unless such loss is attributable to the dishonesty or to the wilful commission by such TRUSTEE or any act known by him to be a breach of trust.
- 7.1.13 The TRUSTEES shall have the power to institute or defend legal proceedings or submit any claim, matter or dispute to arbitration.
- 7.1.14 The TRUSTEES shall in their discretion have the power to accept further donations or bequests from the Settlers or any other organization or person in favour of the TRUST and to administer and control the same subject to the terms hereof, and subject further to such conditions as may be laid down by the DONORS and TESTATORS, provided that such conditions are not inconsistent with the terms of this Deed.
- 7.1.15 AND GENERALLY the TRUSTEES shall have the power to do and perform all such acts, matters and things, and make, sign, seal and deliver all such Deeds and instruments as may be necessary or most desirable for the TRUST'S advantage and use.
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7.2 The power conferred on the TRUSTEES in terms of this Deed shall be complete and absolute and exercisable in the discretion of the TRUSTEES.

7.3 Any decision made by the TRUSTEES in pursuance of any of these powers shall not be challengeable by any beneficiary affected thereby, or by any other person.

#### 8. APPLICATION OF TRUST FUNDS TO BENEFICIARIES

The primary purposes for which the funds held by the TRUST should be used, are one or more of the following:

8.1 The erection of new buildings, or as a contribution towards the cost of erecting new buildings that may be provided by the State or Province, of the SCHOOL.

8.2 Additions to or alterations of or renovations to existing or new buildings of the SCHOOL.

8.3 The erection, creation or maintenance of facilities, including the buildings, fields and equipment at the SCHOOL.

8.4 The purchase of SCHOOL equipment for use at the SCHOOL or by its scholars or staff.

8.5 Provision for Scholarships or bursaries for prospective, present or past Scholars or Employees.

8.6 The purchase of immovable property.

8.7 Discharging expenses incurred in connection with the creation or further conduct of this TRUST.

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- 8.8 Improving and broadening of the life of the said SCHOOL by providing further and better Academic and Cultural facilities, grounds, playing fields; amenities, improvements, hostels, staff accommodation, benefits and security.
- 8.9 A contribution for whatever purpose in cash or kind to any Teacher employed at the said SCHOOL and subject to such terms and conditions as shall be determined by the TRUSTEES.
- 8.10 Such other purposes as are consistent with the welfare and prosperity of the said SCHOOL, as determined by the TRUSTEES.

9. **AMENDMENT BY THE TRUSTEES TO THE TRUST DEED**

The terms of this TRUST DEED may be amended by the unanimous written agreement of all the TRUSTEES then holding office and of the SCHOOL (represented by its principal). It shall not be necessary, in order for such amendment to be effective, to obtain the consent or agreement of the Donors or of any beneficiary other than the SCHOOL (whether or not such beneficiary has previously accepted benefits under the TRUST).

10. **TERMINATION**

If in the unfettered opinion of the TRUSTEES there is a material change in the character and/or constitution and/or administration of the said SCHOOL as a result of legislation or of any other circumstance, the TRUSTEES shall be entitled (but not obliged) to utilize the TRUST funds then remaining for such educational or other purposes as they in their entire discretion consider are best calculated to fulfil the objects of the TRUST, and thereupon to terminate the TRUST. No such decision terminating the TRUST shall be valid unless agreed to in writing by all the TRUSTEES then holding office.

11. LIMITATION OF TRUSTEE'S LIABILITY

Each TRUSTEE, whether originally or subsequently appointed, is hereby absolved from all responsibility in the event of the *bona fide* exercise of the powers hereby conferred resulting in any loss to the Trust property from time to time under administration in terms of this Trust Deed or of any income derived therefrom. No TRUSTEE shall be answerable for any act, omission or negligence of any other TRUSTEE or of any attorney, accountant, banker, broker or other agent employed by the TRUSTEE, nor for any *bona fide* mistake in payment to any person assumed to be entitled thereto hereunder nor shall any TRUSTEE be bound to take any proceedings against a CO-TRUSTEE for any breach or alleged breach of trust committed by such CO-TRUSTEE. The TRUSTEES shall be indemnified by the TRUST against all claims and demands of whatsoever nature that may be made upon them arising out of the *bona fide* exercise of any of the powers conferred on the TRUSTEES under this Trust Deed.

12. PAYMENT TO OR ON BEHALF OF A MINOR

The TRUSTEES shall be entitled, notwithstanding anything to the contrary contained in this Trust Deed, at any time and from time to time to make payment of any amount due or payable to a minor pursuant to the provisions of this Trust Deed to the guardian of such minor or to either of the parents of such minor or to any person having the care of such minor, on his (i.e. such minor's) behalf irrespective of whether such minor and/or guardian and /or parent and/or the person having the care of such minor is resident in or outside the Republic of South Africa. The receipt of the guardian or the parent or the person having the care of such minor, as the case maybe, shall constitute a full and final discharge to the TRUSTEES.

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### 13. TRUSTS IN FOREIGN COUNTRY

Subject to any applicable laws of the Republic of South Africa then in force the TRUSTEES shall, if they consider it advisable or prudent so to do, be entitled to create a new TRUST in any part of the world (and not necessarily in the Republic of South Africa) in respect of the whole or any portion of the capital. The new TRUST hereby contemplated shall be constituted by means of a formal DEED OF TRUST which shall be executed by the TRUSTEES who hold office on that date. All the terms and conditions of the TRUST DEED constituting the new TRUST herein before contemplated (including the person who shall be appointed as TRUSTEES hereunder) shall be determined by the TRUSTEES who hold office on that date. If the TRUSTEES shall decide to create a TRUST in pursuance of the provisions of this sub-clause, such TRUST shall take effect as and from the date of creation and the required TRUST DEED shall be executed within 3 (three) months after such date.

SIGNED AT

THIS

DAY OF

2007

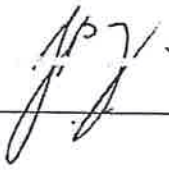

  
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**C HYLAND, as donor.**

  
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**T YACH, as donor**


We, the undersigned, being the Trustees appointed, hereby accept the appointment of that office and undertake to carry out the terms and conditions and stipulations as contained in this TRUST DEED.






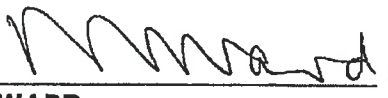
  
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