

APPLEBY

Dated 20th January 2016

ZEDRA TRUST COMPANY (GUERNSEY) LIMITED

THE GUERNSEY GIVING TRUST

Guernsey Office
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THIS CHARITABLE SETTLEMENT is dated 20th January 2016

BY

ZEDRA TRUST COMPANY (GUERNSEY) LIMITED, a company incorporated under the laws of Guernsey with the registered number 24531, whose registered office is at PO Box 41, Floor 2, Le Marchant House, Le Truchot, St Peter Port, Guernsey, GY1 3BE (**Original Trustee**).

BACKGROUND

- (A) The Original Trustee has under its control the property specified in Schedule 1 and wishes to declare that it holds such property upon trust with and subject to the provisions hereinafter declared.
- (B) This trust shall be known as The Guernsey Giving Trust (this **Settlement**).

OPERATIVE TERMS

1. DEFINITIONS AND CONSTRUCTION

1.1 In this Settlement:

Appointor: the Association of Guernsey Charities;

charity: any company, trust, foundation, institution or other body corporate or unincorporate which is established only for **charitable purposes** being purposes regarded as charitable under the Proper Law or the place where the charitable object is organised or functions;

company: any body, incorporated or established in any part of the world, which has a legal existence independent of that of its members;

incapacity: incapacity caused by physical or mental handicap or deterioration resulting in the individual whose incapacity is being judged being unable to manage their own affairs or to understand the nature or consequences of their actions, as confirmed by the written opinion of two medical practitioners qualified to assess such matters, and **incapacity** shall also mean any legal incapacity deriving from age or insolvency or otherwise including due to kidnapping or other events or circumstances of war or terrorism whereby a Person is unable to fulfil their functions as are required of them under this Trust or is acting under the undue influence of any Person, provided that in these circumstances the decision of the Trustees reached in good faith shall be conclusive and binding, and **incapacitated** shall have a corresponding meaning;

instrument: any document which has been signed by the parties to it;

liability: any liability whatsoever present, future or contingent, whether agreed, disputed or irrecoverable and includes tax and any proceedings, accounts and expenses relating to, or arising out of, any liability and "liable" shall be construed accordingly;

Objects: the objects of this Settlement are to hold the Online Giving bank accounts managed by the Association of Guernsey Charities for the benefit of such Guernsey charities as are registered with the Association of Guernsey Charities;

Person: any individual, company, partnership, foundation, unincorporated association and any charity;

Proper Law: the law governing this Settlement at any time;

Qualifying Jurisdiction: a jurisdiction which recognises trusts (as defined in the Hague Convention on the Law Applicable to Trusts and on their Recognition);

Qualifying Settlement: any settlement, however constituted or arising, whether governed by the Proper Law or another law which has common Objects;

Trust Fund:

- (a) the property specified in Schedule 1;
- (b) all property paid, transferred to or otherwise placed under the control of and accepted by the Trustees as additions to the Trust Fund;
- (c) all income which shall be accumulated by the Trustees and added to the capital of the Trust Fund; and
- (d) all property from time to time representing the above;

Trust Period: the period commencing with the date of this Settlement and ending on such day as the Trustees may determine; and

Trustees: the Original Trustee or the trustees of this Settlement for the time being and Trustee means any one of the Trustees.

1.2 For the purpose of this Settlement:

- (a) words denoting any gender shall include both the other genders and words denoting the singular shall include the plural and vice versa;
- (b) the index and headings in this Settlement are inserted for convenience of reference only and shall have no legal effect, nor shall they affect in any way the construction of any clause contained herein; and
- (c) benefit shall be construed in its widest sense and shall not be limited by reference to the context or circumstances.

2. **PROPER LAW AND ADMINISTRATION**

- 2.1 Subject to the following sub-clause, the Proper Law of this Settlement is that of the Island of Guernsey which governs its validity, construction, effects and administration.

2.2 The Trustees may during the Trust Period by instrument declare that from the date of such declaration:

- (a) the law of any Qualifying Jurisdiction governs the validity of this Settlement, and its construction, effects and administration, or any severable aspect of this Settlement; and
- (b) the courts of any Qualifying Jurisdiction have exclusive jurisdiction in any proceedings involving rights or obligations under this Settlement.

3. **TRUST INCOME**

Subject to the powers over capital below the Trustees shall, during the Trust Period, hold the Trust Fund as follows:

- (a) To accumulate the income of the Trust Fund and add that income to the Trust Fund.
- (b) Notwithstanding the above sub-clause, the Trustees may, during the Trust Period, instead of accumulating the income of the Trust Fund, pay or apply it to or for the benefit of the Objects as they think fit.

4. **POWERS OVER CAPITAL**

Notwithstanding the foregoing, the Trustees shall have the following powers which shall be exercisable only during the Trust Period and at a time when there are at least two trustees or, if there is only one trustee, that sole trustee is a company carrying on business which consists of or includes acting as a trustee or when the power to appoint additional trustees cannot be exercised:

4.1 **Power of Appointment**

- (a) The Trustees may appoint that they shall hold the Trust Fund or any part or parts of it on such trusts for the furtherance of the Objects and on such terms as the Trustees think fit.
- (b) An appointment may create any provisions, exercisable by any Person, and in particular:
 - (i) discretionary trusts;
 - (ii) dispositive or administrative powers;but at all times this Settlement shall remain a charity.
- (c) An appointment shall be made by instrument and may be revocable or irrevocable.

4.2 **Power to Transfer Trust Fund to other Settlement**

The Trustees may by instrument declare that they hold the Trust Fund or any part or parts of it on trust to transfer it to trustees of a Qualifying Settlement, to hold on the terms of that settlement, freed and released from the terms of this Settlement.

4.3 **Power of Advancement**

The Trustees may pay or apply the Trust Fund or any part or parts of it in furtherance of the Objects.

5. **DEFAULT CLAUSE**

Subject as above or at the expiration of the Trust Period on trust as to the capital and income for such charitable purposes as the Trustees shall in their discretion determine.

6. **TRUSTEE PROVISIONS AND ADDITIONAL POWERS**

6.1 The provisions relating to the appointment, removal and retirement of Trustees; Trustees' indemnity and release; and Trustee remuneration, expenses and commission, are set out in Part A of Schedule 2.

6.2 The Trustees shall have the additional powers contained in Part B of Schedule 2.

7. **DELEGATION AND RELEASE OF POWERS**

7.1 A Trustee or the Trustees jointly (or other Person in a fiduciary position) may by instrument delegate any of their functions to any Person on such terms as to remuneration and other matters as they think fit. A Trustee (or other Person in a fiduciary position) shall not be responsible for the default of that Person (even if the delegation was not strictly necessary or convenient) provided they took reasonable care in their selection and supervision.

7.2 The Trustees (or other Person in a fiduciary position) may by instrument release wholly or in part any of their powers, rights or functions (if applicable) so as to bind their successors.

8. **EXCLUSION OF NON-CHARITABLE PURPOSES**

Notwithstanding anything else in this instrument, no power conferred by this Settlement shall be exercisable, and no provision shall operate so as to allow the Trust Fund or any part or parts of it to be applied for any purpose that is not charitable.

9. **EXCLUSIONS OF CERTAIN SECTIONS OF THE TRUSTS (GUERNSEY) LAW, 2007**

Sections 23(b), 26(1)(b), 29(1) and 39(1)(b) of the Trusts (Guernsey) Law, 2007 shall not apply to this Trust and the obligations imposed on the Trustees thereby are excluded and shall have no application to the Trustees.

10. **IRREVOCABLE CHARITABLE TRUST**

This Trust is irrevocable.

The signatures of the parties to this Settlement are situated after the Schedules to this Settlement.

SCHEDULE 1
Initial Trust Fund

£10 [TEN POUNDS]

SCHEDULE 2

Part A – Trustee Provisions

1. POWER OF APPOINTMENT, REMOVAL AND RETIREMENT OF TRUSTEES

- 1.1 The Appointor may by instrument appoint a new or additional Trustee provided that if there is no Appointor or the Appointor refuses to act or is incapacitated then the Trustees may by instrument appoint a new or additional Trustee or if there shall be none, the liquidator or personal representative of the last surviving Trustee may by instrument appoint a new or additional Trustee.
- 1.2 A Trustee may retire by executing an instrument of retirement and delivering it to the Appointor and their fellow co-Trustee or co-Trustees (if any). Where the Trustee so retiring is a sole Trustee, no such retirement shall take effect until some other Person shall have been appointed to and accepted the office of Trustee.
- 1.3 The Appointor may by instrument remove any Trustee provided that there remains at least one Trustee and, where there is only one Trustee, no such removal shall take effect until some other Person shall have been appointed to and accepted the office of Trustee.
- 1.4 A Trustee further ceases to be a Trustee in the event of their death, bankruptcy or incapacity or, in case of a company, liquidation or dissolution.
- 1.5 An outgoing Trustee shall, subject to being provided with reasonable security for liabilities (existing, future, contingent or otherwise) execute and do or cause to be done all such transfers or other acts as may be necessary for vesting the Trust Fund in the new or continuing Trustees.

2. TRUSTEE INDEMNITY AND RELEASE

- 2.1 The Trustees shall be fully indemnified out of the Trust Fund during and after their trusteeship in respect of all liabilities which they may incur as Trustees save such liabilities caused by their own fraud, wilful misconduct or gross negligence.
- 2.2 A Trustee ceasing to act shall be released from all liability as Trustee in the execution or purported execution of this Settlement save such liability caused by their own fraud, wilful misconduct or gross negligence and such Trustee ceasing to act shall not be bound to transfer the Trust Fund unless reasonable security is provided for indemnifying the Trustee fully against such liabilities which they may suffer as a former Trustee.
- 2.3 No Trustee shall be liable for any loss or loss of profit to the Trust Fund because of any investment depreciation or loss or any act, omission, neglect or mistake, save as is caused by their own fraud, wilful misconduct or gross negligence.
- 2.4 Any release or indemnity in respect of the liability of a corporate Trustee shall cover its officers and employees.
- 2.5 A Trustee may:

- (a) directly or indirectly profit from their trusteeship;
- (b) cause or permit any other Person including a Person connected with the Trustees to profit directly or indirectly from such trusteeship;
- (c) enter into any transaction on the Trustee's own account with the Trustees relating to the Trust Fund or any part thereof which may result in profit.

3. **TRUSTEE REMUNERATION, EXPENSES AND COMMISSION**

3.1 Any Trustee acting in a professional capacity is entitled to receive remuneration out of the Trust Fund for any services that they provide to or on behalf of this Settlement as agreed in writing between the Trustees and the Appointor from time to time. In the absence of such agreement, a non-corporate body shall be entitled to reasonable remuneration, and a Trustee being a corporate body shall be entitled to remuneration in accordance with its published terms and conditions in force at any time. For this purpose a Trustee acts in a professional capacity if they act in the course of a profession or business which consists of or includes the provision of services in connection with:

- (a) the management or administration of trusts generally or a particular kind of trust;
or
- (b) any particular aspect of the management or administration of trusts generally or a particular kind of trust.

3.2 The Trustees shall be entitled to reimburse themselves from the Trust Fund for expenses and liabilities properly and reasonably incurred in the conduct or administration of this Settlement.

3.3 The Trustees may retain (without being liable to account for) any commission received by them from any transaction carried out for which they are in the normal course of business allowed commission, notwithstanding that the receipt of such commission results from an exercise by them of the powers conferred by this Settlement or by law.

4. **CONDUCT OF TRUST AND EXERCISE OF POWERS**

The Trustees shall conduct the affairs of this Settlement in such manner as they may consider appropriate and may make such arrangements in relation to the administration of this Settlement as they consider advisable in furtherance of the Objects and exercise these trusts and powers whether dispositive or administrative in their absolute discretion and from time to time as occasion requires in furtherance of the Objects.

5. **ASSOCIATES OF THE TRUSTEES**

The Trustees may employ associates of the Trustees to perform any functions or provide any services (including acting as agents, advisers or bankers) and otherwise transact with them as if they were unrelated to the Trustees in any case without liability for loss which may result.

6. **PAYMENTS TO CHARITIES/UNINCORPORATED BODIES**

Where any part of the Trust Fund is to be paid or transferred to a charity or other unincorporated body, the receipt of the treasurer or appropriate officer of the charity or unincorporated body shall be sufficient discharge to the Trustees for any payment or transfer made, and the Trustees shall not be under any obligation to see to the further application of such sum paid or transferred.

7. **APPORTIONMENT**

Income and expenditure shall be treated as arising when payable and not from day to day so that no apportionment shall take place.

8. **TRUSTEES NOT BOUND TO INTERFERE IN BUSINESS**

The Trustees shall not be bound to interfere in the management or conduct of any company comprised in the Trust Fund and, so long as the Trustees have no notice of any misconduct on the part of the officers of the company, the Trustees shall incur no liability in leaving the conduct of its business (including the payment of dividends) wholly to its officers and no charity shall be entitled to require the Trustees to procure the distribution of any dividend or to otherwise interfere in the company.

Part B - Additional Trustee Powers

The Trustees have the following additional powers:

1. **GENERAL POWER OF MANAGEMENT AND DISPOSITION**

The Trustees will have all the same powers of a natural person acting as beneficial owner of the Trust Fund and may effect any transaction relating to the management or disposition of the Trust Fund as if the Trustees were absolutely entitled to it.

2. **POWERS OF INVESTMENT**

- 2.1 Notwithstanding any requirement of the Proper Law including any duty to diversify the range of investments, the Trustees may undertake any transaction or make any investment if the Trustees shall consider the transaction or investment of benefit to the Settlement including making speculative investments and shall have no duty to diversify the investments of the Trust Fund.
- 2.2 The Trust Fund or any part thereof may be invested in money, shares, securities, mutual funds, collective investment schemes or in any other property, real or personal, including options and derivatives and whether or not producing income and with or without security.
- 2.3 The Trustees may give any representation, warranty, undertaking or covenant to, or enter into, any agreement or arrangement with any Person relating to the purchase, acquisition, sale, transfer or disposition of any shareholding, interest, property or business directly or indirectly owned or controlled by the Trustees.

3. **POWER TO FORM COMPANIES**

The Trustees may form companies anywhere, whether or not with limited liability, with any objects, powers, articles and regulations or amend any of them or effect the reconstruction of any company or its amalgamation with some other company or put it into liquidation and the Trustees and any associate of the Trustees may perform functions for and provide services to any such companies.

4. **POWER TO EMPLOY ADVISERS AND MANAGERS**

The Trustees may appoint any Person as an adviser (including an investment adviser) or manager and may delegate to such adviser or manager the execution and exercise of any of their trusts and powers under this Settlement and such delegate may further delegate such trusts and powers without the Trustees being liable for any loss to this Settlement arising from any delegation or appointment made reasonably in good faith and without neglect or from the continuation thereof.

5. **POWER TO APPOINT AGENTS, PROXIES AND POWERS OF ATTORNEY**

5.1 The Trustees may appoint one or more agents in any part of the world to act on their behalf, including, but not restricted to, the Association of Guernsey Charities, in the exercise of any of their functions including the receipt and payment of money and the execution of documents.

5.2 The Trustees may give proxies and powers of attorney to any Person to vote or act on their behalf in connection with all or any part of the Trust Fund.

6. **POWER TO APPOINT NOMINEES AND CUSTODIANS**

6.1 The Trustees may appoint any Person to act as their nominee in relation to such of the assets of the Trust Fund as they may determine and may take such steps as are necessary to secure that those assets are vested in the nominee.

6.2 The Trustees may appoint any Person to act as custodian in relation to such of the assets of the Trust Fund as they may determine. The Trustees may give the custodian custody of the assets and any documents or records concerning the assets. The Trustees are not obliged to appoint a custodian of securities payable to bearer.

6.3 The Trustees may appoint any Person to act as nominee or custodian on such terms as to remuneration and other matters as they may think fit.

6.4 No liability shall attach to the Trustees for the acts and omissions of a nominee or custodian appointed in good faith.

7. **POWER TO INDEMNIFY AGENTS**

The Trustees may indemnify any Person who has:

- (a) been employed as an agent by the Trustees;

- (b) acted as an officer or employee of or otherwise provided services to any Person in which the Trustees at any time have any interest;
- (c) against any liability of that Person but such indemnity shall not include loss caused by fraud, wilful misconduct or gross negligence of that Person;

8. **POWER TO GIVE INDEMNITIES**

The Trustees may indemnify any former Trustee or any Person in respect of any liabilities actually or prospectively payable in respect of the Trust Fund in connection with this Settlement.

9. **POWER TO MAKE LOANS AND TO GIVE SURETIES**

The Trustees may lend the Trust Fund or any part thereof to any Person and guarantee any obligation of any Person on any terms and give indemnities and sureties of every description.

10. **POWER TO BORROW MONEY**

The Trustees may borrow money for investment or any other purpose either unsecured or on the security of the Trust Fund and charge the Trust Fund to secure any liability of the Trustees or any Person.

11. **POWER TO PAY TAXES**

11.1 The Trustees may pay tax out of the Trust Fund in any circumstances and in any jurisdiction notwithstanding that it may not be recoverable by or from the Trustees or any other Person or that payment shall not be to the advantage of the Trustees or the Settlement.

11.2 The Trustees may reimburse or indemnify any Person who shall have paid any tax or who may be liable for any tax provided the Trustees would also or otherwise be liable for such tax.

12. **POWER TO INSURE**

The Trustees may insure with any Person any property comprised in the Trust Fund against any risks in any amount and on any terms provided that the Trustees shall not be liable for not effecting any or sufficient insurance.

13. **POWER TO CARRY ON A TRADE**

The Trustees may carry on a trade in any part of the world alone or with any other Person.

14. **POWER TO ACQUIRE JOINT PROPERTY**

The Trustees may acquire property jointly with any Person and may blend the Trust Fund with other property subject to Section 27 of the Trusts (Guernsey) Law, 2007.

15. **POWER TO DEPOSIT DOCUMENTS**

The Trustees may deposit documents relating to the Trust Fund (including bearer securities) with any Person.

16. **POWER OF IMPROVEMENT**

The Trustees may develop or improve the Trust Fund in any way but shall not be obliged to preserve or enhance the value of the Trust Fund.

17. **POWER TO RELY ON COUNSEL'S OPINION**

The Trustees may at the expense of the Trust Fund take and rely on opinion of legal counsel anywhere concerning any matter and no liability shall attach to the Trustees if they rely on such opinion in good faith.

18. **POWER TO GIVE RECEIPTS**

The Trustees may give receipts for any money, securities or other property and so that any receipt given shall be a sufficient discharge to the Person paying, transferring or delivering the same and shall effectively exonerate that Person from seeing to its application or being liable for any loss or misapplication.

19. **CONFLICTS OF INTEREST**

19.1 In this paragraph:

- (a) a **Fiduciary** means a Person subject to fiduciary duties under this Settlement; and
- (b) an **Independent Trustee** in relation to a Person, means a Trustee who is not:
 - (i) a brother, sister, ancestor, descendant or dependent of the Person;
 - (ii) a spouse of the Person or of 19.1.2 above; or
 - (iii) a company controlled by one or more of any of the above.

19.2 Subject to the following sub paragraph, a Fiduciary may:

- (a) enter into a transaction with the Trustees;
- (b) be interested in an arrangement in which the Trustees are or might have been interested; or
- (c) act (or not act) in any other circumstances,

even though his fiduciary duty under this Trust conflicts with other duties or with his personal interest.

19.3 The sub-paragraph only applies if:

- (a) the Fiduciary first discloses to the Trustees the nature and extent of any material interest conflicting with his fiduciary duties;
- (b) withdraws from the Trustees meeting for that item unless invited to remain in order to provide information;
- (c) withdraws during the vote on that item and does not vote on that item; and
- (d) there are two or more Independent Trustees in respect of whom there is no conflict of interest and who consider that the transaction, arrangement or action is in the general interest of this Settlement.

20. **POWER TO EFFECT COMPROMISES**

The Trustees may:

- (a) accept any property prematurely;
- (b) pay or allow any debt or claim on any evidence thought sufficient;
- (c) accept any composition or security for any debt or any property due to or claimed by the Trustees;
- (d) allow time for payment of any debt;
- (e) compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or matter relating to the Trust Fund;

in any case without liability for any loss.

21. **POWER TO ACT BY MAJORITY**

The functions of the Trustees may be exercised by a majority of them. Any Trustee in the minority shall not be liable for acts done or omitted without their consent.

22. **ANCILLARY POWERS**

The Trustees may do anything which is incidental or conducive to the exercise of their functions.

23. **POWER TO VARY**

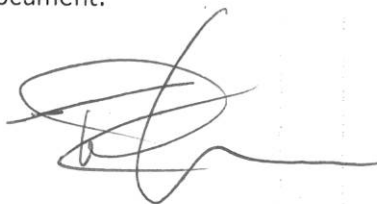
The Trustees may by instrument executed before the end of the Trust Period vary or amend the terms of this Settlement or any of the trusts and powers of this Settlement in any manner which they consider to be for the benefit of the Objects, including, for the avoidance of doubt, to rectify any immaterial or typographical mistakes in this Settlement and, in regard to any rectification of any immaterial or typographical mistake, this Settlement shall be deemed to have existed in its amended form from its creation and shall be construed accordingly.

SIGNATORIES

Executed by the Original Trustee on the date of this document.

The **COMMON SEAL** of **ZEDRA TRUST COMPANY (GUERNSEY) LIMITED** was affixed to this instrument in the presence of:

)
)
)
)



Authorised signatory

Name: JULES SHARIE

Position: DIRECTOR