

Trust Deed
The GCU Community Trust

Dreampoint Investments Pty Ltd
Trustee

Goldfields Credit Union Limited
Founder

Charitable fund trust deed dated 13 February 2012

Parties **Dreampoint Investments Pty Ltd** ACN 147 942 783 of 51 Boulder Road,
Kalgoorlie in the State of Western Australia (**Trustee**)

Goldfields Credit Union Limited ABN 63 087 651 849 of 120 Egan Street,
Kalgoorlie in the State of Western Australia (**Founder**)

Background

- A. The Founder wishes to establish a charitable fund to be known as "GCU Community Trust".
- B. The Trustee has consented to act as trustee of the GCU Community Trust and to hold the Trust Fund upon the trust and subject to the terms outlined in this Deed.
- C. The Founder has paid to the Trustee prior to the execution hereof the sum of \$10.00 to be held by the Trustee as the initial assets of the trust created by this Deed.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this Deed:

Advisory Committee means an Advisory Committee as appointed under clause 7;

Associate means an associate within the meaning of section 4 of Schedule 1 of the Financial Sector (Shareholdings) Act 1998 (Cth);

ATO means the Australian Taxation Office;

Deed means this deed;

Disqualified Person means a person who under the law relating to mental health is an incapable person or a protected person or a patient or a person who is, according to the written opinions of at least 2 registered medical practitioners lodged with the Trustee, through mental infirmity arising from disease or age, incapable of managing their affairs;

Financial Year means each period of 12 months ending on 30 June;

Founder means Goldfields Credit Union Limited (ABN 63 087 651 849);

Government Authority means the Federal Government of the Commonwealth of Australia, the Government of any State or Territory of it, the Government of any other political subdivision of it and any minister, department, office, commission, instrumentality, agency, board, authority or organisation of any of the foregoing or any delegate or person deriving authority from any of the foregoing;

Income includes any income, profit or gain that is, or in the opinion of the Trustee may be, taken into account in calculating the net income of the Trust and the exempt income (if any) of the Trust pursuant to the provisions of the Tax Act;

Principal Purpose of the Trust means the purposes established under clause 2.3 of this Deed;

Responsible Person means a person who has a degree of responsibility to the Goldfields Esperance region's community as a whole and includes school principals, judges, clergymen, solicitors, doctors, accountants and other professional persons, mayors, councillors, town clerks and members of parliament. Generally, they are persons who perform a public function or who belong to a professional body which has a professional code of ethics and rules of conduct (such as the Institute of Chartered Accountants, State Law Societies and Medical Registration Boards);

Securities means securities of any kind issued by a company or a unit trust or any other entity, including without limitation, shares, units, debentures, options and warrants;

Tax Act means the *Income Tax Assessment Act 1997* (Cth);

Trust means the trust established under this Deed;

Trust Fund means all property for the time being held by the Trustee on the terms of the Trust including:

- (a) the initial \$10 settled on the Trustee by the Founder;
- (b) any further property donated to or settled on the Trust; and
- (c) any proceeds of any of the foregoing; and

Trustee means Dreampoint Investments Pty Ltd ACN 147 942 783 or any other person or entity that becomes a Trustee of the Trust.

1.2 Interpretation

In this Deed headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:

- (a) words denoting the singular number include the plural and vice versa;
- (b) words denoting any gender includes all genders;
- (c) "**person**" includes an individual, the estate of an individual, a corporation, a Government Authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to a party includes that party's executors, administrators, successors, and permitted assigns, including persons taking by way of novation and in the case of a trustee, includes any substituted or additional trustee;
- (e) a reference to a document (including this Deed) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;

- (g) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this Deed, and a reference to this mortgage includes all schedules, exhibits, attachments and annexures to it;
- (h) if at any time there is more than one Trustee of the Trust then all references to the Trustee will be construed as references to all of the Trustees jointly;
- (i) where any word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) "includes" in any form is not a word of limitation; and
- (k) a reference to "\$" or "dollar" is to Australian currency.

2. The Trust

2.1 Establishment of the Trust

The Founder hereby declares and directs that the Trustee will, and the Trustee irrevocably declares that the Trustee will hold, subject to this Deed, the Trust Fund and the Income from the Trust Fund upon trusts and with and subject to the powers and provisions of this Deed.

2.2 The name of the Trust

The Trust created by this Deed will be known as the "GCU Community Trust".

2.3 Principal Purpose of the Trust

The Trust is established solely for the public benefit, and shall be maintained solely to:

- (a) manage the Trust Fund; and/or
- (b) hold the Trust Fund to make distributions to other entities or people to support projects and activities that are intended to provide benefits of social value to the community of the Goldfields Esperance region of Western Australia.

3. Trust purposes

3.1 Application of Income and Trust Fund

- (a) The Trustee will in each Financial Year pay or apply the Income of the Trust Fund, and all or any part of the capital of the Trust Fund as the Trustee at any time thinks fit, as follows:
 - (i) for the purpose of providing money, property or benefits to or for the Principal Purpose of the Trust, in such amounts and on such conditions as the Trustee may determine and otherwise in accordance with the terms of this Deed;
 - (ii) for investments which are consistent with carrying out the Principal Purpose of the Trust; and
 - (iii) to meet the reasonable costs of the current and continuing operation and management of the Trust.

except as the Trustee may accumulate the Income and capital of the Trust Fund as allowed by clause 5.2.

- (b) The Trust Fund and Income of the Trust shall be applied solely in furtherance of the Principal Purpose of the Trust and no portion shall be distributed directly or indirectly to:
- (i) the Trustee, any of its members or directors;
 - (ii) the Founder; or
 - (iii) any person who settles money or other property on the Trust to be held as an accretion to the Trust Fund

except as bona fide compensation for services rendered or expenses incurred on behalf of the Trust including where the payment, transfer or distribution is permitted under clause 8.2.

3.2 Factors the Trustee may consider

The Trustee in exercising its discretion in clause 3.1 may have regard to:

- (a) any recommendations of an Advisory Committee properly communicated to the Trustee in accordance with the terms of this Deed; and
- (b) public rulings or guidelines issued by the ATO and any advice received by the Trustee concerning the interpretation or application of the public rulings or guidelines to the Trust.

3.3 Policies and rules

For the purpose of paying or applying the Income or capital of the Trust Fund, the Trustee may:

- (a) formulate policies;
- (b) make rules in connection with a policy; and
- (c) revoke or amend a policy rule and formulate others.

3.4 ATO endorsement

The Trustee must, as soon as practicable after the execution of this Deed, apply to the ATO for endorsement for all relevant taxation purposes.

4. Trustee

The Trustee covenants that it will act continuously as Trustee until the Trust is determined or until it ceases to be Trustee in accordance with this Deed.

4.1 Appointment and retirement of Trustee

- (a) The Trustee may retire as trustee of the Trust by giving not less than one month's prior notice to the Founder.
- (b) The Founder has the power to appoint new or additional Trustees provided that the Founder will not at any time be eligible for appointment as Trustee.

- (c) The retiring Trustee shall continue as Trustee under this Deed until appointment of a replacement, from which time the Trust Fund vests in the person without the necessity for any vesting, declaration, transfer, conveyance or other assurance.
- (d) The retiring Trustee shall on retirement:
 - (i) do all things necessary to transfer the legal title in the assets of the Trust Fund to the new Trustee;
 - (ii) deliver to the new Trustee all books, documents, records, evidence of title and any other property or things whatsoever belonging or relating to the Trust Fund or the Trust;
 - (iii) sign or give any necessary authorities or directions to give possession or control of Trust property to the new Trustee as may be in the hands of third parties; and
 - (iv) give such assistance as the new Trustee may reasonably require to put the new Trustee into full knowledge of the affairs of the Trust.
- (e) The Founder has the power to remove a Trustee, provided that if at the time there is only one Trustee, a removal will only be made simultaneously with the appointment of one or more replacement Trustees in accordance with this clause.
- (f) Both natural persons and corporations are eligible to hold office as Trustee of this Trust.
- (g) A corporation may be a sole Trustee of this Trust.
- (h) If there is no corporate Trustee of this Trust then the number of natural persons who hold office as Trustees of this Trust at any one time must not be less than three.
- (i) The office of a Trustee will automatically terminate:
 - (i) if the Trustee being a natural person is found to be a Disqualified Person or if the Trustee becomes bankrupt or makes any arrangement or composition with its creditors generally; or
 - (ii) if the Trustee being a corporation has a receiver, administrator or official manager appointed or enters into liquidation whether compulsory or voluntary (not being merely a voluntary liquidation for the purposes of amalgamation or reconstruction).
- (j) Whenever there is more than one Trustee then any decision will be reached, where:
 - (i) there are two Trustees, if the Trustees unanimously make the decision; and
 - (ii) there are more than two Trustees, if the Trustees make the decision by a bare majority vote. In such a case a minority vote whose dissent has been recorded in the records of the Trust will be completely exonerated from all responsibility of participating

in any formal act or acts necessary to give effect to the decision of the majority.

4.2 Membership of board or controlling body

The Trustee, whether natural persons or a corporation or a controlling body, must include, on the board of directors or within the controlling body, at least one person who is a Responsible Person.

4.3 Appointment of additional Trustees

The decision of the Founder to appoint one or more additional Trustees must be approved by a resolution of the current Trustee/s prior to any such appointment.

5. Investments and powers of Trustee

5.1 Trustee to give effect to investments

The Trustee must invest money of the Trust Fund only in a way which is permitted under the laws of Australia or of any State or Territory of Australia.

5.2 Accumulation of Income

- (a) The Trustee may in its absolute discretion in a Financial Year accumulate and invest the Income of the Trust Fund in accordance with this Deed including without limitation any rules or policies formulated by the Trustee under clause 3.3, insofar as it is consistent with the Principal Purpose of the Trust.
- (b) The Trustee must pay or apply all contributions being donations, gifts, government grants or other voluntary transfers of income or property in accordance with clause 3.1 in the Financial Year in which they are received except to the extent that the Trustee is permitted to accumulate or retain amounts under clause 5.2.

5.3 Additional Powers

In addition to all the powers vested in the Trustee by law or statute the Trustee, without the consent of any beneficiary, will have and may exercise from time to time the following powers:

(a) **Retain property**

To retain any property belonging to or forming part of the Trust Fund in the actual state or condition in which it will be received by the Trustee for so long as the Trustee thinks it proper and at any time or times to sell, call in or convert into money any such property;

(b) **Sell, alienate or dispose of property**

To sell, alienate or otherwise dispose of all or any property at any time forming part of the Trust Fund for such price in money or other consideration and on such conditions as the Trustee may think proper to receive the consideration and grant thereof;

(c) **Sell or vary investments**

To change an investment, or to sell or otherwise dispose of the whole or part of the investment, or vary the terms and conditions on which the investment is held;

(d) **Exchange property**

To exchange property for other property of a like or different nature and for such consideration and on such conditions as the Trustee may consider advisable;

(e) **Reorganisation, reconstruction**

To consent to any reorganisation or reconstruction of any corporation the Securities of which form part of the Trust Fund and to consent to any share buy back, reduction of capital or other dealing with such Securities as the Trustee may consider advantageous or desirable;

(f) **Employ**

To employ or engage, or to provide any benefit for an employee, agent, contractor or professional person as the Trustee may deem requisite in the discharge of the duties of the Trustee, without being responsible for the default of the agent, contractor or employee or for any loss occasioned by the employment or engagement;

(g) **Act on professional opinion**

- (i) To act on the opinion or advice of or information obtained from any financial adviser, lawyer, valuer, surveyor, broker, auctioneer or other expert or professional; and
- (ii) Not be liable for anything done in good faith in reliance on any advice or information from any person appointed under 5.3(g)(i) except to the extent that the liability is a result of the Trustee's fraud, negligence or wilful default.

(h) **Determine all questions and matters**

To determine all questions and matters of doubt which may arise in the course of management, administration, realisation, liquidation, partition or winding up of the Trust Fund;

(i) **Receipts**

To receive as part of the Trust Fund any gifts, contributions or donations, settlements or other dispositions in money, moneys worth or property to or in favour of the Trust Fund;

(j) **Donations and gifts**

Attract and encourage donations, gifts, endowment, trust distributions and other forms of financial assistance for the benefit of the Trust;

(k) **Borrowing**

To borrow money as the Trustee thinks fit in a manner and on terms and conditions the Trustee thinks fit and to secure the repayment of money

borrowed or raised and any interest, fees and charges relating to the borrowing by mortgage or charge over all or any of the investments or property forming part of the Trust Fund or in any manner the Trustee thinks fit;

(l) **Institute and defend proceedings**

To institute and defend proceedings at law and to proceed to the final end and determination of the proceedings or compromise or settle the dispute as the Trustee thinks fit;

(m) **Negotiable or transferable instruments**

To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments;

(n) **General Expenses**

To pay insurance premiums, rates, taxes, rents and outgoings in connection with the Trust Fund;

(o) **Real property**

To manage any real property held as part of the Trust Fund with all the powers of an absolute owner;

(p) **Appropriation**

To appropriate any investment or property forming part of the Trust Fund in its actual state of investment in or towards the satisfaction of the beneficial interests of any person in the Trust Fund; and

(q) **Incidental Powers**

To do all others things incidental to the exercise of the powers, rights, discretions and authorities hereby conferred on the Trustee.

6. Accounts and audit

6.1 Bank accounts

- (a) The Trustee will open and maintain in the name of the Trust Fund an account or accounts at a bank or banks as the Trustee from time to time thinks fit.
- (b) The Trustee will issue receipts for any gifts or donations received on behalf of the Trust Fund, and any gifts or donations will be kept separate from any other fund or monies relating to accounts that are not part of the Trust Fund.

6.2 Operation

The Trustee will determine who will be entitled to operate on the account or accounts in clause 6.1.

6.3 Audits and records

- (a) The Trustee will keep accurate accounts of its trusteeship and will have the accounts audited annually at the expense of the Trust Fund by a chartered accountant appointed by the Trustee.
- (b) As soon as practicable after each Financial Year end the Trustee must prepare or cause to be prepared a financial statement showing the financial position of the Trust Fund at the Financial Year end.

7. Advisory Committee

7.1 Establishment and purpose

- (a) The Trustee may establish an Advisory Committee.
- (b) An Advisory Committee will advise and make recommendations to the Trustee on how payments or applications of income and capital should be made for the Principal Purpose of the Trust.

7.2 Membership

- (a) At all times, a majority of the members of an Advisory Committee must consist of Responsible Persons, but an Advisory Committee shall not include any current employees, directors or Significant Shareholders of the Founder.
- (b) The Trustee may appoint and remove, or make provisions for the appointment and removal of, members of an Advisory Committee.
- (c) An Advisory Committee may consist of a single individual or the number of individuals that the Trustee decides.

7.3 Proceedings of Advisory Committee

The Trustee may specify:

- (a) the manner in which proceedings of an Advisory Committee are to be conducted, including the manner in which the recommendations of the Advisory Committee will be communicated to the Trustee;
- (b) the matters which an Advisory Committee must have regard to in carrying out its functions; and
- (c) any other matters concerning an Advisory Committee or its functions that the Trustee decides.

7.4 Liability

An Advisory Committee and its members will not be liable for any loss or damage to the Trust arising by reason of mistake or omission made in good faith or any other matter or thing, except fraud or wilful neglect on the part of the member of an Advisory Committee who is sought to be made so liable.

8. Expenses

8.1 General

Subject to clause 8.2 the expenses in connection with the administration of this Trust including remuneration and charges of the Trustee provided for in this Deed and of the investment and reinvestment of any part of the Trust Fund and the collection of income and other sums derivable from the Income will be charged against the Income of the Trust Fund but if such Income is insufficient for the purpose then the same will be charged against the Trust Fund.

8.2 Trustee's remuneration

The Trustee may charge and be paid out of any part of the capital or income of the Trust Fund the remuneration that the Trustee considers to be fair and reasonable. However, the maximum remuneration chargeable by the Trustee in respect of any Financial Year must not exceed 5% of the gross value of the Trust property.

9. Liability and indemnity

9.1 Liability for breaches of trust

The Trustee, where purporting to act in the exercise of the trusts and powers of this Deed, and any Officer, agent or employee of the Trustee purporting to exercise powers under this Deed, is

- (a) not liable for any loss or liability; and
- (b) entitled to be indemnified from the Trust Fund in respect of any loss or liability, unless the loss or liability is attributable to:
 - (c) the dishonesty of the Trustee (or of the relevant Officer, agent or employee of the Trustee); or
 - (d) the wilful commission or omission of an act known by the Trustee (or by the relevant Officer, agent or employee of the Trustee) to be a fraudulent breach of trust in bad faith.

9.2 Indemnity of Trustee from Trust Fund

The Trustee is entitled to be indemnified out of the Trust Fund in respect of:

- (a) all costs and expenses incurred by the Trustee relating to:
 - (i) entering into this Deed or any amending deed;
 - (ii) establishing, operating, administering, terminating and winding up the Trust; or
 - (iii) otherwise in respect of the Trust and all matters incidental to the Trust; and
- (b) all liability incurred (including liability for income tax and any other taxes and all fines and penalties payable in relation to those taxes) and acts and things done in connection with or resulting from the matters referred to in clause (a)

including but not limited to the Trustee performing its duties and exercising its powers, rights and discretions under this document.

10. Amending this deed

10.1 Voluntary

Subject to the provisions of this clause 10, the Trustee may by deed poll amend, vary, add or delete any provision of this Deed if, in the opinion of the Trustee, it:

- (a) is made to correct a manifest error or ambiguity or is of formal, technical or administrative nature only;
- (b) will enable the provisions of this Deed to be more conveniently or advantageously administered; or
- (c) is otherwise expressly authorised by this Deed.

10.2 Restrictions

The Trustee may by deed revoke, add to or vary any of the terms of any of the trusts, beneficial interests, powers and discretions set out in this document, so long as:

- (a) the amendment does not or is not likely to change the Principal Purpose of the Trust;
- (b) no amendment is made which authorises the Trustee to invest money of the Trust Fund other than in a manner in which trustees are permitted to invest under the laws of Australia or of any State or Territory of Australia;
- (c) no amendment is made to this clause 10 so as to permit this document to be amended in a manner prohibited by clause 10.2(a) and (b); and
- (d) the Trustee notifies, as soon as practicable after any amendment, the Commissioner or Deputy Commissioner of Taxation of the amendment made.

11. Winding up of Trust

11.1 Winding up

In the event of the Trust being wound up or dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes which is not carried on for the profit or gain of its individual members or directors, as selected by the Trustee in its absolute discretion.

12. Miscellaneous

12.1 Trustee obligation

The Trustee must exercise reasonable care, skill and diligence in carrying out its functions and exercising rights and performing its obligations under this Deed.

12.2 Proper law

This Deed is governed and must be construed according to the laws of Western Australia.

12.3 Jurisdiction

Each party and any other person having any claim under this Deed or in respect of the Trust Fund irrevocably submits to the non-exclusive jurisdiction of the courts of Western Australia and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this Deed.

12.4 Severance

If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Deed; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Deed.


12.5 Counterparts

This Deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

Executed as a deed.

Executed by **Dreampoint Investments Pty Ltd** in accordance with section 127 of the Corporations Act 2001 (Cth):

GC



Signature of director

GREGORY COYLE

Full name of director

AG

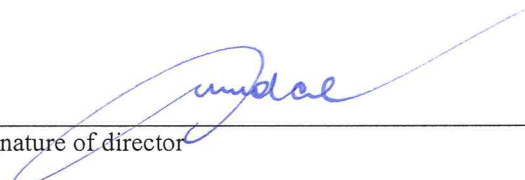


Signature of company secretary/director

ASHTON GEORGE

Full name of company secretary/director

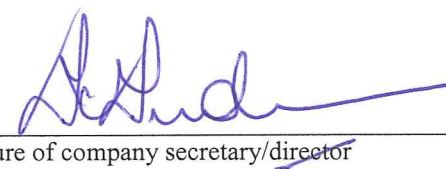
Executed by **Goldfields Credit Union Limited** in accordance with section 127 of the Corporations Act 2001 (Cth):



Signature of director

ALLAN PENSA

Full name of director



Signature of company secretary/director

FARLEY FEWKES

Full name of company secretary/director