

THE SOVEREIGN IN RIGHT OF NEW ZEALAND
acting by and through the Minister of Education

and

Alive Trust
Incorporated under the Charitable Trusts Act 1957

DEED OF INTEGRATION

Excellere College, Whangarei

DEED OF INTEGRATION AGREEMENT

THIS DEED OF AGREEMENT is made the 3rd day of September, Two Thousand and Eight (2008)

BETWEEN THE SOVEREIGN IN RIGHT OF NEW ZEALAND acting by and through the Minister of Education (hereinafter referred to as "**the Minister**") of the first part

AND Alive Trust incorporated under the Charitable Trusts Act 1957 (hereinafter with his successors referred to as "**the Proprietor**") of the second part

WHEREAS:

- A** The Proprietor intends to establish **Excellere College, Whangarei** (hereinafter referred to as "**the School**").
- B** The School is a integrated composite co-educational Year 1-13 school, offering Education with a Special Character.
- C** The Minister and the Proprietor have agreed to enter into this Deed of Agreement pursuant to the Private Schools Conditional Integration Act 1975, whereby the School is to be established as an integrated state School.
- D** The Proprietor is the Lessee of the Land described in the Second Schedule to this Deed.



The parties agree as follows:

Definitions

In this Deed of Agreement, unless the context requires otherwise the parties agree as follows:

"Board of Trustees" means the Board of Trustees of the School;

"Effective Date" shall be the eleventh day of September, Two Thousand and Eight (2008)

"Integration Act" means the Private Schools Conditional Integration Act 1975 and all amendments or any Act passed in amendment or substitution thereto;

"Minister" includes the current and all future Ministers of Education, or any Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of the Integration Act;

"School" means Excellere College, Whangarei.

NOW THIS DEED OF AGREEMENT WITNESSETH THAT IT IS HEREBY COVENANTED AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO as follows:

1. **THAT** the Minister and the Proprietor **HEREBY AGREE** that the School is to be established as an integrated School pursuant to the Private Schools Conditional Integration Act 1975.
2. **THE** School's Special Character, as is hereinafter described, shall incorporate the Education with a Special Character as provided in the School **AND IT IS HEREBY AGREED AND DECLARED** that the School shall at all times in the future be conducted and operated so as to maintain and preserve the School's Special Character and these presents shall be



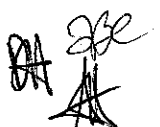
interpreted so as to maintain and preserve the Special Character of the School.

3 **ON** behalf of the Proprietor it is hereby agreed that:-

- (a) The Proprietor is the lessee of all the land and improvements more particularly described in the **First Schedule** hereto (hereinafter referred to as "**The Proprietor's land**") and of which for the purposes of this Deed of Agreement the School premises form part. The School premises for the purposes of this Deed of Agreement being the land and improvements more particularly described in the **Second Schedule** hereto (hereinafter referred to as "**the School premises**").
- (b) The Proprietor shall undertake and have completed the works as specified in the **Third Schedule** before the effective date.
- (c) The Proprietor shall set apart and appropriate as lessee all the School premises and all the chattels and other assets of the Proprietor associated with the School exclusively for the purposes of the School as an state integrated School, so that the Excellere College Board of Trustees ("**the Board of Trustees**") shall have the exclusive right to the possession and use of the School premises and chattels:

PROVIDED THAT

- (i) At the request of the Proprietor the Board of Trustees may, subject to section 40A of the Integration Act, grant the use of the School premises and chattels to the Proprietor or other person or persons at any time when the School premises and chattels are not required for School purposes and the Board of Trustees shall not unreasonably or arbitrarily withhold its consent. The



Board of Trustees may require the Proprietor or other person or persons to pay a reasonable fee to the Board of Trustees as a condition of such use.

- (ii) With the consent of the Proprietor, the Board of Trustees may, subject to section 40A of the Integration Act, grant the use of the School premises and chattels to other person or persons at any time when the School premises and chattels are not required for School purposes and the Proprietor shall not unreasonably or arbitrarily withhold his consent. The Board of Trustees may require any such person or persons to pay a reasonable fee to such Board of Trustees as a condition of such use.
- (c) The Proprietor shall accept and meet the liability for all mortgages, liens and other charges upon the land and buildings comprising the School premises.
- (d) The Proprietor shall plan, execute and pay for such capital works and associated facilities at the School as may be approved or required, from time to time, by the Minister pursuant to section 40(2)(d) of the Integration Act.
- (e) The Proprietor may own or hold upon trust, and control and maintain, any land, buildings and associated facilities that, although not part of the Integrated School premises in terms of this Deed of Agreement, are regarded by the Proprietor as appropriate to maintain the Special Character of the School.
- (f) The Proprietor shall insure all the buildings forming part of the School premises and the Proprietor's chattels (if any) owned or held upon trust for the purposes of the School and the other assets owned by the Proprietor for the purposes of the School against risks normally insured against, in some reputable insurance office, and

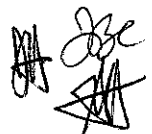


further acknowledges the obligation on him created by section 40(2)(h) of the Integration Act.

- (g) No person employed at the School and paid for his/her services in whole or in part out of moneys appropriated by Parliament, shall be paid by the Proprietor or his servants or agents any remuneration additional to that provided for by the Integration Act or shall be granted or permitted any condition of service more favourable than that permitted in the case of a person employed in a comparable position in a non-integrated state school.
4. **THE** land and buildings constituting the School premises are subject to the mortgages, debts, liens, encumbrances, easements, licences, restrictions and other matters which affect the title to or enjoyment of the land and have the appurtenances or benefits attaching to the land more particularly described in the **First Schedule** hereto.
5. **THE** proprietor for the Christian Community of Whangarei and surrounding districts which promotes and supports the School and of which the School is part, to provide and to continue to provide Education with a Special Character, that is to say:-

“A composite primary and secondary school established by the Alive Trust as a ministry for parents choosing a God-centred, biblical world view, Christian education for their children”.

“The Special Character of the school is determined by the Christian beliefs, values and lifestyle of the Christian church as determined by the board of Alive Trust, and is to be upheld in word and fulfilled in practice by staff who are recognised by the board of Alive Trust as qualified ministry team members”

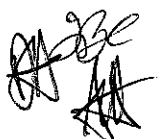


"Because God is:

- The Creator of heaven and earth, of all things visible and invisible, sustaining and ruling over creation, including man.... ;and is
- The source of all wisdom and knowledge. God the Father, Jesus His Son, and the Holy Spirit are relevant to every area of study and endeavour in the school

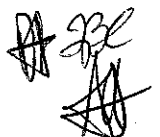
The school reflects this by:

- Using the Bible as the basis for exploring God's world, and as a standard against which to compare and interpret all curriculum material;
- Teaching Christian values and behaviours through the process of acknowledgement of sin, repentance, and acceptance of Jesus' gift of grace;
- Using prayer as a key tool in learning, inviting the Holy Spirit into every learning situation;
- Encouraging each child to give their best because God creates and equips each person for their unique role in His service, and acknowledging achievement in accordance with the child's effort;
- Inextricably integrating knowledge of the world and Christian beliefs, through an integrated approach of an appropriate Christian curriculum and developed programme plans;
- Acting as a continuum and extension of the teaching provided in Christian homes;
- Providing an environment where children, parents and teachers can experience Godly relationships, showing the character of Christ in love, discipline, respect, honour and trust, and witness an exemplary demonstration of Biblical truths in the lives of others; and




- Employing staff who are role models for students, who promote values and standards based on Biblical principals.

6. **THE** Proprietor of the School subject to the provisions of this Deed of Agreement:-
- (a) Shall continue to have the responsibility to supervise the maintenance and preservation of the Education with a Special Character provided by the School;
 - (b) Shall continue to have the right to determine from time to time what is necessary to preserve and safeguard the Special Character of the Education provided by the School and described in this Deed of Agreement;
 - (c) May invoke the powers conferred upon him by the Integration Act, if in the opinion of the Proprietor the Special Character of the School as defined and described in this Deed of Agreement has been or is likely to be jeopardised or the Education with a Special Character provided by the School as defined and described in this Deed of Agreement is no longer preserved and safeguarded.
7. (a) **A** Board of Trustees constituted pursuant to Part IX of the Education Act 1989, shall be the controlling authority of the School.
- (b) **THE** parties acknowledge that the Board of Trustees is required under section 25(6) of the Integration Act, to make provision for adequate consultation with the Proprietor, in terms of the Proprietor's rights and responsibilities under section 3 of that Integration Act.
 - (c) **THE** Board of Trustees shall be deemed to have been dissolved upon cancellation of this Deed of Agreement or closure of the school under the Integration Act.



8. **IT** is agreed by and between the parties hereto that the maximum roll of the School shall be 200.
9. **THE** Proprietor agrees that pursuant to paragraph (d) of Clause 3 of this Deed of Agreement he will bring the School up to the minimum standard of accommodation laid down from time to time by the Secretary of Education for a comparable non-integrated state school.
10. (a) **PREFERENCE** of enrolment at the School under section 29(1) of the Integration Act shall be given only to those children whose parent(s)/guardian(s), in the Proprietor's opinion, have established a particular connection with the School through membership of, or affiliation with, evangelical Christian Churches having a Biblical Basis of faith consistent with the statement of Special Character or a general connection with the school through a demonstrated acceptance of the statement of Special Character. Both parties hereby express their common understanding and mutual expectation that the Board of Trustees will conduct enrolment procedures in accordance with section 29 of the Integration Act.
- (b) **IN** accordance with section 7(6)(h) of the Integration Act unless the Proprietor and the Secretary of Education otherwise agree and subject to places being available, the number of pupils whose parents or other persons accepting responsibility for the education of the child do not have a preference of enrolment at the School in accordance with the provisions of section 29(1) of the Integration Act shall be limited to 5 percent of the maximum roll as determined by Clause 8 hereof and the Board shall not enrol more than that number.
11. **IT** is agreed by and between the parties hereto that as religious observances and religious instruction form part of the Education with a Special Character provided by the School, religious observances and



religious instruction in accordance with the determination made from time to time by the Proprietor shall continue to form part of the School programme in accordance with sections 31 and 32 of the Integration Act.

12. **THE** Proprietor, together with his servants, agents and licensees shall, subject to the proviso to section 40(2)(i) of the Integration Act, have at all reasonable times access to the School to ensure that the Special Character of the School is being maintained.
13. **THE** Proprietor, together with his servants, agents and licensees, shall have at all reasonable times access to the land and buildings of the School constituting the School premises sufficient to enable him to exercise the powers and carry out the responsibilities vested in him and imposed on him by the Integration Act and by this Deed of Agreement.
14. **AN** advertisement for the position of Principal of the School shall in accordance with section 65(1)(a) of the Integration Act state that a willingness and ability to take part in religious instruction appropriate to the Special Character of the School shall be a condition of appointment. Any person so appointed to the position of Principal shall accept these requirements as a condition of appointment. Such an advertisement shall also state that a willingness and ability to uphold the Special Character shall be a condition of the appointment. The Principal so appointed shall accept and recognise a responsibility to maintain and preserve the Special Character of the School.
15. **THERE** shall be a position at the School to be designated Director of Religious Studies in accordance with section 65(1)(b) of the Integration Act which position shall be a position of responsibility and part of the normal staffing entitlement of the School as established pursuant to the Education Act 1989 and an advertisement for that position shall state that a willingness and ability to take part in religious instruction appropriate to the Special Character of the School shall be a condition of appointment. Such an advertisement shall also state that a willingness and ability to uphold the



Special Character shall be a condition of the appointment. Any person so appointed to the position of Director of Religious Studies shall accept these requirements as a condition of appointment. The Director of Religious Studies shall give guidance and provide effective leadership in religious instruction and observances throughout the School.

16. A person appointed as aforesaid to the position of Director of Religious Studies at the School shall undertake such teaching duties, if any, as may be required by the Principal of the School.
17. **THE** number of other teaching positions which, in accordance with section 65(1)(c) of the Integration Act shall be positions of importance carrying a responsibility for religious instruction shall be 100 percent of the Total Staffing Entitlement of the School as established pursuant to the Education Act 1989 excluding Principal and Director of Religious Studies. Any advertisement for those positions shall state a willingness and ability to take part in religious instruction appropriate to the Special Character of the School shall be a condition of appointment. Such an advertisement shall also state that a willingness and ability to uphold the Special Character shall be a condition of the appointment. Any person appointed to these positions shall accept these requirements as a condition of appointment.
18. **THE** parties to this Deed of Agreement acknowledge that the School shall be entitled to funding for staffing incentives on the same basis as an equivalent non-integrated state school. For the avoidance of doubt, this means that where the Board of Trustees is unable to fill a position of importance carrying a responsibility for religious instruction solely because there are no candidates suitably qualified to provide religious instruction, then the Board of Trustees will not be eligible for any additional funding for staffing or recruitment incentives.
19. **THE** position of Deputy Principal, however described, at the School is agreed pursuant to Section 66 of the Private Schools Conditional Integration Act 1975 to be a special position that requires particular



capabilities in the teacher appointed, namely to assist in planning and organising the courses and programmes at the School to ensure that they reflect the Special Character of the School and an advertisement for the position of Deputy Principal shall state that possession of these capabilities shall be a condition of appointment. Such an advertisement shall also state that a willingness and ability to uphold the Special Character shall be a condition of the appointment. Any person so appointed to the position of Deputy Principal shall accept these requirements as a condition of appointment.

20. **THE** Proprietor may with the consent of the Board of Trustees in accordance with section 69(1) of the Integration Act arrange for any retired teacher to undertake voluntary tasks to assist in the School with the teaching of religious observances and religious instruction appropriate to the Special Character of the School.
21. **IT** is agreed by and between the parties hereto that as religious observances and religious instruction form part of the Education with a Special Character provided by the School the Proprietor may employ any person as a Chaplain or otherwise, for the purposes of religious observances or instruction and the provisions of section 69(2) and (3) of the Integration Act shall apply.
22. **Notwithstanding** anything contained in this Deed of Agreement, the parties acknowledge that Part 10 of the Education Act 1989 applies to any person employed in a teaching position at the school.
23. **THE** Proprietor of the School shall have the right to enter into an Agreement with the parents or other persons accepting responsibility for the education of a child providing that, as a condition of enrolment and attendance of that child at the School, the parents or other persons shall pay attendance dues established in respect of the School or group of Integrated Schools owned by the Proprietor or Proprietors of other Christian Integrated Schools at such rates and subject to such conditions as may be approved from time to



time by the Minister, by notice in the New Zealand Gazette in accordance with Section 36 of the Integration Act.

24. **THE** School as a integrated composite co-educational Year 1-13 school shall remain so until such time as an agreement to a change in this organization of the School is reached between the Proprietor and the Minister and the parties hereto enter into a Supplementary Deed of Agreement to give effect thereto.
25. **WHERE** any of the operational costs associated with the conduct of the Proprietor's land and buildings that are not part of the School premises cannot be separated from the costs associated with the operation of the School premises, the Proprietor may make arrangements with the Board of Trustees to the sharing of such operational costs according to their respective use of the services and facilities.
26. **THE** Minister shall subject to **Clause 3(d) and (e)** of this Deed of Agreement after the effective date hereof maintain the School premises and the associated facilities in a state of repair order and condition as for a comparable non-integrated state school and provide for the maintenance of the chattels as though the School were a non-integrated state school. The Board of Trustees shall be entitled to such furniture and equipment as the Minister supplies from time to time to comparable non-integrated state schools, excluding the furniture and equipment establishment grant in the case of an existing private school integrating into the state education system.
27. **THE** Proprietor shall not assign, nor take any steps in preparation of an assignment of, all or any of its obligations under this Deed of Agreement unless it has first obtained the prior written consent of the Minister.
28. **THE** parties acknowledge and agree that the Proprietor is not an agent of the Minister or of the Ministry of Education and may not represent itself by



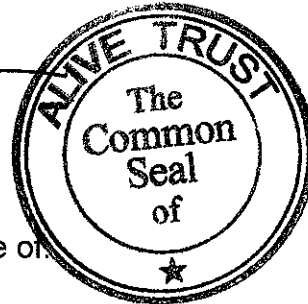
its servants or agents or otherwise that it is an agent of the Minister or of the Ministry of Education.

29. **THE** Minister and the Proprietor shall act in good faith to each other in respect of any dealings or matters under or in connection with this Deed of Agreement.
30. **ON** and after the effective date specified in this Deed of Agreement the School shall be a state integrated school in terms of the Private Schools Conditional Integration Act 1975.
31. **ALL** notices which are required to be sent under this Deed of Agreement shall be in writing and sent to the address for notifications in accordance with the following clause unless otherwise agreed between parties.
 - (a) All notices to the Minister shall be sent to The Senior Manager, National Operations, Ministry of Education, PO Box 1666, Thorndon, Wellington, facsimile (04) 463 8252.
 - (b) All notices to be sent to the Proprietor shall be sent to, Alive Trust, PO Box 4237, Kamo, Whangarei.



IN WITNESS WHEREOF these presents have been executed the day and the year first hereinbefore written:

SIGNED by *Avran Halverson*
THE TRUSTEES
OF THE Alive Trust



and sealed with his Seal of Office in the presence of:

Don Allen
Blambert

SIGNED for and on behalf of
THE SOVEREIGN IN RIGHT OF NEW ZEALAND by
HON CHRIS CARTER

Ministry of Education, Wellington, acting under delegated authority
in the presence of:

[Signature]

[Signature]

[Handwritten initials]

FIRST SCHEDULE

Description of total land, buildings and other improvements comprising the Proprietor's land of which the School premises form part.

The Proprietor's Land

All that land, buildings and other improvements owned by the Alive Trust situated at 55 Great North Road, Kamo, Whangarei, and being known as Excellere College, and being more particularly described as follows and delineated in green on the plan forming part of the **Second Schedule** hereto.

All that freehold parcel of land containing 1.3678 hectares more or less situated in the town of Whangarei and being part of Lot 1 DP 107797 Certificate of Title Volume NA60A/622.

All that freehold parcel of land containing 3.6190 hectares more or less situated in the town of Whangarei and being part of Lot 1 DP 136224 Certificate of Title Volume 87173.

All that freehold parcel of land containing 5.1980 hectares more or less situated in the town of Whangarei and being part of Lot 1 DP 95623 Certificate of Title Volume 87172.



SECOND SCHEDULE

Description of land, buildings and other improvements comprising the School premises.

The School Premises:

All that part of the Proprietor's land as described in the **First Schedule** hereto, delineated in red on the annexed plan of the Proprietor's land, which forms part of this Schedule, **TOGETHER WITH** all the School buildings and other improvements thereon.

Handwritten signature and initials in the bottom right corner of the page.

THIRD SCHEDULE

Works to be carried out by the proprietor in relation to the School.

These works are to be planned, executed and paid for by the Proprietor in accordance with the provisions of this Schedule in relation to the buildings, associated facilities, and any fit out requirements including the non-capital fixtures constructed to meet minimum standards of a comparable state school. All work is to be carried out by a competent tradesperson in a workmanlike manner to comply with all the relevant New Zealand building codes, statutory requirements, and Territorial Local Authority and Ministry of Education standards.

.....
Buildings and Grounds **Work to be completed by:**

