TRUST DEED

R100

AGREEMENT ENTERED INTO BY AND BETWEEN

TYGERBERG HOSPITAL BOARD
(hereinafter referred to as the **"Settlor"**)

and

(1) Chief Director Tygerberg Academic Hospitals and Mitchells Plain and Tygerberg Oral Health Centres

(2) Clinical Head of Pediatric Surgery

(3) Clinical Head of Pediatrics and Child Health

(hereinafter referred to as the **"Trustees"**).

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WHEREAS the Settlor wishes to establish this said Trust on behalf of the beneficiaries, subject to the terms and conditions hereinafter set out in greater detail

IT IS HEREBY DECLARED:

1. INTERPRETATION

In this Trust Deed, unless the context otherwise requires:

1.1 the use of the singular must include the plural and vice versa;

references to one gender must include the other gender also;

references to natural persons must include legal personae and *vice versa* and shares accordingly also include member interests in such other legal personae;

1.2 The following expressions will have the following meanings:

1.2.1 "TRUSTEE"	means the first Trustees or other Trustees of the trust from time to time;
1.2.2 "BENEFICIARIES"	will be the TYGERBERG CHILDREN'S HOSPITAL and/or any charitable institution of a public nature, which services a similar purpose and is exempted from income tax according to sec 10(1)(f) of the Income Tax Act, and which benefits from this Trust.
1.2.3 "TRUST FUNDS"	means: all cash, investments and other assets paid or transferred to and accepted by the Trustees as additions to the Trust Fund; The investments and property and such moneys, investments and additions or any part of them, and any accruals made from time to time in terms of the authority vested in this Trust Deed.

2. NAME OF TRUST

The name of the Trust is the **TYGERBERG CHILDREN'S HOSPITAL TRUST.**

3. OBJECT OF THE TRUST

The object of the Trust is to provide funds to the **TYGERBERG CHILDREN'S HOSPITAL** so that such funds can be utilized to maintain the highest standards of medical practice appropriate to South Africa's need in child health care and also to other charitable institutions of a public nature which serve a similar purpose, which are registered inside the Republic of South Africa and are exempted from income tax according to sec 10(1)(f) of the Income Tax Act.

4. INITIAL DONATION

The Settlor hereby donates the amount of R100,00 (One Hundred Rand) to the Trustees irrevocably as an *inter vivos* donation.

5. OFFICE OF TRUSTEE AND ADMINISTRATIVE PROCEDURES

5.1 The initial Trustees will be:

1. **Chief Director Tygerberg Academic Hospitals and Mitchells Plain and Tygerberg Oral Health Centres**
2. **Clinical Head of Pediatric Surgery**
3. **Clinical Head of Pediatrics and Child Health**

who accept their appointment as such.

5.2 The Trustees hereof must not be fewer than three (3) and not more than five (5), except when a financial institution as mentioned in the Financial Institutions (Investment of Funds) Act, no. 39 of 1984, as amended or any Act which may from time to time substitute or amend the said Act, has been appointed as a Trustee, in which case that financial institution may function as the only Trustee.

5.3 The Trustee or Trustees shall from time to time (even if there are fewer than three Trustees) appoint a new Trustee or Trustees in writing and such authority will also apply in respect of the appointment of a new Trustee or Trustees who may die or leave office and, subject to the maximum number mentioned in paragraph 5.2, in respect of the appointment of one or more additional Trustees.

5.4 The office of a Trustee will be terminated *ipso facto* and become vacant if:

5.4.1 he resigns by providing his fellow Trustees with written notice to this effect;

5.4.2 he becomes mentally disturbed or mentally deficient;

5.4.3 he is incapable of and/or unfit to act as Trustee;

5.4.4 he is declared insolvent or surrenders his estate or reaches a compromise with his creditors or commits an act of insolvency;

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5.4.5 in terms of the Companies Act that may be in force from time to time, he becomes disqualified from acting as a director of a company;

5.4.6 the Trustees in accordance with a majority decision by them instruct a Trustee in writing to resign from a date in their discretion, on condition that Trustees who were appointed at a later date will not be able to force the initial Trustees to resign.

5.5 Each Trustee is qualified to appoint any person to serve as his alternative during his absence or his inability to serve as Trustee, provided the person appointed as such is approved by the remaining Trustees. An alternative Trustee may, while he serves in the place of the Trustee who has appointed him, perform the duties and functions of the Trustee he represents. A Trustee may appoint a person to serve as Trustee in his place after his death, provided such person accepts the appointment before the Trustee's death and the other Trustees approve of the future Trustee.

5.6 The Trustees may call meetings to finalise matters and otherwise arrange their meetings at their discretion. Any Trustee is at any time entitled to call a meeting of Trustees. A quorum for the purposes of this Trust is the majority of the Trustees in office from time to time, with the proviso furthermore that, if only one or two Trustees are in office at any stage, such Trustees may not take any legal decision, except with regard to the appointment of one or more additional Trustee(s) in terms of paragraph 5.3.

5.7 Subject to implementing the terms and conditions of this Trust Deed, the Trustees in the administration of the Trust may follow such procedure and take such administrative steps as they deem necessary and advisable from time to time.

5.8 All contracts, deeds and other documents which have to be signed on behalf of the Trust must be signed in such a way as specified by the Trustees from time to time.

5.9 In the event of any dispute or disagreement among the Trustees at any time, the decision of the majority must apply. A written decision signed by all the Trustees in office has the same legal power as a majority decision taken at a properly constituted meeting of Trustees. Any dispute arising from equality of votes must be referred by any of the Trustees for decision to an Arbitrator appointed by the then President of the Law Society for the area of the Master's Office where the trust is registered, whose decision shall be final and binding on the Trustees. The decision of the Arbitrator must be noted in the Minutes as if the decision has been taken properly by the Trustees. Should an additional Trustee be appointed at any time before the Arbitrator makes his decision with regard to the dispute submitted to him, the dispute will be reconsidered by the Trustees.

6. AMENDMENT OF TRUST DEED

This Trust Deed may from time to time be amended by means of written agreement between all the Trustees of the Trust, provided that such amendment will not result in the withdrawal of Income Tax exemption granted by the Commissioner of Inland Revenue.

Any amendments to this Trust Deed made, must be approved by the Commissioner of Inland Revenue.

7. POWERS OF TRUSTEES

7.1 The Trustees are entitled to perform any action whatsoever *(except to conduct a business)*, essential or conducive to the maintenance or growth of the assets of the Trust and in the interest of the beneficiaries, and the purpose of the Trust is not to speculate with trust assets but to purchase and sell assets and to make, call up and reinvest investments. Provided that money available for investment may only be invested in registered financial institutions, as described in Sec 1 of the Financial Institutions Act 1984 and in shares that are noted on a licensed Stock Exchange as described in the Stock Exchange Act 1985.

7.2 Without prejudice to the commonality of the powers mentioned in paragraph 7.1, the Trustees have the following additional powers:

7.2.1 To invest any moneys arising from this Trust in their discretion or otherwise use it as security or to purchase or procure any property, rights or interests, whether movable or immovable and of whatever nature and wherever situated, and regardless of whether or not it places an obligation on the Trust, including stocks, shares, funds, securities, policies, mortgages on immovable property, loans with or without interest and with or without security, or other investments of whatever nature and wherever situated;

7.2.2 To realise or alter any investment which from time to time forms part of the Trust Fund and to reinvest the proceeds in any investment authorised in terms of the above by the Trustees in their sole discretion;

7.2.3 The Trustees are entitled to lend such amounts on such terms and conditions as they deem fit, for any purposes which they deem necessary, including the purpose of paying debts of the Trust and/or for paying capital to any beneficiary and/or for the purpose of making a loan to any person and/or for the purpose of safeguarding any assets or investments which form part of the Trust Fund and/or for the purpose of subscribing to any shares, with authority of agreeing from time to time to any alterations or amendments of the terms of any such loan. As security for any moneys thus loaned, the Trustees are entitled to encumber or pledge by mortgage generally or specially any asset which forms part of the Trust Fund, or otherwise encumber it in such a way and on such terms and conditions as they deem fit, and they are entitled to borrow again upon security or otherwise for the purpose of repaying any such mortgage or pledge;

7.2.4 The Trustees are entitled to guarantee (whether free of charge or at a consideration) execution of the contracts or meeting of obligations of the beneficiary and to make loans, on such conditions and at such interest rate or interest-free and with or without security, to any beneficiary;

7.2.5 The Trustees are entitled to exercise the vote involved in any shares which form part of the Trust Fund from time to time or to make such arrangements as they may deem fit, either alone or together with any other person, in the way they deem fit and to which they have the right, for the purpose of causing the liquidation, reconstruction or amalgamation of any one of the companies whose capital forms part of the said shares, and are entitled to conclude and implement such agreement as they deem fit;

7.2.6 The Trustees have the right, either alone or together with other persons, to have the capital value of any shares of any company which from time to time forms part of the Trust Fund reorganised, consolidated, or merged, and to receive in terms of such reorganisation, consolidation or merging any assets which arise from their participation in such matters and to continue to retain them as part of the Trust Fund;

7.2.7 The Trustees are entitled to exercise any rights of conversion or subscription to any shares which are at any time part of the Trust Fund, or to sell or realise in their discretion any such rights, but whenever investments are made by exercising rights of conversion or subscription, the shares or other rights received are deemed part of the

Trust Fund;

7.2.8 The Trustees are entitled to from time to time use franchises involved in any shares which form part of the Trust Fund to bring about, as they deem fit, such change in the board of directors or in the other officers of any of the companies concerned, and are entitled to appoint one or more persons from their own ranks as such directors or officers or to have them appointed or to have another person or other persons appointed to act as the Trustees' nominees. Any remuneration which a Trustee receives from any such company for services rendered shall vest in the Trust Fund;

7.2.9 The Trustees are entitled to from time to time barter or sell any of the assets which form part of the Trust Fund, and when they exercise their right to sell, whether or not vested in this paragraph, they may hold said sale by public auction, public subscription or by private treaty in their discretion;

7.2.10 In so far as any fixed property at any time forms part of the Trust Fund, the Trustees are entitled to from time to time exchange or dispose of such fixed property or any part of it and to from time to time repair any existing buildings on it or to erect buildings on it or make improvements;

7.2.11 In any sale of assets which form part of the Trust Fund, the Trustees have the right to give credit in respect of the whole selling price or part of it with or without security or interest in their own absolute discretion;

7.2.12 If the Trust Fund at any time hereinafter consists wholly or partly of fixed property or of a mortgage or mortgages, the Trustees have the right and power to execute any documents or deeds with reference to alienation, division, barter, transfer, a mortgage, hypothecation or otherwise in any Deeds Registry, Mining Titles Office or other public office which deals with servitutes, usufructs, limited interests or otherwise, or to make any applications, give any permission and agree to any amendments, alterations, cancellations, cessions, discharges, reductions, substitutions or anything else which generally relates to any deed, mortgage or document, and to obtain for any purposes copies of deeds, mortgages or documents and, in general, execute any action whatsoever or have it executed at any such office;

7.2.13 If the statutes of any company prohibit the transfer, or if any company refuses to register in the name of the Trust any shares which form part of the Trust Fund, the Trustees are entitled to have the shares transferred in their own name, or in the name or names of one or more of them or in the name of their nominees to the benefit of the beneficiaries;

7.2.14 The Trustees have the authority to institute proceedings or defend cases and to sign all deeds, powers of attorney and other documents which may be required for the purpose;

7.2.15 The Trustees are entitled to take up any share of any increased capital of any company offered to them and may agree to any change or conversion of capital of any company whose shares form part of the Trust Fund;

good faith by any Trustee or from any matter or business whatsoever except for his own fraud or dishonesty;

10.2 If the Trustees make any payment in good faith to any person whom they hereby deem entitled to it and it is later found that another person is or other persons are entitled to it in terms of this Trust Deed, the Trustees would nevertheless not be liable for the moneys thus paid out;

10.3 No Trustee is liable for any dishonest deed committed by another Trustee unless he had a part in it. No Trustee is obligated to take any steps against a co-trustee for any breach of trust committed by such co-trustee;

10.4 The Trustees are indemnified by and from the Trust Fund against all claims and collection of whatsoever nature, which may be instituted against them arising from the powers conferred upon them by this Trust Deed.

11. REMUNERATION OF TRUSTEES AND PROFESSIONAL SERVICES

11.1 The Trustees may from time to time determine the reasonable remuneration payable to them and should such a Trustee be a professional person, such Trustee is also entitled to remuneration for professional services rendered.

11.2 The Trustees are entitled to settle and pay from the Trust Fund and from any income from it, all expenses incurred by them in or in connection with implementing the Trust and authority afforded them;

11.3 The Trustees are entitled to employ from time to time accountants, attorneys, brokers or other agents to do all or any business of whatsoever nature which has to be done in terms of this Trust Deed and are entitled to pay all such costs and expenses thus incurred as a preferential charge, and are not liable for the failure of any such accountant, attorney, broker or other agents or for any loss caused by such employment;

11.4 The Trustees may from time to time employ an investment adviser and, in their discretion, act on his advice and the Trustees are not responsible for any loss arising from their action, or failure to act, on the advice received from any such investment adviser.

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12. APPROPRIATION OF INCOME

12.1 All costs and expenses incurred legally by the Trustees in connection with the administration of the Trust (including the Trustees' remuneration and any income tax paid by them in their representative capacities in respect of the income of the Trust Fund) are paid by the Trustees from the income of the Trust Fund and the balance of the remaining income is hereinafter referred to as the "net income";

12.2 The Trustees must distribute *at least 75% (Seventy Five Per Centum)* of the Trust's net income (including donations) to the beneficiaries within 12 (Twelfth) months of the end of the financial year during which the income or donation was received. If funds are retained for a specific project, the approval of the Commissioner of the South African Revenue Service must be obtained.

12.3 The Trustees are entitled to regard any periodic receipts as income, despite being derived from decreasing assets, and are under no obligation to make provision for replacing it;

12.4 The Trustees are entitled to decide in such a way as they deem fit whether any money must be regarded as income or capital, including in respect of any liquidation dividend, or repayment of capital, or capitalisation of profits in the case of companies whose shares are retained as part of the Trust Fund, and about all other questions and matters open to doubt of whatever nature which may arise from implementing this Trust, and the decision of the Trustees are final and binding and no appeal may be made against it;

12.5 Up to and including the vesting date, the Trustees are entitled to from time to time accumulate part of the net income from the Trust Fund for continuous or interrupted periods as the Trustees deem fit by investing it and the income arising from it in any investments hereby authorised and keep any accumulation thus made as part of the Trust Fund for all the purposes of this, but so that the Trustees may at any time use the whole or any part of the said accumulations as if they were income which arose in the said current year.

12.6 The Trust must be administered in such a way that no donator, trustee and/or their family may receive any monetary advantage from the income or funds that are paid into and from the Trust.

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13. APPROPRIATION OF CAPITAL

13.1 The Trustees may at any time and up to and including the vesting date pay any part or parts of the capital from the Trust Fund to or use it to the benefit of all or such one or more of the capital beneficiaries in such shares and in such a way and subject to such conditions and restrictions as the Trustees specify from time to time, including the authority to transfer such capital to a trust fund established for the purpose.

13.2 When any part of the Trust Capital is at any time paid out or transferred in terms of this deed to any capital beneficiary, the Trustees will be entitled to do so in cash or in kind or partly in cash and partly in kind. The Trustees' valuation of any assets which they hereby pay in kind is final and binding for all interested persons;

13.3 The Trust must be administered in such a way that no donator, trustee and/or their family may receive any monetary advantage from the income or funds that are paid into and from the Trust.

13.4 The powers set out in paragraphs 13.1 to 13.3 are subject to the condition that the minimum number of Trustees in terms of paragraph 5.2 are in office.

13.5 The funds of the Trust may only be applied in the Republic of South Africa.

14. EXEMPTION OF TRUSTEES

The Trustees will be exempted from any responsibility for any part of the Trust Fund transferred to any beneficiary or to any individual Trustee as mentioned in paragraphs 12 and 13.

15. TERMINATION OF THE TRUST

The trust will be in existence for an indefinite period. Upon the termination of the trust, the remaining trust funds (income and capital) will be paid over to other charitable institutions of a public nature which serve a similar purpose, which are registered inside the Republic of South Africa and are exempted from income tax according to sec 10(1)(f) of the Income Tax Act.

16. ACCEPTANCE OF DONATION

By means of adding their signatures to the Trust Deed, the Trustees accept the donation on behalf of the beneficiaries and they undertake to implement the terms and conditions comprised in the Trust Deed.

SIGNED at TYGERBERG this 28 day of MAY 2001 by the parties in the presence of the undersigned witnesses who, by adding their signatures confirm the signatures of each interested person as set out in the preamble to the Trust Deed.

AS WITNESSES:

1. ....

2. ....

....
(in his capacity as Settlor)

AS WITNESSES:

1. ....

2. ....

....
(in his capacity as Trustee)

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AS WITNESSES:

1. ....

2. ....

....
(in his capacity as Trustee)

AS WITNESSES:

1. ....

2. ....

....
(in his capacity as Trustee)

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