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Cover sheet

Variation of trust /Alteration of rules of a charitable trust board

Sections 23 and 61 Charitable Trusts Act 1957

NOTES

Use this form to notify the Registrar of Incorporated Societies of changes to a Board's trust deed or rules.

Changes and amendments must be attached to this cover sheet separately.

Please enter the name as it appears on the Register of Charitable Trust Boards. You can confirm the full name by carrying out a Register Search at www.societies.govt.nz

1. Name of Board

Clergy Trust Fund for the Diocese of Hamilton

2. Registered number

1541421

3. Complete this checklist before filing this notice

Tick all options that apply to this variation of trusts/alteration of rules

- ☒ The variation of trust/alteration of rules complies with the Charitable Trust Act 1957.
- ☒ Any change to the purpose of the charitable trust must comply with the Act.

Note | The document can only be registered if the purpose continues to fall within the following categories:

- the promotion of education;
- the promotion of religion;
- the relief of poverty; or
- other purposes of benefit to the community.

- ☐ Does the variation of trust/alteration of rules include a name change for the board?
- ☐ If you are changing the name of the Board, have you checked that the name is available by doing a Register Search at www.companies.govt.nz?

Note | Section 15 of the Charitable Trusts Act 1957 regulates Board names generally.

4. Signature

5. Date

18.7.16

6. Your contact details

Name and postal address

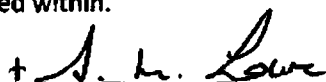
Adam Phillips Harris
c/o McCann Lewis Lawyers
1 London Street
Hamilton 3240

Clergy Trust Fund
for the
Diocese of Hamilton

I, Peter James Egan
as a duly appointed Trustee of the
Clergy Trust Fund for the Diocese of
Hamilton hereby certify that this Trust
Deed was adopted on 4 July 2016, in
accordance with the legal requirements
of the existing Trust Deed and as a
variation of the existing Deed and is a
true and correct copy.



I, Bishop Steve Lowe as
the Roman Catholic Bishop of the Clergy
Trust Fund for the Diocese of Hamilton
approve this Deed (adopted by
resolution on 4 July 2016) and the rules
contained within.



PGH-142930-85-59-V1:AAMG

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McCaw Lewis
LAWYERS

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CLERGY TRUST FUND for the DIOCESE OF HAMILTON

THIS DEED

PARTIES

- 1.0 The Roman Catholic Bishop of the Diocese of Hamilton (the *Bishop*)
- 2.0 Darren McFarlane, Andrew Stuart Young, Joseph Damien Stack, Richard Norbert Pipe, John Joseph Haughie, and Peter James Egan (*Trustees*)

BACKGROUND

- A. For some time a Fund has existed in the Diocese for the support by way of providing sustenance including the necessities of life and the remuneration and social assistance of Bishops, Priests and Transitional Deacons of the Diocese in accordance with canon 1274: 1 of the Code of Canon Law which is known as the **Clergy Trust Fund for the Diocese of Hamilton** and which is a registered charity under the Charities Act 2005 reg. no. CC25641 and the Charitable Trusts Act 1957 no.1541421 (the *Trust*).
- B. The Trustees wish to amend the Trust Deed of 2 July 2007, a copy of which was filed with the Charities Commission on 14 March 2008 (the *Existing Deed*).
- C. A resolution of the Clergy together with the written approval of the Bishop, satisfying the requirements of clause 21 of the Existing Deed, was passed at a General Meeting of the Clergy dated 2 July 2007 to vary the Existing Deed by the adoption of the within Deed.
- D. The purpose therefore of this Deed is to vary the Existing Deed by way of replacement and to continue to declare the trusts, powers and conditions on which the Trust Fund is held.

1.0 INTERPRETATION

- 1.1 The following are definitions for the purposes of this Deed:

Annual General Meeting means the meeting of the Priests to be held each year pursuant to clause 7.1.

Bishop means the Roman Catholic Bishop from time to time of the Hamilton Diocese.

Board means the Board of Trustees established pursuant to this Deed and the Charitable Trusts Act 1957.

Canon Law means the system of Church Law encoded in the Codex Iuris Canonici found initially in Acta Apostolicae Sedis 75/2 (1983) 1-320.

Charitable Purposes means a charitable purpose or purposes under section 5 of the Charities Act 2005 and section 2 of the Charitable Trusts Act 1957.

Clergy means a Sacred Minister ordained in the Catholic Church, who has not lost his Clerical State as understood by Canon Law (cc. 290-293).

Clergy Trust Fund means the Fund/Trust Fund originally established by Deed dated 5 February 2004, incorporated under the Charitable Trusts Act 1957 on 2 August 2004 and now governed by this Deed and which is known as the Clergy Trust Fund for the Diocese of Hamilton.

Deed means this Deed of Trust establishing what is known as the Clergy Trust Fund.

Existing Deed means the Deed of Trust for the Clergy Trust Fund for the Diocese of Hamilton dated 2 July 2007, which was, in itself, a variation of an earlier version of the Deed of Trust establishing the Clergy Trust Fund. The within Deed replaces by way of variation, the Existing Deed.

Fund and Trust Fund means all money and other property transferred or paid into the fund which is established by this Deed including but not limited to money, property and goods received by way of collection, apportionment, levies, offerings, gifts and reserves for the support of the Clergy including Priests and which is or are to be held on the trusts established by this Deed including all income derived by the Trustees from these assets. For clarification, in respect of collections, the money collected will not be deemed to be part of the Trust Fund until it is paid into a designated bank account of the Clergy Trust Fund.

Hamilton Diocese means the Roman Catholic Diocese of Hamilton in New Zealand.

Permanent Deacons means:

- (a) persons who are ordained as Deacons by the Catholic Church with the intent of remaining as Deacons and who are incardinated in the Hamilton Diocese; and
- (b) persons who are ordained as Deacons by the Catholic Church and:
 - (i) who are incardinated outside of the Hamilton Diocese (**Outside Deacons**); and
 - (ii) who have subsequently moved to the Hamilton Diocese; and
 - (iii) where the Bishop and the Superior of the Outside Deacon have agreed in writing that the Outside Deacon may operate as a Deacon in the Hamilton Diocese,

and where in either case, the person is not entitled to any Support from the Trust Fund by reason of the application of Canon Law but may be entitled to limited assistance as is permitted by the terms of this Deed.

Policy means the "Joint Policy for the Clergy Trust Fund and Related House Accounts in the Diocese of Hamilton" which is the policy document of the Clergy Trust Fund in existence as at the date of this Deed as subsequently amended from time to time by Special Resolution of the Priests with the written approval of the Bishop.

Priest(s) means, subject to the **Exclusions** as defined below:

- (a) Bishops, Priests and Transitional Deacons who are ordained in the Catholic Church and who are incardinated in the Hamilton Diocese (**Hamilton Priests**);
- (b) Hamilton Priests who have since retired from performing their religious duties with the written consent of the Bishop;

(c) Bishops, Priests and Transitional Deacons who are ordained in the Catholic Church but incardinated in:

- (i) a Diocese; or
- (ii) a congregation of religious or apostolic life,

in either case outside of the Hamilton Diocese (*Outside Priest(s)*), who have subsequently moved to the Hamilton Diocese and where the Bishop and the Superior of the Outside Priest have agreed in writing between them that the Outside Priest will be entitled to benefit from the Clergy Trust Fund.

(d) **Exclusions:** The following persons are excluded from the definition of Priests:

(i) Any Hamilton Priest or Outside Priest who has:

- (A) lost his clerical status;
- (B) resigned his ministry without the written consent of the Bishop; or
- (C) abandons or otherwise leaves his office without the written consent of the Bishop.

and/or

(ii) Any Outside Priest who:

- (A) returns to the care of the Bishop or Superior of the Diocese or the congregation of religious or apostolic life in which that Outside Priest was incardinated; or
- (B) has been deprived of his ability to function within the Hamilton Diocese according to the penal prescripts of Canon Law (LIBER VI: DE SANCTIONIBUS IN ECCLESIA)(Book 6 Sanctions in the Church) (cc 1311-1399); or
- (C) has been advised by the Bishop in writing that his service is no longer required in the Hamilton Diocese and that he should return to the Diocese or congregation of religious or apostolic life from where he came.

Special General Meeting means a meeting of the Priests called pursuant to clause 8.0.

Special Resolution means a resolution passed at a meeting of the Priests by not less than 75% of the Priests who are entitled to vote at that meeting and do so.

Statement of Investment Policy and Objectives means the written statement setting out the investment policies and objectives of the Trust Fund as proposed from time to time by the Board and approved by Special Resolution of the Priests and the written approval of the Bishop. The Statement of Investment Policy and Objectives is a policy statement setting out the objectives, constraints, unique circumstances and overall policies that will govern the investment by the Board of the Trust Fund.

Support means the support by way of providing sustenance including the necessities of life and the remuneration and social assistance of the Clergy by virtue of canon 281 of Canon Law.

Transitional Deacons means persons who are transitioning to become ordained as a Priest and who are not Permanent Deacons.

Trust means the Clergy Trust Fund.

Trustees means the trustees who are named in in clause 2.0 of the Parties or such other person or persons appointed from time to time in substitution in accordance with the terms of this Deed.

1.2 In interpreting this Deed the following rules must be applied unless the context otherwise requires:

- (a) **Headings:** Clause and other headings are for reference only and are not an aid in interpretation;
- (b) **Statutes:** References to statutory provisions include references to all regulations, orders, rules or notices made under that statute and references to a statute or regulation will be construed as references to those statutes or regulations as they may be amended or re-enacted or as their application is modified by other provisions from time to time;
- (c) **Canon Law:** References to Canon Law will be construed as references to Canon Law as may be amended or re-enacted or as their application is modified from time to time in accordance with the laws and customs of the Roman Catholic Church;
- (d) **Clauses and Schedules:** References to clauses, background, schedules or annexures are to clauses of or schedules, background and annexures to this Deed, and the background, schedules and annexures referred to form part of this Deed and will have the same effect as if set out in the body of this Deed;
- (e) **Number and Gender:** Words importing the plural include the singular and vice versa and words importing gender include all genders.

2.0 ESTABLISHMENT OF THE TRUST

The Trust which has been established and which is known as the **Clergy Trust Fund for the Diocese of Hamilton** will continue in existence according to the terms and conditions of this Deed which vary the Existing Deed.

3.0 OBJECT AND PURPOSE OF THE TRUST

3.1 The object and purpose of the Trust is for Charitable Purposes, specifically for advancing the cause of religion in the Roman Catholic Church in New Zealand by way of providing for the following group of beneficiaries:

- (a) Support for Priests;
- (b) assistance to members of the Clergy where the Bishop in writing, acting out of charity in accordance with Canon Law, wishes to provide that assistance and if so, then limited to the level of assistance agreed to between the Bishop and the Board; and
- (c) assistance to Permanent Deacons (but subject to the limitations which are set out in clause 3.3 below),

in each case:

- (d) in accordance with the Charitable Trusts Act 1957;

- (e) the Charities Act 2005;
- (f) this Deed;
- (g) the Policy; and
- (h) Canon Law.

3.2 The Trustees shall hold the Trust Fund upon trust to pay or apply the capital and income of the Trust Fund within New Zealand in such amounts, at such times and subject to such terms and conditions as the Trustees, in accordance with the terms of this Deed and the object and purpose of the Trust set out in clause 3.1 above from time to time determine.

3.3 The Board, in accordance with Canon Law, is not permitted to provide Support to any Permanent Deacons and the Board will not provide such Support but may provide limited assistance to Permanent Deacons in respect of the performance by them of their religious duties within the Hamilton Diocese as agreed from time to time in writing between the Bishop and the Board.

4.0 CONFLICT OR INCONSISTENCY

4.1 To the extent of any inconsistency or conflict between the provisions of this Deed, the Policy and Canon Law:

- (a) Nothing must be done or allowed to be done or omitted to be done by the Trustees which would cause the Clergy Trust Fund to cease to be a trust for Charitable Purposes;
- (b) Subject to paragraph (a) above, nothing must be done or allowed to be done or omitted to be done by the Trustees which would cause the Clergy Trust Fund to be in conflict with Canon Law;
- (c) In the event of any conflict between the provisions of this Deed and the provisions of the Policy, the provisions of this Deed will prevail over the provisions of the Policy.

4.2 In order to give effect to clause 4.1, if any such inconsistency or conflict is identified or becomes apparent then the parties must do all such things and sign all such documents as may be necessary to remove the inconsistency or conflict.

5.0 REGISTERED OFFICE OF THE TRUST

The registered office of the Trust and the Board shall initially be at the Diocesan Office at 51 Grey Street, Hamilton East 3216 or such other place as the Board from time to time resolves.

6.0 THE BOARD

6.1 A Board is established and is known as The Clergy Trust Fund Board which shall administer the Fund.

6.2 The Board shall:

- (a) be the director, administrator and canonical steward of the Fund;
- (b) have the governance, control, direction and management of the Fund and all property at any time affected by the trusts created by this Deed;
- (c) have the powers which are set out in this Deed; and

- (d) at all times have regard to the Policy unless the Policy is in contravention of:
 - (i) the Charitable Trusts Act 1957;
 - (ii) The Charities Act 2005;
 - (iii) this Deed;
 - (iv) Canon Law; or
 - (v) Any other applicable laws of New Zealand.

6.3 Appointment and Removal of Trustees to the Board:

- (a) The Board shall consist of the following Trustees:
 - (i) One (1) person appointed from time to time by the Bishop. For clarification the Bishop may:
 - (A) appoint himself as a Trustee pursuant to this clause; and
 - (B) appoint and remove the person appointed by him from time to time in the Bishop's discretion, by giving written notice to the Board advising the Board of such appointment and/or removal;
 - (ii) Four (4) persons (who may or may not be Priests) appointed from time to time by the Priests pursuant to the process set out in clauses (c) to (f) inclusive below (*Priest Trustee(s)*); and
 - (iii) Up to a maximum of two (2) persons whom the Board determine have the relevant skills required by the Board including an understanding or empathy for Roman Catholic Church teachings and customs. The Board may appoint these persons from time to time on such terms and conditions as the Board determines at the time of their appointment. For clarification the Board may appoint, remove and replace these appointed persons in the Board's discretion as and when the Board so determines.
- (b) The Priest Trustees will be appointed, removed and replaced as set out in the following paragraphs (c) to (f) inclusive and which are set out below.
- (c) Retirements at each Annual General Meeting (**AGM**):
 - (i) One (1) Priest Trustee whose date of appointment to the Board was the first in time will be deemed to have retired with effect from the date of that AGM (*Retiring Priest Trustee*).
 - (ii) If, because of identical appointment dates, there is more than one eligible Retiring Priest Trustee, the Priest Trustee who is the oldest in age will be deemed to have retired first and the other Priest Trustee(s) who are not, as a result, deemed to have retired will, unless the provisions of paragraph (e) apply, continue as Priest Trustees until the next following AGM where the same process for retirement will apply again;
 - (iii) The Retiring Priest Trustees will, notwithstanding their deemed retirement but subject to paragraph (d) below, be eligible for re-election at the same AGM at which they are deemed to have retired;

- (iv) Retiring Priest Trustees will, no later than at the AGM at which they are deemed to have retired, choose and notify the Priests whether they wish to stand again for re-election, or, alternatively, whether they wish to retire from the Board without being considered at that time for re-election;
- (d) On any Priest Trustee holding office as a Trustee for eight (8) consecutive AGMs (not counting the AGM at which he was elected):
 - (i) he will be deemed to have retired with effect from the eighth AGM; and
 - (ii) he will not be eligible for re-election at that AGM;
 - (iii) however, he may be considered again for re-election:
 - (A) at the next following AGM after the AGM at which he is deemed to have retired; or
 - (B) if there is a vacancy at an earlier point in time, if he is elected as a replacement Priest Trustee under paragraph (e) below.
- (e) If, between any AGMs, a Priest Trustee voluntarily retires, or dies, or is no longer in the opinion of the Board (with the Board acting in good faith) reasonably able to continue as a Trustee (whether because of mental or physical health or other impediment), then the relevant Priest Trustee will be deemed to have retired and the number of Priest Trustees will reduce as a consequence until the next following AGM unless the Board resolves to call a Special General Meeting to vote on a replacement Trustee at an earlier point in time than the next AGM.
- (f) **Appointments:**

At each AGM, the Priests shall appoint to the Board, taking into account any vacancies in the total number of Priest Trustees from the retirements arising from the application of paragraphs (c) to (e) inclusive set out above, a sufficient number of persons as Priest Trustees to make up the total number of Priest Trustees to four (4).

6.4 Chairman

- (a) At the first meeting of the Board following each Annual General Meeting the Board shall elect the Chairman of the Board (by majority vote). The Chairman must be a Trustee.
- (b) The Trustee elected as Chairman will hold that office until the earlier of:
 - (i) he is no longer a Trustee;
 - (ii) he retires; or
 - (iii) the Board elects another Trustee as Chairman in his place.
- (c) If no Chairman is elected, or if at a meeting of the Board the Chairman is not present within 10 minutes after the time appointed for the commencement of the meeting, the Trustees present may choose one of their number to be Chairman of that meeting.
- (d) The Chairman will not have a casting vote.

6.5 Secretary and Treasurer

- (a) At the first meeting of the Board following each Annual General Meeting the Board shall elect or appoint the following officers:

 - (i) a Secretary; and
 - (ii) a Treasurer,

each of whom may be a Trustee or such other suitably qualified/skilled person chosen by the Board with the clarification that the Board may appoint a company or other incorporated entity to provide Secretary or Treasury services (on an independent contracting basis or otherwise).
- (b) The Secretary and Treasurer may each be removed and replaced at any time by the Board as the Board determines. The Secretary or Treasurer as the case may be will remain in office until the earlier of:

 - (i) their resignation; or
 - (ii) their removal and replacement by the Board.
- (c) The Board may not derogate or devolve any of its powers and obligations under this Deed to the Secretary or Treasurer or any other person.
- (d) The Secretary shall:

 - (i) conduct the correspondence of the Board;
 - (ii) convene and attend all meetings of the Board, either personally or by a deputy appointed from the Board, and properly record the minutes;
 - (iii) make provision for the safe custody of the seal of the Board, its books, records, documents and personal property; and
 - (iv) attend to such other administrative functions that the Board from time to time requires.
- (e) The Treasurer shall:

 - (i) receive all moneys, cheques, bills of exchange and negotiable instruments payable to the Board and immediately upon receipt place the same to the credit of the Board's account at its Bank or other institution and pay out the same according to the specific directions of the Board;
 - (ii) procure that a correct account of all moneys received and payments made by the Board and of its financial affairs is maintained and prepare Financial Statements as required by the Charities Act 2005 and any other law applicable to the operation of the Trust Fund;
 - (iii) liaise with the Hamilton Diocesan office if it is needed, to meet the accounting and administrative requirements of the Board; and
 - (iv) attend to such other financial administrative matters as the Board from time to time determines.

6.6 Board Meetings

- (a) The Board shall meet at times and in places as are fixed from time to time by the Board.
- (b) Board meetings shall be summoned by the Chairman, or by the Secretary if requested in writing by not less than two (2) members of the Board.
- (c) At least seven (7) days prior written notice of a Board meeting shall be given to each Trustee, in accordance with the notice requirements of clause 10.0 below, unless the right to receive such notice is waived by the Trustee.
- (d) The quorum for all Board meetings is a majority in number of all Trustees excluding those Trustees who are appointed by the Board pursuant to clause 6.3(a)(iii). No business may be transacted at a meeting of the Board if a quorum is not present.
- (e) Board meetings may be held either:
 - (i) by a number of the Trustees who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
 - (ii) by means of audio, or audio and visual, communication by which all Trustees participating and constituting a quorum, can simultaneously hear each other throughout the meeting.
- (f) At all Board meetings each Trustee present shall have one vote.
- (g) The Chairman shall have a deliberative vote only and no casting vote.
- (h) Subject to the Reserved Matters set out in clause 6.9 below, all decisions of the Board shall be made by way of a majority vote of Trustees.
- (i) Minutes of the proceedings of the Board shall be entered in a proper book kept for that purpose and copies circulated by mail to each Trustee not later than ten (10) days following each meeting of the Board and at every regular meeting of the Board the minutes of the previous meeting shall be presented for confirmation by resolution of the Board and signed by the Chairman of that meeting.
- (j) All things required to be done by the Board shall be done in accordance with and pursuant to a resolution passed at a meeting of the Board.
- (k) Except as is provided for in this Deed, the Charitable Trusts Act 1957 and the Charities Act 2005, the Board may regulate its own procedure.

6.7 Board Committees

- (a) The Board may from time to time appoint standing or special committees of one or more Trustees and such other persons that the Board determines should be co-opted onto that standing or special committee.
- (b) Any standing or special committee appointed by the Board may meet to discuss and make recommendations to the Board on matters affecting the Trust but the duties and powers of the Board will remain at all times to be exercised by the Board except that the Board may delegate the decision making in respect of the operation of the car fund which is used for the providing of cars for the Charitable Purposes of the Clergy Trust Fund.

- (c) No standing or special committee may make any decision or do anything on behalf of the Board or the Trust which may bind the Board.
- (d) No appointment of a standing or special committee shall limit the exercise of any power by the Board.
- (e) Unless otherwise provided by the Board every such committee may set its own procedure to meet and conduct its business.

6.8 Powers of the Board

As permitted by and subject to:

- (a) the Charitable Trust Act 1957;
- (b) the Charities Act 2005;
- (c) the terms of this Deed;
- (d) the Policy;
- (e) Canon Law; and
- (f) any limitations or requirement imposed by clause 6.9 in respect of any Reserved Matters,

the Board shall have full power and authority to do any or all of the matters set out in this Deed including those powers which are set out in Appendix A.

6.9 Reserved Matters

Notwithstanding any other provision within this Deed or the Policy:

- (a) The following decisions of the Board will require both the ratification of the Priests by Special Resolution (either at an Annual General Meeting or Special General Meeting) and the written approval of the Bishop:

- (i) Any:

- (A) payment;
- (B) distribution;
- (C) liability (actual or contingent); or
- (D) investment which does not fall within the Statement of Investment Policy and Objectives where there is a Statement of Investment Policy and Objectives in place,

whether by way of one item or a series of related items and which totals more than ten (10) percent of the total assets of the Trust Fund (determined by reference to the total assets in the Statement of Financial Position for the Clergy Trust Fund for the immediately preceding financial year);

- (ii) The approval of the Statement of Investment Policy and Objectives and any change to that Statement of Investment Policy and Objectives;

- (iii) The approval of the Policy and any change from time to time of the Policy;
- (iv) Any decision to wind up or dissolve the Trust pursuant to clause 14.0.
- (b) The Board must not do or allow to be done any act or omission which would cause the Clergy Trust Fund to cease to be a trust for Charitable Purposes.

6.10 Accounts

The Board shall:

- (a) Keep full and true accounts of all moneys received and expended by it in accordance with the Charities Act 2005 and any other applicable legislation;
- (b) Pay all moneys to the credit of any Accounts opened by the Board in its name at such institution as the Board shall from time to time appoint and which complies with the Board's powers which are listed in Appendix A; and
- (c) No later than three (3) months after the end of each financial year cause its accounts for the preceding financial year to be balanced and shall prepare for that financial year an income and expenditure account, a balance sheet and if appropriate an appropriation account.

6.11 Limitation of Liability of Board and No Obligation to Diversify

- (a) A Trustee or former Trustee will not be liable for any loss:
 - (i) Where the Trustee has acted prudently, and
 - (ii) Where the loss arises in the course or as a result of the exercise of any power granted by this Deed, and
 - (iii) Which is not attributable to that Trustee's own dishonesty or to the wilful commission or omission of any act known to that Trustee to be a breach of trust.
- (b) Sections 13B, 13C and 13E of the Trustee Act 1956 will not apply to a Trustee to whom clause 6.11(a) applies.
- (c) The Board is specifically authorised for such period as the Board thinks fit:
 - (i) not to diversify the Trust Fund;
 - (ii) to retain any assets forming part of the Trust Fund;
 - (iii) to invest all or part of the Trust Fund in fixed interest investments;
 - (iv) to invest all or part of the Trust Fund in accordance with the Statement of Investment Policy and Objectives which has been agreed to by the Board and which otherwise complies with the terms of this Deed and the Policy; and
 - (v) to invest part or all of the Trust Fund in the Catholic Development Fund (Hamilton) or in any other fund which is for the benefit of the Catholic Church.
- (d) The Board acting as authorised by this clause 6.11 will not be acting imprudently.

- (e) No Trustee or former Trustee will be bound to take or be liable for failure to take any proceedings against a co-trustee for any breach or alleged breach of trust committed by that co-trustee.
- (f) Every Trustee or former Trustee will be absolutely indemnified out of the Trust Fund for all liabilities incurred by that Trustee in the exercise or attempted exercise of any trust, power, authority or discretion vested in the Board, and will have a lien on and may use money forming part of the Trust Fund for the purposes of this indemnity.
- (g) The indemnity in clause 6.11(f) above will not apply to a Trustee or former Trustee while that Trustee or former Trustee is bankrupt, in liquidation, receivership or administration, or is otherwise legally insolvent.

6.12 Board dealing with Interested Parties

- (a) Any Trustee may contract and have dealings with the Board in respect of the Fund whether as a purchaser, lessee, manager, partner, employee or otherwise. Provided however any Trustee who is or may be in any other capacity whatever interested or concerned directly or indirectly in any property or undertaking in which the trusts created hereunder are or may be in any way concerned or involved shall disclose the nature and extent of that members interest to the other members of the Board and shall not take any part in any deliberations of the Board concerning any matter in which that Trustee is or may be interested in.
- (b) The Board shall keep a register of such conflicts of interest, which it shall review on at least an annual basis.

6.13 No Private Profit

- (a) No private pecuniary profit shall be made from the Fund by any Trustee, except that:
 - (i) any Trustee may receive full reimbursement for all expenses properly incurred by him in connection with the affairs of the Clergy Trust Fund; and
 - (ii) any Trustee may be supported by the Fund to the extent, and no more, that the Trustee if a Priest, member of the Clergy or Permanent Deacon as the case may be in like circumstances would be supported by it.
- (b) The Board may pay reasonable and proper remuneration to any officer or servant of the Fund (whether a Board member or not) in return for services actually rendered to the Funds.

7.0 ANNUAL GENERAL MEETINGS

7.1 An Annual General Meeting of the Priests shall be held no later than the 20th day of December in each year as follows:

- (a) It must be held at a date, time and place within the Diocese as fixed by the Board and the Board shall give at least two weeks' written notice of the meeting to all Priests (the **Notice**).
- (b) The Notice shall, in addition to specifying the date, time and place of the meeting, also contain particulars of the business to be conducted.
- (c) No business may be conducted at an Annual General Meeting unless there is a quorum present with the quorum to be determined in accordance with clause 9.2.

- (d) The Annual General Meeting shall be chaired by the Chairman appointed pursuant to clause 6.4 above.
- (e) The business of the Annual General Meeting shall be:
 - (i) Minutes of the previous Annual General Meeting.
 - (ii) Annual reports of the Board to the Clergy.
 - (iii) Financial Statements.
 - (iv) Election of Priest Trustees pursuant to clause 6.3(b) above.
 - (v) Motions of which notice has been given.
 - (vi) General business.

8.0 SPECIAL GENERAL MEETINGS

8.1 Special General Meetings of the Priests may be called as follows:

- (a) by the Board at any time as the Board determines and the Board shall set the timetable and agenda for the Special General Meeting; or
- (b) by the Board upon receipt of a written requisition to the Chairman signed by either:
 - (i) ten (10) or more Priests; or
 - (ii) a simple majority of the Priests,
 whichever is the lesser number.

8.2 Where the Chairman receives a written requisition under clause 8.1(b) above:

- (a) the Board shall, within two weeks of receiving the written requisition, give notice to all Priests of the time and the place for the holding of the Special General Meeting together with;
- (b) the particulars of the business to be conducted (such business being that specified by the written requisition together with any other business the Board determines should be discussed at the Special General Meeting); and
- (c) the meeting shall be held not later than four weeks from the date the Board received the written requisition.

9.0 PRIESTS' MEETINGS – PROCEDURAL MATTERS

9.1 For each Annual General Meeting and Special General Meeting the following procedural matters must be complied with.

9.2 Quorum

- (a) No business may be transacted at any meeting if a quorum is not present.
- (b) A quorum is present for a meeting if there is either:
 - (i) a majority in number of Priests present (from the total Priest group); or

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- (ii) at least twelve (12) Priests are present.

For the purposes of determining the number of Priests present, those Priests physically present and also those Priests who are present by proxies or where postal voting is permitted those who have cast postal votes will be counted in determining the quorum.

- (c) If a quorum is not present within 30 minutes after the time appointed for a meeting:
 - (i) in the case of a meeting called by the Board following the written requisition of the Priests under clause 8.1(b) above, the meeting will be dissolved; and
 - (ii) in the case of any other meeting, the meeting will be adjourned to the same day in the following week at the same time and place or to such other date, time and place as the Board may appoint, and, if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Priests or their proxies and if permitted those Priests present by postal votes will between them constitute a quorum.

9.3 Voting

- (a) Each Priest will be entitled to one (1) vote.
- (b) In the case of a meeting of the Priests assembled together, unless a poll is demanded, voting shall be by whichever of the following methods is determined by the Chairman of the meeting:
 - (i) voting by voice; or
 - (ii) voting by show of hands.
- (c) A declaration by the Chairman of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact, unless a poll is demanded.
- (d) At a meeting of the Priests a poll may be demanded by:
 - (i) not less than five (5) Priests having the right to vote at the meeting; or
 - (ii) the Chairman.
- (e) A poll may be demanded either before or after the vote is taken on a resolution.
- (f) For the purposes of this clause, the instrument appointing a proxy to vote at a meeting of the Priests confers authority to demand or join in demanding a poll in a demand by a person as proxy for a Priest has the same effect as a demand by the Priest member.

9.4 Proxy Votes

- (a) Only Priests may be appointed as the proxy of another Priest.
- (b) Priests may exercise the right to vote either by being present in person at a meeting or by proxy.
- (c) A proxy for a Priest is entitled to attend and be heard at a meeting of the Priests as if the proxy was that Priest.
- (d) A proxy must:

- (i) be appointed by notice in writing signed by the relevant Priest and lodged with the Chairman prior to the start of the meeting. The Chairman shall inform the meeting when it commences of the content and scope of proxies in his possession.
- (ii) specify whether the appointment is for a particular meeting or a specified term.

9.5 Postal Votes

- (a) A Priest may not exercise the right to vote at a meeting by casting a postal vote unless the Board determines prior to the meeting that the postal voting procedure will be available for such meeting and give notice thereof in the notice of the meeting.
- (b) If the Board determines that the postal voting procedure will be available for a meeting (but not otherwise), such postal votes shall be cast and counted in accordance with the following provisions:
 - (i) the notice of a meeting at which the Priests are entitled to cast a postal vote must state the name of the person authorised by the Board to receive and count postal votes at that meeting;
 - (ii) if no person has been authorised to receive and count postal votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every Trustee is deemed to be so authorised;
 - (iii) a Priest may cast a postal vote on all or any of the matters to be voted on at a meeting by sending a notice of the manner in which that Priest wishes to vote to a person authorised to receive and count postal votes at that meeting. The notice must reach that person not less than 24 hours before the start of the meeting.
 - (iv) It is the duty of a person authorised to receive and count postal votes at a meeting:
 - (A) to collect together all postal votes received by it, or by the Board; and
 - (B) in relation to each resolution to be voted on at the meeting, to count:
 - (aa) the Priests voting in favour of the resolution and the number of votes cast by each Priest in favour of the resolution; and
 - (bb) the number of Priests voting against the resolution, and the number of votes cast by each Priest against the resolution; and
 - (C) to sign a certificate that it has carried out the duties set out above and which sets out the results of the accounts required by clause 9.5(b)(iv); and
 - (D) to ensure that this certificate is presented to the Chairman.
 - (v) If a vote is taken at a meeting on a resolution on which postal votes have been cast, the Chairman of the meeting must:
 - (A) on a vote of show of hands, count each Priest who has submitted a postal vote for or against the resolution; or
 - (B) on a poll, count the votes cast by each Priest who has submitted a postal vote for or against the resolution.

- (vi) The Chairman of a meeting must call for a poll on a resolution on which it holds sufficient postal votes that it believes that if a poll is taken the result may differ from that obtained on a show of hands.
- (vii) The Chairman of a meeting must ensure that a certificate of postal votes held by it is inserted next to the minutes of the relevant meeting.

9.6 Attendance at Meetings

- (a) Only Priests and Trustees have a right to attend any Annual General Meetings and Special General Meetings of the Priests.
- (b) However, other person(s) may be invited by the Board to attend any Annual General Meeting or Special General Meeting in order to lend their expertise to the deliberations of the Priests, but such person(s) have no entitlement to vote at that meeting.
- (c) For the avoidance of doubt, there is no right given to any person holding a power of attorney for a Priest to attend any Annual General Meeting or Special General Meeting. However an attorney may give a Proxy or exercise a Postal Vote on behalf of the relevant Priest in accordance with clause 9.4 or 9.5 above.

10.0 NOTICES

10.1 All notices or other communications to be given to the Board, any of the Trustees or the Priests under this Deed must be given:

- (a) In the case of notices to be given to any of the Trustees or Priests, to the person's last known place of address (or such other address within New Zealand as that Trustee or Priest may have specified in writing to the Secretary).
- (b) In the case of notices to be given to the Board to both:
 - (i) The Bishop; and
 - (ii) The Registered Office of the Trust.

10.2 All notices will be deemed to have been given or made:

- (a) In the case of a communication by letter, on the third day after being posted by mail, correctly addressed and stamped;
- (b) If given by hand, on personal delivery to the Board, Trustee or Priest;
- (c) In the case of a communication by email, when acknowledged by the Board, Trustee or Priest by way of return email whether by way of sender receipt acknowledgment or otherwise in writing; and
- (d) In the case of a communication by facsimile, when transmitted to the Board, Trustee's or Priest's last known facsimile number and the sender has no indication of incomplete transmission. In the case of notice by facsimile, the facsimile communication must immediately be followed by posting or delivery of an original notice as set out above.

10.3 The initial notified addresses, email addresses and facsimile numbers of the Board, Trustees and Priests will be their addresses as recorded in the Catholic Directory of New Zealand until an alternative address has been given in writing by the relevant person to the Secretary. It is the responsibility of

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each of the Trustees and the Priests to ensure that their details for the purposes of notices is correct and updated as required from time to time.

10.4 Any person subsequently appointed as a Trustee must notify the Secretary of his/her notified addresses, email address and facsimile number in New Zealand for the service of all communications.

10.5 Any Trustee or Priest may change his/her notified addresses or facsimile number by notice in writing served on the Secretary.

11.0 AUDITOR

The Board may (but shall if this is required at law) require the annual financial statements of the Clergy Trust Fund to be audited by an auditor being a member of the Chartered Accountants Australia and New Zealand and being in public practice as a Chartered Accountant; and in accordance with the standards of audit laid down by the Chartered Accountants Australia and New Zealand.

12.0 COMMON SEAL

The Board shall have a Common Seal which shall be affixed to documents:

- (a) Only pursuant to a prior resolution of the Board; and
- (b) In the presence of any two (2) members of the Board.

13.0 VARIATION OF THIS DEED

The provisions of this Deed may be changed by a Special Resolution of the Priests at any Annual General Meeting or Special General Meeting called for that purpose; but

- (a) No change shall be made without the written approval of the Bishop;
- (b) No change shall be made that would cause the Clergy Trust Fund to cease to be a trust for Charitable Purposes;
- (c) No change shall be made which will breach Canon Law.

14.0 DISTRIBUTION OF ASSETS ON WINDING UP

14.1 The Board may wind up or dissolve the Trust Fund as permitted by clause 6.9(a)(iv).

14.2 If the Board, after obtaining the approvals required by clause 6.9(a)(iv) above, does resolve to wind up or dissolve the Trust, the net assets of the Trust after payment of all liabilities and costs must be disposed of by the Board as follows:

- (a) by vesting those assets in the first instance in any alternative fund set up with the approval of the Bishop for the Support of Priests, where such fund is established exclusively for Charitable Purposes and complies with Canon Law; and
- (b) if the Support of Priests is adequately provided for, then those assets are to be vested:
 - (i) exclusively for Charitable Purposes; and
 - (ii) for the charitable objectives of the Diocese.

15.0 CODE OF CANON LAW

In any matters not covered by the Deed, or the Policy, the Fund established by this Deed shall be subject to the Code of Canon Law.

APPENDIX A

BOARD'S SPECIFIC POWERS

1.0 Raise and Collect Funds:

Collect funds and to raise money by all lawful means and to receive, accept, encourage and enlist financial and other contributions, subscriptions, donations, legacies, endowments or bequests from any source.

2.0 Invest:

To invest the Trust Fund or any portion of the Trust Fund, as permitted by clause 6.11(c).

3.0 Buy or Sell:

- (a) To buy or sell property comprising or which will comprise all or part of the Trust Fund at such price on such terms and subject to such conditions as the Board in their absolute discretion think fit provided that such purchase or sale is permitted by the Statement of Investment Policy and Objectives applicable at the time (if any) and where there is no Statement of Investment Policy and Objectives then within or conducive to the attainment of the Objects and Purpose of the Clergy Trust Fund as provided for in clause 3.0 of this Deed. Further, in the case of sale, to allow the whole or any part of the purchase money remaining owing as a debt to the Trust.
- (b) To buy, sell or lease motor vehicles at such price on such terms and subject to such conditions as they in their absolute discretion think fit provided that this is within or conducive to the attainment of the Objects and Purpose of the Clergy Trust Fund as provided for in clause 3.0 of this Deed.
- (c) To operate a separate car fund within the Clergy Trust Fund for the purposes of buying, selling and leasing motor vehicles in furtherance of the Charitable Purposes set out in this Deed.

4.0 Lend:

To lend from time to time and in total no more than ten 10% of the total Trust Fund to Priests and/or Clergy with or without interest and with or without security and on such other terms and conditions as the Trustees in their absolute discretion think fit.

5.0 Retain Property:

To retain property forming part of the Trust Fund for so long as the Trustees think fit without being liable for any loss resulting to the Trust Fund.

6.0 Lease:

To lease or to take on lease or licence any property on such terms and subject to such conditions as they think fit and to accept or effect such surrenders of leases and licences as they think fit.

7.0 Carry on Business:

To commence and carry on any business (whether alone, in partnership or otherwise) including acquiring from any person or company any business or any interest in any business provided that such business is permitted by the Statement of Investment Policy and Objectives (if any) and where there is no Statement of Investment Policy and Objectives then within or conducive to the attainment of the

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Objects and Purpose of the Clergy Trust Fund as provided for in clause 3.0 of this Deed. Further, the Trustees have power to use and apply any part of the Trust Fund as capital in such business and remunerate all such managers, agents, servants and others as the Trustees from time to time think fit.

8.0 Gift:

To make a gift or gifts to any person or company for the purpose of furthering the Charitable Purposes of the Trust.

9.0 Limited Rights to Borrow:

The Trustees will have no right to borrow money unless:

- (a) the decision to borrow is first approved by a Special Resolution of the Priests with the written consent of the Bishop; and
- (b) Then, only for the purposes of advancing the objects of the Trust.

10.0 Company Shareholdings:

Subject to paragraph 11.0 below and then only in respect of those companies in which the Clergy Trust Fund is permitted to hold shares, notes, stock or debentures in accordance with the Statement of Investment Policy and Objectives applicable at the time:

- (a) To act as director or appoint a director or directors of such company.
- (b) To provide out of the Trust Fund further capital for such company either by way of advances loans deposits or otherwise (with or without security) or by taking further shares notes stocks or debentures in such company and in any case on such terms as the Board think fit.
- (c) To concur on such terms as the Board think fit in any reconstruction or amalgamation of any company in which the Board holds shares notes stock or debentures or in any modification of the rights of the shareholders or other parties.
- (d) Generally to act in respect of any such company in such manner as the Board in their absolute discretion deem to be in the interests of the Trust Fund.

11.0 Promote Companies:

Incorporate one or more limited liability companies of which the members of the Board are the only directors and the Trust is the only shareholder for the purposes of holding any real or personal property belonging to the Fund and to take title to such property in the name of or to transfer property to such companies as they deem appropriate provided that in each case this is permitted by the Statement of Investment Policy and Objectives (if any) and where there is no Statement of Investment Policy and Objectives then within or conducive to the attainment of the Objects and Purpose of the Clergy Trust Fund as provided for in clause 3.0 of this Deed.

12.0 Determine Capital and Income:

To determine whether any money is income or capital and what expenses ought to be paid out of income and capital respectively and also to apportion blended funds.

13.0 Apply Capital and Income:

- 13.1 To pay and apply the capital and income of the Trust Fund for the Charitable Purposes as is permitted by clause 3.0 of this Deed and then subject to any restrictions contained within this Deed and the Policy.

14.0 Maintain and Improve Property:

To maintain manage repair improve and develop any property which or any interest in which forms part of the Trust Fund in such manner as the Board thinks fit.

15.0 Employ:

To employ and pay any person firm or company (including any Trustee) to do any act of whatever nature relating to the Trust or the administration of the Trust without being liable for loss incurred.

16.0 No right to Guarantee:

The Board may not provide any guarantee(s) including any indemnities or similar obligations in the nature of a guarantee without the prior written approval of:

- (a) the Bishop; and
- (b) a Special Resolution of the Priests;

and then only for the purposes of advancing the objects of the Trust.

17.0 Bank Accounts:

To open an account or accounts in any name or names and either on their own behalf or jointly with another at any bank and in addition to the powers conferred by section 81 of the Trustee Act 1956 to make arrangements with any bank for such signatories as resolved by the Board to operate on any account at that bank **Provided That** there must always be at least two (2) signatories for the operation of any accounts with a bank, at least one of who must be a Trustee. The Board may not operate an overdraft, nor may the Board borrow any monies whether on an unsecured or secured basis or otherwise other than as may be expressly permitted under paragraph 9.0 above.

18.0 Insurance:

To insure:

- (a) any insurable property against loss or damage by any cause whatsoever; and
- (b) against such other insurable risks including but not limited to medical and public liability insurance risks as the Board in its discretion determines,

in each case on such terms and conditions as the Board in their absolute discretion think fit.

19.0 Maintenance Contracts:

To enter into contracts of any nature whatsoever for the purpose of protecting maintaining or enhancing the value of all or any assets acquired or held by the Board or which the Board have the right to acquire or hold.

20.0 Delegate to Committees:

To delegate certain functions to standing and/or special committees and to co-opt persons on to those standing and/or special committees but only within the limitations permitted by clause 6.7

21.0 Other Powers:

To do such other acts and things as the Board may in their absolute discretion consider incidental or conducive to the attainment of the Objects and Purpose of the Clergy Trust Fund as provided for in clause 3.0 of this Deed and provided further that such acts or things are not expressly prohibited by the terms of this Deed and the Policy.