

## **SECTION G**

### Schools

#### Contents

The Schools and Youth Work Statute .....	G2
St Michael’s Church School Statute .....	G4
The St Margaret’s College Consolidation Statute .....	G28
Craighead Diocesan School Statute .....	G36
The Te Waipounamu Statute .....	G43

## THE SCHOOLS AND YOUTH WORK STATUTE

Enacted 1935; Amended 1937, 1938, 1940, 1941, 1942, 1943  
1945, 1948, 1952, 1953, 1989

### A STATUTE

To constitute separate Boards of Control for (a) Church Primary Day Schools (b) St Margaret's College (c) Craighead School (d) the Organisation of Sunday Schools throughout the Diocese and the promotion and development of Youth Work generally.

WHEREAS it is desirable to subdivide the work at present carried on and controlled by the Diocesan Board of Education by constituting separate Boards to take over from the Board of Education and henceforth to control (a) the Church Primary Day Schools; (b) St Margaret's College; (c) Craighead School, and (d) the Organisation of Sunday Schools throughout the Diocese and the promotion and development of Youth Work generally.

BE IT THEREFORE ENACTED by the Bishop, Clergy and Laity of the Diocese of Christchurch in Synod assembled as follows:

Short Title:

1. The short title of this Statute shall be "The Schools and Youth Work Statute 1935".

Repeal:

2. "The Education Board Statute, 1918," shall continue in force until the 31st day of January, 1936, and as from the 1st day of February, 1936, shall be deemed to have been repealed. The present members of the Board of Education shall continue in office until the 1st day of February, 1936, upon which date the duties and functions of the Board shall devolve upon the bodies hereinafter constituted or named who shall take over the same respectively in accordance with the provisions hereinafter contained.

Date of Coming into Operation of Statute:

3. This Statute shall come into force on the 1st day of February, 1936, PROVIDED HOWEVER that so far as it relates to the coming into existence of the bodies hereinafter constituted in Parts I, II, III and IV hereof this Statute shall come into force immediately upon the passing hereof and the election of the members of such bodies respectively to be made by the Synod shall take place at such time following the passing of this Statute as may be determined by the President. Such bodies may meet and transact such business as may be necessary in anticipation of and in preparation for the taking over by them respectively on the 1st day of February, 1936, of the duties and functions assigned to them by this Statute.

PART I  
THE CHURCH PRIMARY DAY SCHOOLS  
(This Part was repealed by "The Primary Day Schools' Statute, 1938")

PART II  
ST MARGARET'S COLLEGE  
(This Part was repealed by "The St Margaret's College Consolidation Statute, 1952")

PART III  
CRAIGHEAD SCHOOL  
(This Part was repealed by "The Craighead Diocesan School Statute, 1953")

PART IV  
SUNDAY SCHOOL AND YOUTH WORK (This Part was repealed by "The Diocesan Youth Council Statute, 1946")

PART V  
BISHOP JULIUS HOSTEL (This Part was repealed by "The Schools and Youth Work Statute 2022")

PART VI GENERAL  
and  
PART VII  
(Both these Parts were virtually repealed by the repeal of Parts I, II, III and IV)

# **THE ST MICHAEL'S CHURCH SCHOOL STATUTE**

Enacted 1998 Amended 2017, 2021, 2021

## **A STATUTE**

### **ST MICHAEL'S CHURCH SCHOOL STATUTE (2021)**

Whereas The St Michael's Church School Statute was enacted in 1998 for the purpose of establishing a Board of Governors to administer the activities of the School and to define the membership, constitution and duties of the Board of Governors;

And Whereas The St Michael's Church School Statute 1998 set out the responsibilities of the Vestry, the Vicar and the trustees of the Parish Trust acting as agents for the Vestry as proprietors of the School in relation to monies generated by the School and to develop the buildings and facilities owned by the Parish and used by the School;

And Whereas the School and Parish have agreed that a different form of relationship between them is desirable such that a new trust is to be formed which will have full responsibility for the finances and operation of the School and use of the Parish Property by the School;

And Whereas it is desirable for the School and Parish to enter into the Lease and the Memorandum of Understanding to provide for the terms of use of the Parish Property by the School.

### **BE IT THEREFORE ENACTED BY THE BISHOP, CLERGY AND LAITY OF THE DIOCESE OF CHRISTCHURCH AS FOLLOWS:**

1. The short title of this Statute shall be "The St Michael's Church School Statute 2021".
2. The Statute shall come into force on the Commencement Date; however, Sections 4, 6 to 8 and 11 inclusive will come into force on the day this Statute has been passed.
3. The St Michael's Church School Statute passed in 1998 shall be repealed on the Commencement Date.
4. For the purposes of this Act, unless the context requires another meaning:
  - "**Anglican Character**" means Christian character inspired by the teachings of the Anglican Church. The School has a long and continuing heritage as the church school for the Parish which is New Zealand's oldest Anglo-Catholic parish. It is expected that the character of the School will reflect worship, Christian teaching and ministry within the Catholic tradition of the Anglican Church.
  - "**Board of Governors**" means the trustees under the constitution created by the St Michael's Church School Statute enacted in 1998 as amended in 2017.
  - "**Church Building**" means St Michael and All Angels church situated at 84 Oxford Terrace, Christchurch.
  - "**Commencement Date**" means the date on which the Lease and Memorandum of Understanding have been signed and come into effect.
  - "**Lease**" means a lease of the School Buildings and Facilities by Church Property Trustees as trustee for the Parish to the Trust to be negotiated in accordance with Section 8.

**“Memorandum of Understanding”** means the agreement to be entered into between the Vestry and the Trustees pursuant to Section 8 which will govern:

- (i) the sharing of the School Buildings and Facilities between the Parish and the School in circumstances not covered in the Lease.
- (ii) the use of the Church Building by the School; and
- (iii) the use of the School Chattels and Equipment by the Parish.

**“Parish”** means the parish of St Michaels and All Angels in the Diocese of Christchurch.

**“Parish Property”** means the Church Building and the School Buildings and Facilities.

**“Parish Trust”** means St Michael and All Angels Parish Trust.

**“School”** means St Michael’s Church School located at 249 Durham Street.

**“School Buildings and Facilities”** means the buildings, land and facilities held by Church Property Trustees as trustee for the Parish which are used by the School for the purposes defined in the Trust Deed but, for the sake of clarity, does not include the Church Building or the School Chattels and Equipment.

**“School Chattels and Equipment”** means the chattels and equipment owned by and used for the purposes of the School.

**“Trust”** means the St Michael’s School Trust created by the Trust Deed.

**“Trustees”** means the trustees of the Trust and **“Trustee”** means any one of them.

**“Trust Deed”** means the trust deed settled in accordance with Section 6 on the terms set out in Schedule 1.

**“Vestry”** means the vestry of the Parish.

5. The Mission and Vision Statements for the School shall be:

**Mission Statement:** To advance primary school education in the Anglican Character.

**Vision Statement:** Children fully alive in spirit, mind and body, and well prepared to succeed in their secondary school education.

6. As soon as practicable after this Statute has been passed:

- a. the Vestry shall, in consultation with the Board of Governors, determine who shall be the Trustees and shall settle the Trust Deed; and
- b. the Trustees shall then apply for incorporation as a board under the Charitable Trusts Act 1957 and, once incorporated, the Trustees shall apply for registration under the Charities Act 2005.

7. With the prior consent:

- a. of Vestry, the Vicar and Church Wardens shall be entitled to execute the Trust Deed as agent for Vestry as settlor, together with any other documents required to incorporate the Trust under the Charitable Trusts Act 1957 and to register the Trust as a charitable trust under the Charities Act 2005;
- b. of CPT and the Vestry, the trustees of the Parish Trust shall;
  - i. negotiate the terms of the Lease for execution by Church Property Trustees; and
  - ii. negotiate and execute the Memorandum of Understanding and any other agreements or documents relating to the School Buildings and Facilities, whether required by virtue of the Lease or the Memorandum of Understanding or otherwise.

8. Lease and Memorandum of Understanding:

- 8.1 Once the Trust Deed has been executed by Vestry and the Trustees for the Trust have been appointed pursuant to Section 6(a), negotiation of

the terms of the Lease, and the Memorandum of Understanding, pursuant to Section 7(b), will take into account the following:

- a. The Trustees will be responsible for the operation and finances of the School and the use of the Parish Property by the School.
- b. The Vestry, is required to consult with Church Property Trustees and obtain their consent, in respect of Lease terms.
- c. In relation to the School Buildings and Facilities the Parish will:
  - i. be responsible, make decisions and have oversight for the repair, maintenance, replacement and development of all existing School Buildings and Facilities unless otherwise agreed with the Trustees;
  - ii. be entitled to receive all monies from the School pursuant to the Lease or any other arrangements for the use of Parish Property; and
  - iii. use such monies received for the purpose specified in Section 8(c)(i) unless otherwise agreed between the Trustees and the Vestry.
- d. The Lease shall conform to a commonly agreed form of commercial lease providing that the initial rent and rent reviews every 3 years thereafter will reflect:
  - I. the charitable purposes specified in the Trust Deed,
  - II. any plans with respect to any capital works for the School determined by the Trust from time to time in consultation with the Vestry,
  - III. the obligation of the Parish to repair, maintain, replace and develop the existing School Buildings and Facilities and
  - IV. the obligation of the Parish to use the rent received in the manner provided in Section 8(c)(iii);

8.2 In the event of any dispute not otherwise covered by the Lease, the dispute shall be determined by a lawyer experienced in lease matters to be appointed by agreement between the Vestry and the Trustees, or failing such agreement by the Warden.

8.3 The Vestry may delegate the rights and obligations of the Parish and the Vestry in respect of and under the Lease and the Memorandum of Understanding to the Parish Trust. Nothing herein will diminish the rights and obligations of the Church Property Trustees as legal owner of the Parish Property.

9. The Vestry, Vicar and the Parish will each fulfil their responsibilities to the School as set out in the Trust Deed.

10. The School will fulfil its responsibilities to the Parish as set out in the Trust Deed.

11. Transitional Provision – The St Michael’s Church School Statute passed in 1998 will remain in full force and effect and govern the running of the School until the Lease and Memorandum of Understanding have been signed and come into effect.

## Schedule 1

### Trust Deed

#### **Deed of Trust St Michael's Church School Trust**

#### **Contents**

1. Definitions and interpretation
2. Establishment
3. Charitable purposes
4. Powers
5. Obligations to the Appointor
6. Separate sub-trusts
7. Trustees
8. Appointment and removal of officers
9. Duties and functions of the Trustees
10. Proceedings of the Trustees
11. Committees
12. Control of funds
13. Incorporation and registration
14. Execution of documents
15. Interested Trustees
16. Remuneration of trustees and payment of expenses
17. No private pecuniary profit
18. Alterations and additions
19. Professional advice
20. Liability of Trustees
21. Winding up
22. General provisions

Schedule of Powers

Schedule of intent in respect of worship and Religious Education

## Trust Deed

### Parties:

1. The Vicar and Church Wardens as agents for the Vestry ("**Settlor**")
2. [insert names of trustees to be appointed pursuant to clause 7.1] ("**Trustees**")

### Introduction:

- A. The Settlor wish to establish a trust for the Purposes.
- B. The Trustees have agreed to become the trustees of the Trust upon the terms and subject to the powers and discretions set out in this Trust Deed.
- C. The Settlor has paid to the Trustees and the Trustees hold the sum of \$10.00 upon the terms and with and subject to the powers and discretions set out in this Trust Deed.
- D. It is anticipated that further money, property and investments may from time to time be acquired by the Trustees for the Purposes.

### This deed records:

#### 1. Definitions and Interpretation

##### 1.1 Definitions

The following definitions apply in this deed:

**Act** means the Trusts Act 2019.

**Anglican Character** means Christian character inspired by the teachings of the Anglican Church. The School has a long and continuing heritage as the church school for the Parish which is New Zealand's oldest Anglo-Catholic parish. It is expected that the character of the School will reflect worship, Christian teaching and ministry within the Catholic tradition of the Anglican Church.

**Anglican Church** means the Anglican Church in Aotearoa, New Zealand and Polynesia.

**Annual Report** means the annual report provided by the Trustees in accordance with clause 5.1.

**Appointor** means the Vestry of the Parish.

**Balance Date** means 31 December, or any other date adopted from time to time by the Trustees, as the end of the Trust's Financial Year.

**Bishop** means the bishop of the Diocese.

**Board** means the board of trustees incorporated under Part 2 of the Charitable Trusts Act 1957.

**Chaplain** means the chaplain of the School.

**Church Property Trustees** means the Church Property Trustees constituted a body politic and corporate by s2 of the Church Property Trust Ordinance 1854(C) and continued by s5(3) of the Anglican (Diocese of Christchurch) Church Property Trust Act 2003.

**Church Wardens** means the church wardens from time to time of the Parish.

**Diocese** means the Anglican Diocese of Christchurch in the Anglican Church.

**Extraordinary Vacancy** has the meaning set out in clause 7.3.

**Financial Year** means any year or other accounting period ending on the Balance Date.

**Formal Association of Parents** means an association of parents of Pupils recognised by the Board and the Vestry as such an association. For the time being this association is the St Michael's Church School Parent, Teacher, Friend Association (PTFA).

**Meetings** means meetings in person and via other means specified in clause 10.9.

**Parent** means a person who is a parent or legal guardian of a Pupil and, where the term is used in clauses applying to the Board, means a person who at the time of their appointment is a parent or legal guardian of a Pupil.

**Parish** means the Parish of Christchurch St Michael's, also known as the Parish of St Michael and All Angels in the Diocese of Christchurch,.

**Principal** means the principal of the School.

**Pupils** means the pupils of the School and **Pupil** means any one of them

**Purposes** means the charitable purposes of the Trust as set out in clause 3.2.

**Replacement Trustee** has the meaning set out in clause 7.3.

**School** means St Michael's Church School located at 249 Durham Street

**Specified period** has the meaning as set out in clause 7.5.

**Standing Committee** means the executive committee of Synod elected to provide governance to the Diocese and to function as Synod out of session.

**Synod** means the Synod of the Diocese.

**Term** has the meaning set out in clause 7.2.

**Trust Fund** means any real and personal property owned or held by the Trustees on the trusts of this deed from time to time including such further money or property as may from time to time be added by way of capital or income to be held by the Trustees upon the trusts, for the charitable purposes and with the powers as set out in this deed.

**Trust** means the charitable trust established by this deed.

**Trustees** means the trustee or trustees of the Trust for the time being, whether original, additional or substituted and **Trustee** means any one of them.

**Vestry** means the vestry of the Parish.

**Vicar** means the vicar of the Parish and includes any priest appointed by the Bishop as Priest-in-Charge of the Parish during a vacancy between Vicars or when the Vicar is absent from the Parish for an extended period of time.

**Warden** means the warden of the School, being the Bishop.

## **1.2 Interpretation**

The following rules of interpretation apply in this deed:

- (a) The definitions specified in the St Michael's Church School Statute (2021) shall apply to this trust deed unless the context requires another meaning.
- (b) References to persons include natural persons, companies, and any other body corporates (wherever incorporated) and unincorporated bodies (wherever formed).
- (c) References to this deed means this deed, including its introduction and schedules, as amended and/or replaced from time to time.
- (d) References to clauses and schedules will be construed as references to clauses and schedules in this deed.
- (e) References to a paragraph in a schedule is to a paragraph of that schedule.
- (f) Headings and subheadings have been inserted for convenience only and will not affect the interpretation of this deed.
- (g) References to the words including, include or similar words do not imply any limitation and are deemed to have the words without limitation following them.
- (h) References to a statute or statutory provision means a New Zealand statute or statutory provision as amended, consolidated and/or replaced from time to time.
- (i) References to written or in writing shall include all modes of presenting or reproducing words, figures and symbols in a visible form (including via email).

## **2. Establishment**

### **2.1 Trustees**

The Trustees agree to act as trustees of the Trust on the terms set out in this deed.

### **2.2 Trust Fund**

The Trust shall comprise the Trust Fund which shall be held on trust by the Trustees and shall be managed and administered on the terms set out in this deed.

### **2.3 Term**

The Trust shall continue until terminated under clause 21.

### **2.4 Name of Trust**

The Trust shall be known as the St Michael's Church School Trust or such other name as the Trustees may determine by resolution from time to time.

### **2.5 Name of the School**

The Parish owns the name St Michael's Church School, and the Parish grants use of that name to the Trust while the School remains open on the Durham Street site. If the School closes or moves from the Durham Street site the Parish shall be entitled to withdraw the Trust's right to use the name for the School and if it does so, the Trust must immediately change the name of the School to exclude any reference to St Michael's Church.

## **2.6 Office**

The office of the Trust and the Trustees shall be at such place as the Trustees from time to time decide.

## **3. Charitable Purposes**

### **3.1 Establishment of School**

The Trust has been established for the purposes of governing the School's operational needs and educating its Pupils in the Anglican Character and implementing the principles of worship and religious education set out in the Schedule of Intent in respect of Worship and Religious Education.

### **3.2 Charitable Purposes**

The charitable Purposes of the Trust is the advancement of primary school education in the Anglican Character through the School.

### **3.3 Limitation**

The charitable Purposes of the Trust may not extend to any matter or thing which is not charitable within the meaning of the Income Tax Act 2007 or the Charities Act 2005 or not carried out within New Zealand.

## **4. Powers**

### **4.1 General Powers**

The Board may exercise the following powers in order to carry out its charitable Purposes:

- (a) all the powers necessary to manage the Trust Fund and the Trust, including, in relation to the Trust Fund, the widest powers of an absolute owner of the Trust Fund, to the intent the Trustees powers will not be limited or restricted by any principle of construction or rule of law or statutory power or provision, except to the extent that it is obligatory; and
- (b) all the powers necessary to carry out the Purposes, including powers incidental to those in paragraph 4.1(a) and the powers contained in the Act.

### **4.2 Powers not subsidiary or ancillary**

None of the powers or authorities conferred on the Trustees by clause 4.1 or otherwise will be deemed subsidiary or ancillary to any other power or authority and the Trustees may exercise any of those powers and authorities independently of any other power or authority.

### **4.3 Specific Powers**

In addition to the general powers referred to in clause 4.1 and those implied by the general law of New Zealand or contained in the Act, the Board shall have the specific powers set out in the Schedule of Powers.

## **5. Obligations to the Appointor**

### **5.1 Annual Report**

The Trustees will within 180 days after each Balance Date provide to the Vestry an Annual Report. The Annual Report shall be in a form consistent with the requirements of the Charities Act 2005 and also include such other information as the Vestry may reasonably require.

### **5.2 Meetings**

The Trustees will communicate or meet with the Vestry for the purpose of progressing the interests of the School and Parish.

## **6. Separate Sub-trusts**

### **6.1 Discrete Funds**

The Trustees may establish discrete funds within the Trust dedicated to one or more of the Purposes.

### **6.2 Special Sub-trust**

The Trustees may accept gifts of any real or personal property to be held as a discrete fund to be applied to one or more of the Purposes subject to any terms and conditions attached to such gift by the donor, provided that such terms and conditions are not inconsistent with the charitable nature of the Trust.

### **6.3 Administration Costs**

The Trustees may decide whether the costs of administration for any discrete fund established under either clause 6.1 or 6.2 shall be met either out of such fund or out of the Trust Fund.

## **7. Trustees**

### **7.1 Number and Appointment of Trustees**

(a) The power of appointment of Trustees is vested in the Appointor.

(b) The number of Trustees shall be not fewer than five (5) and not more than eight (8) and shall comprise:

i. The Vicar as an ex officio Trustee with voting rights; except, on application to the Bishop, an alternative to the Vicar may be appointed for a Term specified in writing by the Bishop.

ii. A minimum of one (1) parent

iii. Trustees who shall be appointed by the Appointor after giving due consideration to any recommendations made by Board pursuant to any provisions contained in the Schedule of Powers.

(c) No employee of the Board may be appointed as a Trustee.

(d) The Board may consult a Formal Association of Parents when determining whom to recommend to the Appointor for appointment.

(e) The Appointor will normally appoint Trustees such that not fewer than 50% of the Trustees are members of the Anglican Church, or members of another Christian denomination recognised (from time to time) by the Standing Committee.

(f) If at any time the requirements of clause 7.1(b) are not met, anything done by the continuing Trustees in accordance with this deed pending the appointment of a new Trustee or Trustees shall be as valid as if the requirements of that clause had been met.

## **7.2 Term of Appointment**

(a) Subject to clause 7.2(d), all Trustees, other than the Vicar as an ex officio Trustee, shall hold the office of Trustee for a term of three (3) years (the Term).

(b) Trustees may not hold office for more than two consecutive Terms.

(c) Notwithstanding the above, under exceptional circumstances, a Trustee may be appointed for a further period at the recommendation of the Board and with agreement of the Appointor.

(d) Notwithstanding the above, when the Board is incorporated, the Appointor may appoint Trustees for one (1) or two (2) or three (3) years in order to avoid the terms of all Trustees concluding at the same time.

## **7.3 Extraordinary Vacancies**

(a) In the event that any Trustee ceases to hold his or her office during that Trustee's Term (an Extraordinary Vacancy), then the Appointor may appoint a Replacement Trustee in accordance with clause 7.1(b) (Replacement Trustee).

(b) Despite clause 7.2, the term of office of any Replacement Trustee appointed under clause 7.3(a) as a result of an Extraordinary Vacancy will expire on the date that the Term of the predecessor of the Replacement Trustee would have expired if the Extraordinary Vacancy had not occurred.

## **7.4 Removal of Trustees by Appointor**

(a) The power of removal of Trustees is vested in the Appointor.

(b) A Trustee shall cease to hold office if the Trustee:

(i) is removed from office by the Appointor, giving written notice of such removal to the relevant Trustee outlining the reasons for the removal, provided this power of removal does not apply to any Trustee appointed pursuant to clause 7.1(b)(i).

(ii) resigns as Trustee by giving written notice to the Trustees or the secretary of the Trust.

(iii) is declared bankrupt.

- (iv) has his or her property affairs managed under the Protection of Personal and Property Rights Act 1988 upon the grounds of lack of competency to manage those affairs.
- (v) is a “patient” as defined in s2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992.
- (vi) refuses to act in service and delivery of the Purposes.
- (vii) dies while holding office.
- (viii) becomes disqualified to be an officer of a charity in accordance with section 16 of the Charities Act 2005.
- (ix) fails to attend three (3) consecutive meetings of the Trustees without being granted written leave of absence by the Trustees; or
- (x) is absent from New Zealand for twelve (12) or more consecutive calendar months without being granted written leave of absence by the Trustees.

### **7.5 Power of Intervention by the Bishop**

Despite anything in this Trust Deed to the contrary, if the Bishop (in his or her absolute discretion) determines in consultation with the Chancellor of the Diocese that it is necessary to intervene in relation to the performance of any of the Trustees’ obligations, then the Bishop may:

- (a) remove any one or more, or all, of the appointed Trustees with immediate effect; and
- (b) appoint any number of Trustees to replace those dismissed pursuant to clause 7.5(a), provided that if the exercise of the Bishop’s powers under this clause 7.5 would result in the requirements of clause 7.1(b) not being met, then the Bishop must, when exercising those powers, specify in writing a reasonable period of time during which the requirements of clause 7.1(b) would not apply (the Specified Period). The requirements of clause 7.1(b) will apply immediately upon the expiry of the Specified Period, or on such earlier date elected by the Bishop.
- (c) and shall inform in writing to the Trust the reason(s) for removing one or more of the Trustees.

### **7.6 Records**

The Trustees shall record in the minute book of the Trust every appointment, reappointment, removal, or cessation of office of any Trustee and shall ensure that any statutory requirements as to the vesting of the Trust Fund in the Trustees and the notification of the change of Trustees are satisfied.

### **7.7 Qualification and Declaration of Trustees**

- (a) Despite anything to the contrary in this clause 7, not fewer than 50% of the Trustees would normally be members of the Anglican Church, or members of another Christian denomination recognised (from time to time) by the Standing Committee.

(b) Upon becoming a Trustee of the Trust, each Trustee must declare in writing that he or she submits to the Constitution and authority of the Anglican Church. This declaration shall be recorded in the minute book.

### **7.8 Validity of Proceedings**

Where, for any reason, a Trustee is not properly appointed, re-appointed or is disqualified from holding office, anything done by that Trustee (or by a meeting at which the Trustee was present as a Trustee) before becoming aware of the irregularity, shall be as valid as if that Trustee had been duly appointed, re-appointed or had not been disqualified (as the case may be).

### **7.9 The Principal**

The Principal shall normally attend meetings of the Board except where the Trustees choose to meet exclusively as the Trustees.

### **7.10 Chairperson and Deputy Chairperson**

The Trustees will bi-annually elect a chairperson and deputy chairperson from among the Trustees.

## **8. Appointment and Removal of Officers**

### **8.1 Appointment**

- (a) The Trustees may appoint any officers of the Trust, such as secretary and treasurer, on such terms as the Trustees think fit.
- (b) The Trustees may appoint, via nomination or election, chairs of committees formed under clause 11.1.
- (c) Officers of the Trust will be appointed on an annual basis for a term of one year.

### **8.2 Removal**

The Trustees may remove and replace any officer. If an officer is a Trustee, that Trustee shall automatically cease to hold office as an officer upon ceasing to be a Trustee, unless the Trustees determine otherwise.

## **9. Duties and Functions of the Trustees**

### **9.1 Transparency**

The Trustees shall conduct the business and activities of the Trust in an open and transparent manner.

## **9.2 Perpetual Trust**

The Trustees expressly declare that it is their intention that the Trust shall be a perpetual trust but that the Trustees shall have power to:

- (a) deal with the income derived from the Trust Fund in accordance with clause 9.3; and
- (b) pay, apply, or appropriate such portion of the capital of the Trust Fund towards the attainment of the Purposes as the Trustees consider prudent taking into account the above intention,

provided that nothing in this clause shall restrict the powers of the Trustees pursuant to clause 21.

## **9.3 Income**

The Trustees shall stand possessed of the income derived from the Trust Fund upon the following trusts:

- (a) to pay or apply the same or any part of that income for or towards the Purposes, including meeting all operational costs of running the School.
- (b) to appropriate for any of the Purposes the whole or any part of the income arising from the Trust Fund whether or not the same shall have been received by the Trustees.
- (c) to make or retain out of, or charge against income, in any Financial Year any payments, reserves or any provision of a capital nature for any of the Purposes or incidental to the exercise of any of the powers, authorities or discretions conferred on the Trustees by this deed in respect of the Trust Fund.
- (d) to accumulate the whole or any part of the income derived by the Trust by investing the same and any resulting income there from, to the intent that the Trustees may elect either:
  - (i) to resort to any accumulated surplus for the same purposes and subject to the same trusts and powers as set out in this deed as for income; or
  - (ii) to add any accumulated surplus as an accretion to the Trust Fund to be held by the Trustees upon the same trusts and with the powers declared in this deed in respect of the capital of the Trust Fund.

## **10. Proceedings of the Trustees**

### **10.1 Ordinary Meetings**

- (a) The Trustees shall meet as regularly as they consider necessary for the efficient and proper conduct of the Trust's affairs, but in any event at least four (4) times in each Financial Year.
- (b) Approximately four months after the end of each Financial Year, a meeting of the Trustees shall be called to receive and consider the Annual Report and financial statements of the Trust.

## **10.2 Special Meetings**

- (a) A special meeting may be called at any time by two (2) or more Trustees.
- (b) The purpose and subject matter of that special meeting must be clearly outlined to all Trustees.

## **10.3 Warden**

The Warden may attend any meeting of the Trustees and, if he or she does attend any such meeting, the Warden may choose to exercise the right to assume the role of chairperson for the duration of the meeting and has the right to vote

## **10.4 Confidentiality**

All meetings of the Trustees shall be confidential. No members of the public or the wider School community or officers of the Appointor may attend a meeting without the prior consent of the Chair.

## **10.5 Notice of Meetings**

- (a) Written notice of the date, time and place of each meeting of the Trustees shall be hand delivered, posted, sent by email or other agreed electronic means to each Trustee and the Warden at least seven (7) days before the date of the meeting.
- (b) In the case of a special meeting, the notice may be fewer than seven (7) days, but no less than one (1) day, if the reason for the meeting is urgent, but it must still state the purpose and subject matter of the meeting.
- (c) The secretary or another person acting under the Trustees' direction or, in the case of a special meeting, acting under the direction of those Trustees calling the meeting, shall give notice of the meeting.
- (d) No notice shall be required for adjourned meetings.
- (e) The requirements for notice under clause 10.5(a) and (b) may be waived if all those Trustees who are for the time being in New Zealand give their consent to waive notice.

## **10.6 Quorum and Adjournment**

- (a) A quorum for meetings of the Trustees shall be a majority of Trustees and no business shall be transacted unless a quorum is present.
- (b) If a quorum is not present within 30 minutes after the time appointed for any meeting, the meeting shall be adjourned to the same time and day of the following week and if no quorum is present at that meeting, the Trustees who are present shall constitute a quorum.

## **10.7 Resolutions**

- (a) Except as provided otherwise in this deed, a resolution is validly made when it is passed at a duly convened and conducted meeting of the Trustees by a majority of the Trustees

then in office and present and voting at that meeting.

(b) The Chairperson will have a casting vote.

(c) Voting shall be by show of hands or oral indication unless a ballot is directed by the chairperson or required by any two (2) of the Trustees present at the meeting.

(d) A resolution in writing signed by all the Trustees shall be valid as if it had been passed at a meeting of the Trustees duly convened and conducted. Any such resolution may consist of several documents in like form each signed by one or more of the Trustees.

(e) A resolution may be made by email circulation or other accepted electronic means providing that the resolution is agreed to according to rules the Board shall establish for the making of resolutions by email or other electronic circulation.

(f) Any such resolutions once passed should appear in the agenda papers for noting at the next meeting.

## **10.8 Records**

(a) A proper written record of all decisions and business transacted at every meeting of the Trustees shall be kept in accordance with legislation.

(b) Any minute of a meeting of the Trustees which is purported to be signed by the chairperson of the next meeting shall be evidence of those proceedings.

(c) Where minutes of a meeting of the Trustees have been made in accordance with this clause 10.8 then, until the contrary is proved, the meeting shall be deemed to be properly convened and conducted.

## **10.9 Telephone and Video Conferencing**

Any meeting referred to in this deed may be conducted and attended by telephone conference, video conference or any similar means of electronic, audio or audio-visual communication. All participants in a meeting via such means shall be deemed to be present in person at the meeting and shall be entitled to be counted in the quorum and to vote.

## **11. Committees**

### **11.1 Committees**

(a) The Trustees may appoint any committee as they think fit for carrying out the Purposes and may delegate any of the Trustees' powers to any such committee, ensuring at least one Trustee is a member of that committee.

(b) Any such committee may co-opt any other person, whether a Trustee or not, to be a member of that committee.

(c) Subject to this deed and any directions that the Trustees might give, each committee may regulate its own procedures but will always report back to the Trustees.

## **12. Control of Funds**

### **12.1 Trust Fund Bank Account**

All money received by or on behalf of the Trust shall be paid promptly to the Trust's bank account.

### **12.2 Receipts of Gifts**

The secretary, treasurer or other officer of the Trust shall have the power to receive and give receipts for all legacies, donations, subscriptions or other moneys bequeathed, made or given to the Trust and every such receipt shall be an effective discharge for the money or other money stated to have been received.

### **12.3 Receipts for Payments**

The receipt of the secretary, treasurer or other person appearing to the Trustees to be authorised to give receipts on behalf of the recipient of any payment made under this deed shall be a complete discharge to the Trustees for that payment.

## **13. Incorporation and Registration**

- (a) The Trustees shall, as soon as practicable after this deed is executed, seek:
  - (i) incorporation in accordance with the provisions of the Charitable Trusts Act 1957; and
  - (ii) registration under the Charities Act 2005.
- (b) When the Trustees incorporate the Trust in accordance with the Charitable Trusts Act 1957, the name of the Board shall be St Michael's Church School Trust Board.

## **14. Execution of Documents**

### **14.1 Charitable Trusts Act 1957**

As a result of the Trustees' incorporation as a board under the Charitable Trusts Act 1957:

- (a) documents to be executed by the Trustees which are required by law to be by deed shall be executed under its common seal and attested by any two (2) of the Trustees. The common seal must not be affixed to any document unless the Trustees have already authorised its use on that document; and
- (b) any other documents to be executed by the Trustees shall be signed by any two (2) of the Trustees.

## **15. Interested Trustees**

### **15.1 No Vote**

- (a) No Trustee shall vote or take part in deliberations on any transaction, except for the setting of School fees, in which he or she has any personal or pecuniary interest or in which any company or other body in which the Trustee has a personal or financial interest itself has any pecuniary interest.

(b) However, that Trustee may:

- (i) attend a meeting of the Trustees and be counted as part of the quorum.
- (ii) sign a document relating to the transaction on behalf of the Trust; and
- (iii) do anything else as a Trustee in relation to the transaction, as if he or she were not interested in the transaction.

## **15.2 Disclosure of Interest**

(a) Any Trustee should declare any perceived conflict of interest at the commencement of the meeting or at any time subsequently where they become aware of a potential conflict of interest

(b) That disclosure shall include all relevant detail needed to result in a full and fair disclosure.

(c) A disclosure of interest by a Trustee must be recorded in the minute book of the Trust.

(d) Depending on the nature of the conflict of interest it does not necessarily preclude that Trustee being involved in discussion of the relevant matter, but normally the Trustee would not vote on the matter should it come to a vote or resolution and must comply with 16.2(b) below.

## **16. Remuneration of Trustees and Payment of Expenses**

### **16.1 No Remuneration for Trusteeship**

None of the Trustees shall be paid any remuneration for time spent as a Trustee but shall be entitled to such expenses incurred in that capacity as the Trustees may from time to time authorise or ratify by resolution. The intent is that no Trustee shall derive pecuniary gain from his or her office as a Trustee, or from any act done in the capacity of a Trustee but may be paid expenses if the Trustees so resolve.

### **16.2 Professional Fees**

(a) Subject to clause 16.2(b), any Trustee shall be entitled to be paid all usual professional, business and trade charges for business transacted, time expended and all acts done by him or her or any employee or partner of his or hers in connection with the trusts of this deed, other than acting as a Trustee.

(b) No Trustee receiving any remuneration referred to in clause 16.2(a) shall take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration nor shall that Trustee in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid. Any such remuneration must be approved in writing by the Trustees.

## **17. No Private Pecuniary Profit**

Nothing expressed or implied in this deed shall permit the activities of the Trust or any business carried on by or on behalf of or for the benefit of the Trust to be carried on for the private pecuniary profit of any individual.

## **18. Alterations and Additions**

### **18.1 Voting**

Subject to clause 18.2, the Trustees may resolve to amend any provisions of this deed. Any resolution to effect an alteration or addition must be passed by unanimous resolution of the Trustees with the approval of the Appointor.

### **18.2 Limitation on Amendments**

(a) No amendment may be made to this deed in any respect which would have the effect of causing the Trust to cease to be a charitable trust or to amend the Purposes to include any objective which is not a charitable objective or one to be achieved outside New Zealand or to prejudice the efficacy of clauses 15, 17, 18 or 21.

(b) No amendments may be made to the following areas of this deed without the consent of the Warden:

1. Mission Statement
2. Definition of Anglican Character
3. Schedule of Intent in relation to Worship and Religious Education
4. The role of the Bishop
5. The role of the Appointor
6. The role of the Vicar
7. The role of the Warden
8. Schedule of Powers

### **18.3 Income Tax Act and Charities Act**

Notwithstanding anything set out in clauses 18.1 or 18.2, the Appointor and the Trustees shall amend this deed to comply with the Income Tax Act 2007 or the Charities Act 2005 or their respective amendments.

## **19. Professional Advice**

### **19.1 Legal Advice**

The Trustees may obtain and act upon the opinion or advice of a practising barrister or solicitor of the High Court of New Zealand upon any matter concerning:

- (a) the interpretation of this deed, any other document, or any law; or
- (b) any rights, powers, liabilities or obligations of any Trustee; or
- (c) the administration of this Trust.

The Trustees will not be liable to any person for any act or omission of them in accordance with that opinion or advice. This clause does not prevent the Trustees from making an application to the court. For the avoidance of doubt, the Trustees shall be entitled to be indemnified out of the Trust Fund against all costs, expenses, claims and liabilities in respect of their actions (or failure or refusal to take action) in accordance with that opinion or advice.

## **20. Liability of Trustees**

### **20.1 Duties**

The Trustees will:

- (a) comply with the mandatory duties of trustees as specified in Sections 23-27 inclusive of the Act; and
- (b) comply with the default duties as specified in Sections 29-38 inclusive of the Act, except to the extent that the same have been modified or excluded in this deed

### **20.2 Individual Liability**

Individual Trustees or former Trustees have no liability for losses of any kind to the Trust Fund however they are caused, except to the extent that they are wholly or mainly caused by the Trustee's or former Trustee's:

- (a) own dishonesty or lack of good faith; or
- (b) wilful commission or omission of any act known by that Trustee or former Trustee to be a breach of trust; or
- (c) gross negligence.

### **20.3 Proceedings**

No Trustee shall be bound to take any proceedings against a co-Trustee or former Trustee for any breach or alleged breach of trust by that co-Trustee or former Trustee.

### **20.4 Indemnity**

Each Trustee or former Trustees is entitled to be indemnified out of the Trust Fund against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, costs (including legal costs) and expenses (together called "liabilities") suffered or incurred by that Trustee or former Trustee in connection with the Trust, except to the extent that those liabilities are due to that Trustee's or former Trustee's:

- (a) dishonesty or lack of good faith; or
- (b) wilful commission or omission of any act known by that Trustee or former Trustee to be a breach of trust; or
- (c) gross negligence.

## **21. Winding Up**

### **21.1 Decision to Wind Up**

The Trustees may wind up the Trust if, in their opinion, and in prior consultation with the Vestry, it becomes impossible, impracticable or inexpedient to carry out the Purposes.

## **21.2 Transfer of Trust Fund**

(a) In the event of the Trust being wound up and after all liabilities of the Trust have been discharged, the Trustees shall transfer all remaining funds and assets comprising the Trust Fund in the following sequence to:

- (i) The Parish; or if the Parish ceases to exist to
- (ii) another Anglican school in Christchurch which is exclusively charitable and which has Purposes similar to those of the Trust; or
- (iii) another Anglican school in New Zealand which is exclusively charitable if no sufficiently similar charitable organisation can, in the opinion of the Trustees in their absolute discretion, be identified in accordance with clause 21.2(a)(i) or (ii).

(b) If the Trustees are unable to make such decisions the Trust Fund shall be disposed of in accordance with the directions of the High Court under section 27 of the Charitable Trusts Act 1957.

## **22. General Provisions**

### **22.1 Governing Law**

The Trust shall be governed by and construed in accordance with the laws of New Zealand.

### **22.2 Acknowledgement**

(a) The Settlor acknowledges that, before this deed was signed, the Settlor:

- (i) was told about the duties of Trustees under the Act, and, in particular, the “default duties” in Sections 29 to 38.
- (ii) was told the extent to which the default duties have been modified under this deed;  
and
- (iii) is aware of the meaning and effect of these modifications and exclusions.

(b) The Settlor understands that, while the Act is in force, nothing in this deed can release Trustees from liability for a Trustee’s dishonesty, wilful misconduct or gross negligence.

## Schedule of Powers

### **Specific Powers**

The Trustees have the following specific powers to further the Purposes. None of these powers shall otherwise be deemed subsidiary or ancillary to any other power or authority and the Trustees shall be entitled to exercise all or any of the said powers and authorities independently of any other or others of them:

#### 1. Governance of the School

To govern the School, including the power from time to time (and without limiting the application of this clause) to:

- a. use the Trust Fund as the Board thinks necessary or proper in payment of the costs and expenses of the Trust, including the employment of professional advisors, agents, officers and employees as appears necessary or expedient.
- b. engage and dismiss the Principal, provided that:
  - (i) the Vicar must form part of any quorum of Trustees exercising the power to appoint the Principal; and
  - (ii) the Trustees must ensure that the proposed Principal is willing to uphold the Anglican Character of the School (in order to further the Purposes); and
  - (iii) the Warden is consulted by the Trustees prior to the appointment of the Principal.
- c. delegate authority to the Principal to enrol Pupils.
- d. fix fees and other payments payable by or in respect of all or any Pupils.
- e. appoint a chaplain in consultation with the Bishop and the Principal if the Parish is unable to provide Chaplaincy to the School. This person must be ordained and a member of the Anglican Church sympathetic to the Anglo-Catholic traditions and faith unless otherwise agreed by the Warden. It would be expected that any chaplain would work closely with the Vicar of the Parish.
- f. Identify skills needed among the Trustees and when vacancies arise make recommendations for appointment to the Appointor.
- g. review from time to time the Anglican Character of the School and the statement of worship and religious education contained in the Schedule of Intent in respect of Worship and Religious Education in consultation with the Appointor, Vicar and the Warden, and to recommend changes to the definition of Anglican Character and/or the statement of worship and religious education under this Trust Deed for amendment in accordance with clause 18 of the Trust Deed.

#### 2. Raising funds

To raise money for any of the Purposes, including by soliciting, receiving, and enlisting financial or other aid from individuals and organisations, including gifts and bequests from individuals and organisations, and to conduct fundraising activities.

#### 3. Investments

To invest the Trust Fund and the income from it on such terms as the Trustees decide and to vary such investments from time to time. The Trustees may retain any investments for as long as the Trustees think proper. The duties in sections 29 and 30 of the Act do not apply to the Trustees. However, if one or more of the Trustees is or are engaged in a profession, employment or business which is or includes acting as a trustee or investing money on behalf of others, then that Trustee or those Trustees (as the case may be) shall be required to

exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others. The Trustees may hold any part of the Trust Fund uninvested and in any currency for as long as the Trustees think fit.

#### 4. Discharge all obligations

To discharge all obligations, financial or otherwise in respect of any contract, lease, memorandum or other agreement whatsoever entered into with the Parish, Church Property Trustees, or any third party.

#### 5. Property

##### 5.1 School Buildings and Facilities

To procure the School to meet all obligations regarding the use and care of the buildings and other facilities of the Parish which are used by the School as outlined within this Trust Deed, any contract, lease, memorandum or other agreement whatsoever between the Trustees on behalf of the School and either Church Property Trustees or the Parish Trust on behalf of the Parish.

##### 5.2 The School

To maintain and develop, in collaboration with the Parish Trust, the property in which the School resides provided however any requirement for expansion of the School on the Durham Street site or other site will require the consent of Vestry.

##### 5.3. Purchasing property

To purchase or otherwise acquire any property and to agree to any covenants or other interests to be registered against the title to any real property not owned by Church Property Trustees on behalf of the Parish.

##### 5.4. Selling property

To sell, exchange or otherwise dispose of any property owned by the Trust on such terms as the Trustees decide, including power to allow such part of the purchase price as the Trustees think fit to remain on loan with or without security or to be payable by instalments.

##### 5.5. Granting or obtaining options

To grant or obtain an option to purchase, sell, lease, or exchange any property.

##### 5.6. Postponing sale

To postpone the sale, calling in and conversion of any property (even if it is of a wasting, speculative, terminable, or reversionary nature) not owned by Church Property Trustees on behalf of the Parish.

##### 5.7. Leasing property

To lease, take on lease or renew, vary, or surrender any lease of any property not owned by Church Property Trustees on behalf of the Parish on such terms as the Trustees decide.

5.8. Insuring property

To insure against any risk for their full insurable value any property:

- a. not owned by Church Property Trustees on behalf of the Parish; and
- b. any property owned by Church Property Trustees on behalf of the Parish for which this Trust or the School is responsible to provide the insurance.

5.9. Subdividing property

To subdivide any real property not owned by Church Property Trustees on behalf of the Parish.

5.10. Maintaining property

To maintain, manage and improve property owned or leased by the School, that is not beneficially owned by Church Property Trustees on behalf of the Parish.

5.11. Developing property

To develop any real property owned by the School or leased by the School, that is not beneficially owned by Church Property Trustees on behalf of the Parish, and to do all things which the Trust consider necessary, or desirable for the proper completion of the development.

6. Capital, income, and blended funds

To determine whether any money is to be considered as capital or income, and which expenses should be paid out of capital and out of income respectively, and to apportion blended funds. Each determination or apportionment shall be final and binding.

7. Depreciation or replacement funds

To set up and maintain any depreciation or replacement funds for any purpose the Trustees think fit, and in this regard to determine in their discretion:

- a. the amount of income to be credited from time to time to any of those funds; and
- b. whether those funds are income or capital.

8. Operating bank accounts

To open any bank accounts in any name(s) either on the Trust's behalf or jointly with another, and to overdraw any such account with or without giving security. The Trustees may also make arrangements with any bank for any one or more of the following persons to operate any of the Trust's accounts at that bank:

- a. the Trustees; and
- b. any delegate(s) named in writing by the Trustees.

9. Borrowing money

To borrow money providing any mortgages are raised on property owned by the Trust.

#### 10. Lending money

To lend money to any person on such terms as the Trustees decide and whether with or without security or interest.

#### 11. Granting security

To grant security over any property owned by the School (whether or not the liabilities or obligations secured are joint, several, or joint and several).

#### 12. Granting guarantee or indemnity

To grant any guarantee or indemnity that the Trustees consider is for the benefit of the Trust.

#### 13. Waiving debts

To waive any debts due to the Trust, either absolutely or on such terms as the Trustees think fit.

#### 14. Actions in relation to debts, securities, guarantees or demnities To

renew, confirm or vary any debt, security, guarantee, or indemnity.

#### 15. Compromise of claim

To agree to any compromise of claim for or against the Trust.

#### 16. Creditor meetings

To vote at any meeting of creditors of any debtor of the Trust.

#### 17. Carrying on a business

17.1 To acquire, begin, or carry on any type of business, either alone or in partnership with any person or persons for such time as the Trustees think fit and, if it does so, then:

- (a) The Trustees may employ managers, agents, contractors, and employees in that business.
- (b) The Trustees may wind up or agree to wind up that business or otherwise withdraw from that business.
- (c) The Trustees will not be liable for any loss caused by carrying on the business.
- (d) The Trustees will meet any business losses for any accounting period out of the income and capital of the Trust Fund in such proportions as the Trustees think fit.

#### 18. Promoting a corporation

18.1 To promote and form a corporation anywhere in the world for any purpose, ensuring that it is aligned with Christian practice, ethical considerations and environmentally responsible.

18.2 To agree on any terms in the winding up, reconstruction or amalgamation of any corporation in which the Trustees hold shares.

#### 19. Holding shares in a corporation.

19.1 To subscribe for or otherwise acquire shares in a corporation (even though the Trustees may incur liability for future calls on the shares.)

- 19.2 To exercise the Trustees' rights (as director, member, or otherwise) in respect of the corporation under the corporation's constitution or the law whether or not the corporation may do or cause to be done an act which the Trustees cannot do personally.
- 19.3 To generally act in relation to the corporation in whatever manner the Trustees think fit.

## **Schedule of Intent in respect of Worship and Religious Education**

The Parish of St Michael and All Angels and St Michael's Church School have a long history with the Anglo-Catholic tradition. Part of the expression of this faith is the regular participation in the Eucharist or Mass. There is a desire by all that the Parish and School continue to foster the spiritual growth of all Pupils of St Michael's Church School.

1. The School is to be a community of worship, learning and ministry, within the Catholic tradition of Anglicanism, in which the Christian faith as proclaimed in and through the Anglican Church in Aotearoa, New Zealand and Polynesia may be nurtured.
2. The School will provide an environment in which true Christian values are sought and fostered, and taken into account in decisions, actions and methods.
3. The Vicar shall guide the religious teaching and spiritual care given in the School, under such provisions as shall be agreed with the Principal. This work may, however, be undertaken by others with the Vicar's approval and/or through a chaplain licensed to the Vicar by the Bishop of Christchurch, as shall be agreed with the Principal.
4. The Vicar or Chaplain will undertake, or delegate to an appropriate member of the School or Parish community, school Mass weekly or otherwise at the Vicar's discretion and on other special occasions at a mutually agreeable time during or after school hours, during term time, as negotiated with the Principal.
5. It is expected that the School community and the parish community will join in worship at least once a term; for example, for Mothering Sunday, Founders' Day and the School Carol service.
6. Members of the School community may lead any chapel service at the discretion of the Vicar or Chaplain.

Deed of Trust for  
St Michael's Church School Trust

## **Contents**

1. Definitions and interpretation
2. Establishment
3. Charitable purposes
4. Powers
5. Obligations to the Appointor
6. Separate sub-trusts
7. Trustees
8. Appointment and removal of officers
9. Duties and functions of the Trustees
10. Proceedings of the Trustees
11. Committees
12. Control of funds.
13. Incorporation and registration
14. Execution of documents
15. Interested Trustees
16. Remuneration of trustees and payment of expenses
17. No private pecuniary profit
18. Alterations and additions.
19. Professional advice
20. Liability of Trustees
21. Winding up
22. General provisions

Schedule of Powers

Schedule of Intent in respect of Worship and Religious Education

Trust Deed made this        |                    day of                    &                    2022

**Parties:**

1. **The Vicar and Church Wardens** as agents for the Vestry ("Settlor")
2. **The Vicar, Spencer Wynyard Beasley, Surgeon, Trevor Francis Thornton**, Company Director, **Matthew Jonathan Slater**, Head of Product Commercialisation, **Amanda Kate Gordon Rigg**, Lawyer, Paul Marsh, Retired, all of Christchurch ("Trustees")

**Introduction:**

- A. The Settlor wishes to establish a trust for the Purposes.
- B. The Trustees have agreed to become the trustees of the Trust upon the terms and subject to the powers and discretions set out in this Trust Deed.
- C. The Settlor has paid to the Trustees and the Trustees hold the sum of \$10.00 upon the terms and with and subject to the powers and discretions set out in this Trust Deed.
- D. It is anticipated that further money, property and investments may from time to time be acquired by the Trustees for the Purposes.

This deed records:

**1. Definitions and Interpretation**

1.1 Definitions

The following definitions apply in this deed:

Act means the Trusts Act 2019.

Anglican Character means Christian character inspired by the teachings of the Anglican Church. The School has a long and continuing heritage as the church school for the Parish which is New Zealand's oldest Anglo-Catholic parish. It is expected that the character of the School will reflect worship, Christian teaching and ministry within the Catholic tradition of the Anglican Church.

Anglican Church means the Anglican Church in Aotearoa, New Zealand and Polynesia.

Annual Report means the annual report provided by the Trustees in accordance with clause 5.1. Appointor means the Vestry of the Parish.

Balance Date means 31 December, or any other date adopted from time to time by the Trustees, as the end of the Trust's Financial Year.

Bishop means the bishop of the Diocese.

Board means the board of trustees incorporated under Part 2 of the Charitable Trusts Act 1957. Chaplain means the chaplain of the School.

Church Property Trustees means the Church Property Trustees constituted a body politic and corporate by s2 of the Church Property Trust Ordinance 1854(C) and

continued by s5(3) of the Anglican (Diocese of Christchurch) Church Property Trust Act 2003.

**Church Wardens** means the church wardens from time to time of the Parish. Diocese means the Anglican Diocese of Christchurch in the Anglican Church. Extraordinary Vacancy has the meaning set out in clause 7.3.

Financial Year means any year or other accounting period ending on the Balance Date.

**Formal Association of Parents** means an association of parents of Pupils recognised by the Board and the Vestry as such an association. For the time being this association is the St Michael's Church School Parent, Teacher, Friend Association (PTFA).

Meetings means meetings in person and via other means specified in clause 10.9.

Parent means a person who is a parent or legal guardian of a Pupil and, where the term is used in clauses applying to the Board, means a person who at the time of their appointment is a parent or legal guardian of a Pupil.

Parish means the Parish of Christchurch St Michael's, also known as the Parish of St Michael and All Angels in the Diocese of Christchurch.

**Principal** means the principal of the School.

Pupils means the pupils of the School and Pupil means any one of them.

Purposes means the charitable purposes of the Trust as set out in clause 3.2. Replacement Trustee has the meaning set out in clause 7.3.

**School** means the St Michael's Church School at 249 Durham Street, Christchurch, New Zealand.

**Specified period** has the meaning as set out in clause 7.5.

**Standing Committee** means the executive committee of Synod elected to provide governance to the Diocese and to function as Synod out of session.

Synod means the Synod of the

Diocese. Term has the meaning set out in clause 7.2.

Trust Fund means any real and personal property owned or held by the Trustees on the trusts of this deed from time to time including such further money or property as may from time to time be added by way of capital or income to be held by the Trustees upon the trusts, for the charitable purposes and with the powers as set out in this deed.

Trust means the charitable trust established by this deed.

Trustees means the trustee or trustees of the Trust for the time being, whether original, additional or substituted and Trustee means any one of them.

**Vestry** means the vestry of the Parish.

Vicar means the vicar of the Parish and includes any priest appointed by the Bishop as Priest-in- Charge of the Parish during a vacancy between Vicars or when the Vicar is absent from the Parish for an extended period of time.

Warden means the warden of the School, being the Bishop.

## **1.2 Interpretation**

The following rules of interpretation apply in this deed:

- (a) The definitions specified in the St Michael's Church School Statute (2021) shall apply to this trust deed unless the context requires another meaning.
- (b) References to persons include natural persons, companies, and any other body corporates (wherever incorporated) and unincorporated bodies (wherever formed).
- (c) References to this deed means this deed, including its introduction and schedules, as amended and/or replaced from time to time.
- (d) References to clauses and schedules will be construed as references to clauses and schedules in this deed.
- (e) References to a paragraph in a schedule is to a paragraph of that schedule.
- (f) Headings and subheadings have been inserted for convenience only and will not affect the interpretation of this deed.
- (g) References to the words including, include or similar words do not imply any limitation and are deemed to have the words without limitation following them.
- (h) References to a statute or statutory provision means a New Zealand statute or statutory provision as amended, consolidated and/or replaced from time to time.
- (i) References to written or in writings shall include all modes of presenting or reproducing words, figures and symbols in a visible form (including via email).

## **2. Establishment**

### 2.1 Trustees

The Trustees agree to act as trustees of the Trust on the terms set out in this deed.

### 2.2 Trust Fund

The Trust shall comprise the Trust Fund which shall be held on trust by the Trustees and shall be managed and administered on the terms set out in this deed.

### 2.3 Term

The Trust shall continue until terminated under clause 21.

### 2.4 Name of Trust

The Trust shall be known as the St Michael's Church School Trust or such other name as the Trustees may determine by resolution from time to time.

### 2.5 Name of the School

The Parish owns the name St Michael's Church School, and the Parish grants use of that name to the Trust while the School remains open on the Durham Street site. If the School closes or moves from the Durham Street site the Parish shall be entitled to withdraw the Trust's right to use the name for

the School and if it does so, the Trust must immediately change the name of the School to exclude any reference to St Michael's Church

#### 2.6 Office

The office of the Trust and the Trustees shall be at such place as the Trustees from time to time decide.

### **3. Charitable Purposes**

#### **3.1 Establishment of School**

The Trust has been established for the purposes of governing the School's operational needs and educating its Pupils in the Anglican Character and implementing the principles of worship and religious education set out in the Schedule of Intent in respect of Worship and Religious Education.

#### 3.2 Charitable Purposes

The charitable Purposes of the Trust is the advancement of primary school education in the Anglican Character through the School.

#### 3.3 Limitation

The charitable Purposes of the Trust may not extend to any matter or thing which is not charitable within the meaning of the Income Tax Act 2007 or the Charities Act 2005 or not carried out within New Zealand.

### **4. Powers**

#### 4.1 General Powers

The Board *may* exercise the following powers in order to carry out its charitable purposes:

- (a) all the powers necessary to manage the Trust Fund and the Trust, including, in relation to the Trust Fund, the widest powers of an absolute owner of the Trust Fund, to the intent the Trustees powers will not be limited or restricted by any principle of construction or rule of law or statutory power or provision, except to the extent that it is obligatory; and
- (b) all the powers necessary to carry out the Purposes, including powers incidental to those in paragraph 4.1(a) and the powers contained in the Act.

#### **4.2 Powers not subsidiary or ancillary**

None of the powers or authorities conferred on the Trustees by clause 4.1 or otherwise will be deemed subsidiary or ancillary to any other power or authority and the Trustees may exercise any of those powers and authorities independently of any other power or authority.

#### **4.3 Specific Powers**

In addition to the general powers referred to in clause 4.1 and those implied by the general law of New Zealand or contained in the Act, the Board shall have the specific powers set out in the Schedule of Powers.

## **5. Obligations to the Appointor**

### **5.1 Annual Report**

The Trustees will within 180 days after each Balance Date provide to the Vestry an Annual Report. The Annual Report shall be in a form consistent with the requirements of the Charities Act 2005 and also include such other information as the Vestry may reasonably require.

### **5.2 Meetings**

The Trustees will communicate or meet with the Vestry for the purpose of progressing the interests of the School and Parish.

## **6. Separate Sub-trusts**

### **6.1 Discrete Funds**

The Trustees may establish discrete funds within the Trust dedicated to one or more of the Purposes.

### **6.2 Special Sub-trust**

The Trustees may accept gifts of any real or personal property to be held as a discrete fund to be applied to one or more of the Purposes subject to any terms and conditions attached to such gift by the donor, provided that such terms and conditions are not inconsistent with the charitable nature of the Trust.

### **6.3 Administration Costs**

The Trustees may decide whether the costs of administration for any discrete fund established under either clause 6.1 or 6.2 shall be met either out of such fund or out of the Trust Fund.

## **7. Trustees**

### **7.1 Number and Appointment of Trustees**

(a) The power of appointment of Trustees is vested in the Appointor.

(b) The number of Trustees shall be not fewer than five (5) and not more than eight (8) and shall comprise:

i. The Vicar as an ex officio Trustee with voting rights; except, on application to the Bishop, an alternative to the Vicar may be appointed for a Term specified in writing by the Bishop.

ii. A minimum of one (1) parent

iii. Trustees who shall be appointed by the Appointor on recommendation from the Board pursuant to any provisions contained in the Schedule of Powers

(c) No employee of the Board may be appointed as a Trustee.

(d) The Board may consult a Formal Association of Parents when determining whom to recommend to the Appointor for appointment.

(e) The Appointor will normally appoint Trustees such that not fewer than 50% of the Trustees are members of the Anglican Church, or members of another Christian denomination recognised (from time to time) by the Standing Committee.

(f) If at any time the requirements of clause 7.1(b) are not met, anything done by the continuing Trustees in accordance with this deed pending the appointment of a new Trustee or Trustees shall be as valid as if the requirements of that clause had been met.

## 7.2 Term of Appointment

(a) Subject to clause 7.2(d), all Trustees, other than the Vicar as an ex officio Trustee, shall hold the office of Trustee for a term of three (3) years (the Term).

(b) Trustees may not hold office for more than two consecutive Terms.

(c) Notwithstanding the above, under exceptional circumstances, a Trustee may be appointed for a further period at the recommendation of the Board and with agreement of the Appointor.

(d) Notwithstanding the above, when the Board is incorporated, the Appointor may appoint Trustees for one (1) or two (2) or three (3) years in order to avoid the terms of all Trustees concluding at the same time.

## 7.3 Extraordinary Vacancies

(a) In the event that any Trustee ceases to hold his or her office during that Trustee's Term (an Extraordinary Vacancy), then the Appointor may appoint a Replacement Trustee in accordance with clause 7.1(b) (Replacement Trustee).

(b) Despite clause 7.2, the term of office of any Replacement Trustee appointed under clause 7.3(a) as a result of an Extraordinary Vacancy will expire on the date that the Term of the predecessor of the Replacement Trustee would have expired if the Extraordinary Vacancy had not occurred.

## 7.4 Removal of Trustees by Appointor

(a) The power of removal of Trustees is vested in the Appointor.

(b) A Trustee shall cease to hold office if the Trustee:

(i) is removed from office by the Appointor, giving written notice of such removal to the relevant Trustee outlining the reasons for the removal, provided this power of removal does not apply to any Trustee appointed pursuant to clause 7.1(b)(i).

(ii) resigns as Trustee by giving written notice to the Trustees or the secretary of the Trust.

(iii) is declared bankrupt.

(iv) has his or her property affairs managed under the Protection of Personal and Property Rights Act 1988 upon the grounds of lack of competency to manage those affairs.

(v) is a "patient" as defined in s2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992.

(vi) refuses to act in service and delivery of the Purposes.

(vii) dies while holding office.

(viii) becomes disqualified to be an officer of a charity in accordance with section 16 of the Charities Act 2005.

(ix) fails to attend three (3) consecutive meetings of the Trustees without being granted written leave of absence by the Trustees; or

(x) is absent from New Zealand for twelve (12) or more consecutive calendar months without being granted written leave of absence by the Trustees.

### **7.5 Power of Intervention by the Bishop**

Despite anything in this Trust Deed to the contrary, if the Bishop (in his or her absolute discretion) determines in consultation with the Chancellor of the Diocese that it is necessary to intervene in relation to the performance of any of the Trustees' obligations, then the Bishop may:

(a) remove any one or more, or all, of the appointed Trustees with immediate effect; and

(b) appoint any number of Trustees to replace those dismissed pursuant to clause 7.5(a), provided

that if the exercise of the Bishop's powers under this clause 7.5 would result in the requirements of clause 7.1(b) not being met, then the Bishop must, when exercising those powers, specify in writing a reasonable period of time during which the requirements of clause 7.1(b) would not apply (the Specified Period). The requirements of clause 7.1(b) will apply immediately upon the expiry of the Specified Period, or on such earlier date elected by the Bishop.

(c) and shall inform in writing to the Trust the reason(s) for removing one or more of the Trustees.

### **7.6 Records**

The Trustees shall record in the minute book of the Trust every appointment, reappointment, removal, or cessation of office of any Trustee and shall ensure that any statutory requirements as to the vesting of the Trust Fund in the Trustees and the notification of the change of Trustees are satisfied.

### **7.7 Qualification and Declaration of Trustees**

(a) Despite anything to the contrary in this clause 7, not fewer than 50% of the Trustees would normally be members of the Anglican Church, or members of another Christian denomination recognised (from time to time) by the Standing Committee.

(b) Upon becoming a Trustee of the Trust, each Trustee must declare in writing that he or she submits to the Constitution and authority of the Anglican Church. This declaration shall be recorded in the minute book.

### **7.8 Validity of Proceedings**

Where, for any reason, a Trustee is not properly appointed, re-appointed or is disqualified from holding office, anything done by that Trustee (or by a meeting at which the Trustee was present as a Trustee) before becoming aware of the irregularity, shall be as valid as if that Trustee had been duly appointed, re-appointed or had not been disqualified (as the case may be).

## **7.9     The Principal**

The Principal shall normally attend meetings of the Board except where the Trustees choose to meet exclusively as the Trustees.

## **7.10 Chairperson and Deputy Chairperson**

The Trustees will Bi-annually elect a chairperson and deputy chairperson from among the Trustees.

### **8. Appointment and Removal of Officers**

#### **8.1 Appointment**

- (a) The Trustees may appoint any officers of the Trust, such as secretary and treasurer, on such terms as the Trustees think fit.
- (b) The Trustees may appoint, via nomination or election, chairs of committees formed under clause 11.1.
- (c) Officers of the Trust will be appointed on an annual basis for a term of one year.

#### **8.2 Removal**

The Trustees may remove and replace any officer. If an officer is a Trustee, that Trustee shall automatically cease to hold office as an officer upon ceasing to be a Trustee, unless the Trustees determine otherwise.

## **9. Duties and Functions of**

### **the Trustees 9.1 Transparency**

The Trustees shall conduct the business and activities of the Trust in an open and transparent manner.

#### **9.2 Perpetual Trust**

The Trustees expressly declare that it is their intention that the Trust shall be a perpetual trust but that the Trustees shall have power to:

- (a) deal with the income derived from the Trust Fund in accordance with clause 9.3; and
  - (b) pay, apply, or appropriate such portion of the capital of the Trust Fund towards the attainment of the Purposes as the Trustees consider prudent taking into account the above intention,
- provided that nothing in this clause shall restrict the powers of the Trustees pursuant to clause 21.

### **9.3 Income**

The Trustees shall stand possessed of the income derived from the Trust Fund upon the following trusts:

- (a) to pay or apply the same or any part of that income for or towards the Purposes, including meeting all operational costs of running the School.
- (b) to appropriate for any of the Purposes the whole or any part of the income arising from the Trust Fund whether or not the same shall have been received by the Trustees.
- (c) to make or retain out of, or charge against income, in any Financial Year any payments, reserves or any provision of a capital nature for any of the Purposes or incidental to the exercise of any of the powers, authorities or discretions conferred on the Trustees by this deed in respect of the Trust Fund.

(d) to accumulate the whole or any part of the income derived by the Trust by investing the same and any resulting income therefrom, to the intent that the Trustees may elect either:

(i) to resort to any accumulated surplus for the same purposes and subject to the same trusts and powers as set out in this deed as for income; or

(ii) to add any accumulated surplus as an accretion to the Trust Fund to be held by the Trustees upon the same trusts and with the powers declared in this deed in respect of the capital of the Trust Fund.

## 10. Proceedings of the Trustees

### 10.1 Ordinary Meetings

(a) The Trustees shall meet as regularly as they consider necessary for the efficient and proper conduct of the Trust's affairs, but in any event at least four (4) times in each Financial Year.

(b) Approximately four months after the end of each Financial Year, a meeting of the Trustees shall be called to receive and consider the Annual Report and financial statements of the Trust.

### 10.2 Special Meetings

(a) A special meeting may be called at any time by two (2) or more Trustees.

(b) The purpose and subject matter of that special meeting must be clearly outlined to all Trustees.

### 10.3 Warden

The Warden may attend any meeting of the Trustees and, if he or she does attend any such meeting, the Warden may choose to exercise the right to assume the role of chairperson for the duration of the meeting and has the right to vote

### 10.4 Confidentiality

All meetings of the Trustees shall be confidential. No members of the public or the wider School community or officers of the Appointor may attend a meeting without the prior consent of the Chair.

### 10.5 Notice of Meetings

(a) Written notice of the date, time and place of each meeting of the Trustees shall be hand delivered, posted, sent by email or other agreed electronic means to each Trustee and the Warden at least seven (7) days before the date of the meeting.

(b) In the case of a special meeting, the notice may be fewer than seven (7) days, but no less than one (1) day, if the reason for the meeting is urgent, but it must still state the purpose and subject matter of the meeting.

(c) The secretary or another person acting under the Trustees' direction or, in the case of a special meeting, acting under the direction of those Trustees calling the meeting, shall give notice of the meeting.

(d) No notice shall be required for adjourned meetings.

(e) The requirements for notice under clause 10.5(a) and (b) may be waived if all those Trustees who are for the time being in New Zealand give their consent to waive notice.

## **10.6 Quorum and Adjournment**

- (a) A quorum for meetings of the Trustees shall be a majority of Trustees and no business shall be transacted unless a quorum is present.
- (b) If a quorum is not present within 30 minutes after the time appointed for any meeting, the meeting shall be adjourned to the same time and day of the following week and if no quorum is present at that meeting, the Trustees who are present shall constitute a quorum.

## **10.7 Resolutions**

- (a) Except as provided otherwise in this deed, a resolution is validly made when it is passed at a duly convened and conducted meeting of the Trustees by a majority of the Trustees then in office and present and voting at that meeting.
- (b) The Chairperson will have a casting vote.
- (c) Voting shall be by show of hands or oral indication unless a ballot is directed by the chairperson or required by any two (2) of the Trustees present at the meeting.
- (d) A resolution in writing signed by all the Trustees shall be valid as if it had been passed at a meeting of the Trustees duly convened and conducted. Any such resolution may consist of several documents in like form each signed by one or more of the Trustees.
- (e) A resolution may be made by email circulation or other accepted electronic means providing that the resolution is agreed to according to rules the Board shall establish for the making of resolutions by email or other electronic circulation.
- (f) Any such resolutions once passed should appear in the agenda papers for noting at the next meeting

## **10.8 Records**

- (a) A proper written record of all decisions and business transacted at every meeting of the Trustees shall be kept in accordance with legislation.
- (b) Any minute of a meeting of the Trustees which is purported to be signed by the chairperson of the next meeting shall be evidence of those proceedings.
- (c) Where minutes of a meeting of the Trustees have been made in accordance with this clause 10.8 then, until the contrary is proved, the meeting shall be deemed to be properly convened and conducted.

## **10.9 Telephone and Video Conferencing**

Any meeting referred to in this deed may be conducted and attended by telephone conference, video conference or any similar means of electronic, audio or audio-visual communication. All participants in a meeting via such means shall be deemed to be present in person at the meeting and shall be entitled to be counted in the quorum and to vote.

## 11. Committees

### 11.1 Committees

- (a) The Trustees may appoint any committee as they think fit for carrying out the Purposes and may delegate any of the Trustees' powers to any such committee, ensuring at least one Trustee is a member of that committee.
- (b) Any such committee may co-opt any other person, whether a Trustee or not, to be a member of that committee.
- (c) Subject to this deed and any directions that the Trustees might give, each committee may regulate its own procedures but will always report back to the Trustees.

## 12. Control of Funds

### 12.1 Trust Fund bank account

All money received by or on behalf of the Trust shall be paid promptly to the Trust's bank account. IZ.2 Receipts of Gifts

The secretary, treasurer or other officer of the Trust shall have the power to receive and give receipts for all legacies, donations, subscriptions or other moneys bequeathed, made or given to the Trust and every such receipt shall be an effective discharge for the money or other money stated to have been received.

### 12.3 Receipts for Payments

The receipt of the secretary, treasurer or other person appearing to the Trustees to be authorised to give receipts on behalf of the recipient of any payment made under this deed shall be a complete discharge to the Trustees for that payment.

## 13. Incorporation and Registration

- (a) The Trustees shall, as soon as practicable after this deed is executed seek:
- (i) incorporation in accordance with the provisions of the Charitable Trusts Act 1957; and
  - (ii) registration under the Charities Act 2005.
- (b) When the Trustees incorporate the Trust in accordance with the Charitable Trusts Act 1957, the name of the Board shall be St Michael's Church School Trust Board.

## 14. Execution of Documents

### 14.1 Charitable Trusts Act 1957

As a result of the Trustees' incorporation as a board under the Charitable Trusts Act 1957:

- (a) documents to be executed by the Trustees which are required by law to be by deed shall be executed under its common seal and attested by any two (2) of the Trustees. The common seal must not be affixed to any document unless the Trustees have already authorised its use on that document; and

(b) any other documents to be executed by the Trustees shall be signed by any two (2) of the Trustees.

## **15. Interested Trustees**

### **15.1 No Vote**

(a) No Trustee shall vote or take part in deliberations on any transaction, except for the setting of School fees, in which he or she has any personal or pecuniary interest or in which any company or other body in which the Trustee has a personal or financial interest itself has any pecuniary interest.

(b) However, that Trustee may:

(i) attend a meeting of the Trustees and be counted as part of the quorum.

(ii) sign a document relating to the transaction on behalf of the Trust; and

(iii) do anything else as a Trustee in relation to the transaction, as if he or she were not interested in the transaction.

## **15.2 Disclosure of Interest**

(a) Any Trustee should declare any perceived conflict of interest at the commencement of the meeting or at any time subsequently where they become aware of a potential conflict of interest

(b) That disclosure shall include all relevant detail needed to result in a full and fair disclosure.

(c) A disclosure of interest by a Trustee must be recorded in the minute book of the Trust.

(d) Depending on the nature of the conflict of interest it does not necessarily preclude that Trustee being involved in discussion of the relevant matter, but normally the trustee would not vote on the matter should it come to a vote or resolution and must comply with 16.2 (b) below.

## **16. Remuneration of Trustees and Payment of Expenses**

### **16.1 No remuneration for trusteeship**

None of the Trustees shall be paid any remuneration for time spent as a Trustee but shall be entitled to such expenses incurred in that capacity as the Trustees may from time to time authorise or ratify by resolution. The intent is that no Trustee shall derive pecuniary gain from his or her office as a Trustee, or from any act done in the capacity of a Trustee but may be paid expenses if the Trustees so resolve.

### **16.2 Professional Fees**

(a) Subject to clause 16.2(b), any Trustee shall be entitled to be paid all usual professional, business and trade charges for business transacted, time expended and all acts done by him or her or any employee or partner of his or hers in connection with the trusts of this deed, other than acting as a Trustee.

(b) No Trustee receiving any remuneration referred to in clause 16.2(a) shall take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration nor shall that Trustee in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid. Any such remuneration must be approved in writing by the Trustees.

**17. No Private Pecuniary Profit**

Nothing expressed or implied in this deed shall permit the activities of the Trust or any business carried on by or on behalf of or for the benefit of the Trust to be carried on for the private pecuniary profit of any individual.

**18. Alterations and additions****18.1 Voting**

Subject to clause 18.2, the Trustees may resolve to amend any provisions of this deed. Any resolution to effect an alteration or addition must be passed by unanimous resolution of the Trustees with the approval of the Appointor

**18.2 Limitation on Amendments**

(a) No amendment may be made to this deed in any respect which would have the effect of causing the Trust to cease to be a charitable trust or to amend the Purposes to include any objective which is not a charitable objective or one to be achieved outside New Zealand or to prejudice the efficacy of clauses 15, 17, 18 or 21.

(b) No amendments may be made to the following areas of this deed without the consent of the Warden:

1. Mission Statement,
2. Definition of Anglican Character,
3. Schedule of Intent in relation to Worship and Religious Education,
4. The role of the Bishop,
5. The role of the Appointor,
6. The role of the Vicar
7. The role of the Warden.
8. Schedule of Powers

**18.3 Income Tax Act and Charities Act**

Notwithstanding anything set out in clauses 18.1 or 18.2, the Appointor and the Trustees shall amend this deed to comply with the Income Tax Act 2007 or the Charities Act 2005 or their respective amendments.

**19. Professional Advice****19.1 Legal Advice**

The Trustees may obtain and act upon the opinion or advice of a practising barrister or solicitor of the High Court of New Zealand upon any matter concerning:

- (a) the interpretation of this deed, any other document, or any law; or
- (b) any rights, powers, liabilities or obligations of any Trustee; or

- (c) the administration of this Trust.

The Trustees will not be liable to any person for any act or omission of them in accordance with that opinion or advice. This clause does not prevent the Trustees from making an application to the court. For the avoidance of doubt, the Trustees shall be entitled to be indemnified out of the Trust Fund against all costs, expenses, claims and liabilities in respect of their actions (or failure or refusal to take action) in accordance with that opinion or advice.

## **20. Liability of Trustees**

### 20.1 Duties

The Trustees will:

- (a) comply with the mandatory duties of trustees as specified in Sections 23-27 inclusive of the Act; and
- (b) comply with the default duties as specified in Sections 29-38 inclusive of the Act, except to the extent that the same have been modified or excluded in this deed

### **20.2 Individual Liability**

Individual Trustees or former Trustees have no liability for losses of any kind to the Trust Fund however they are caused, except to the extent that they are wholly or mainly caused by the Trustee's or former Trustee's:

- (a) own dishonesty or lack of good faith; or
- (b) wilful commission or omission of any act known by that Trustee or former Trustee to be a breach of trust; or
- (c) gross negligence.

### 20.3 Proceedings

No Trustee shall be bound to take any proceedings against a co-Trustee or former Trustee for any breach or alleged breach of trust by that co-Trustee or former Trustee.

### **20.4 Indemnity**

Each Trustee or former Trustees is entitled to be indemnified out of the Trust Fund against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, costs (including legal costs) and expenses (together called "liabilities") suffered or incurred by that Trustee or former Trustee in connection with the Trust, except to the extent that those liabilities are due to that Trustee's or former Trustee's:

- (a) dishonesty or lack of good faith; or
- (b) wilful commission or omission of any act known by that Trustee or former Trustee to be a breach of trust; or
- (c) gross negligence.

## 21. Winding Up

### **21.1 Decision to Wind Up**

The Trustees may wind up the Trust if, in their opinion, and in prior consultation with the Vestry, it becomes impossible, impracticable or inexpedient to carry out the Purposes.

#### 21.2 Transfer of Trust Fund

(a) In the event of the Trust being wound up and after all liabilities of the Trust have been discharged, the Trustees shall transfer all remaining funds and assets comprising the Trust Fund in the following sequence to:

(i) The Parish; or if the Parish ceases to exist to

(ii) another Anglican school in Christchurch which is exclusively charitable and which has Purposes similar to those of the Trust; or

(iii) another Anglican school in New Zealand which is exclusively charitable if no sufficiently similar charitable organisation can, in the opinion of the Trustees in their absolute discretion, be identified in accordance with clause 21.2(a)(i) or (ii).

(b) If the Trustees are unable to make such decisions the Trust Fund shall be disposed of in accordance with the directions of the High Court under section 27 of the Charitable Trusts Act 1957.

## 22. General Provisions

### 22.1 Governing Law

The Trust shall be governed by and construed in accordance with the laws of New Zealand.

### **22.2 Acknowledgement**

(a) The Settlor acknowledges that, before this deed was signed, the Settlor:

(i) was told about the duties of Trustees under the Act, and, in particular, the "default duties" in Sections 29 to 38.

(ii) was told the extent to which the default duties have been modified under this deed; and

(iii) is aware of the meaning and effect of these modifications and exclusions.

(b) The Settlor understands that, while the Act is in force, nothing in this deed can release Trustees from liability for a Trustee's dishonesty, wilful misconduct or gross negligence.

Executed as a deed

SIGNED by

Johannes I)

  
M Peters

as Vicar and as a Settlor and a Trustee  
in the presence of:

*Signature of Witness*

\_\_\_\_\_  
*Name of Witness*

\_\_\_\_\_  
*Address of Witness*

  
\_\_\_\_\_  
*Occupation of Witness*

SIGNED by  
Michael NeMon Graveston  
as Vicar's Warden and a Settlor  
in the presence of:

)   
) \_\_\_\_\_  
) M N Graveston

  
\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Name of Witness*

\_\_\_\_\_  
*Address of Witness*

8022

\_\_\_\_\_  
*Occupation of Witness*

as People's Warden and a  
Settlor in the presence of:

S)  
Jane) \_\_\_\_\_  
          ) J Evans

  
\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Name of Witness*

22 COLDSTREAM RD, RANGLIORA 2473  
\_\_\_\_\_  
*Address of Witness*

HOBBIT  
\_\_\_\_\_  
*Occupation of Witness*

SIGNED by

) \_\_\_\_\_  
Spencer Wynyard Beasley  
          ) S W Beasley

as a Trustee in the presence of:

\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Name of Witness*

\_\_\_\_\_  
*Address of Witness*

Bursar  
\_\_\_\_\_  
*Occupation of Witness*

SIGNED by  
Trevor Francis Thornton  
as a Trustee in the presence of:

)  
)  
) T F Thornton



  
Signature of Witness

Name of Witness  
5 Kenmure Drive

Address of Witness

Occupation of Witness

SIGNED by  
Matthew Jonathan Slater  
as a Trustee in the presence of:

)  
)  
) M J Slater



  
Signature of Witness

Jocelyn Richards  
Name of Witness  
Kenmure Drive

Address of Witness

Occupation of Witness

SIGNED by  
Amanda Kate Gordon Rigg  
as a Trustee in the presence of:

)  
)  
) AKG



Signature of Witness

\_\_\_\_\_

Name of Witness **Ian Ramsay Kearney**

Solicitor

**GHRISTCHURCH**

Address of Witness

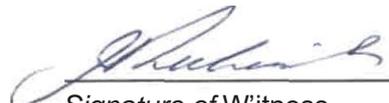
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Occupation of Witness

SIGNED by  
Paul Marsh

as a Trustee in the presence of:

) Paul Marsh  
) P Marsh

  
Signature of Witness

\_\_\_\_\_ Name of Witness

\_\_\_\_\_ Address of Witness

\_\_\_\_\_ Occupation of Witness

## Schedule of Powers

### Specific Powers

The Trustees have the following specific powers to further the Purposes. None of these powers shall otherwise be deemed subsidiary or ancillary to any other power or authority and the Trustees shall be entitled to exercise all or any of the said powers and authorities independently of any other or others of them:

#### 1. Governance of the School

To govern the School, including the power from time to time (and without limiting the application of this clause) to:

- a. use the Trust Fund as the Board thinks necessary or proper in payment of the costs and expenses of the Trust, including the employment of professional advisors, agents, officers and employees as appears necessary or expedient.
- b. engage and dismiss the Principal, provided that:
  - (i) the Vicar must form part of any quorum of Trustees exercising the power to appoint the Principal; and
  - (ii) the Trustees must ensure that the proposed Principal is willing to uphold the Anglican Character of the School (in order to further the Purposes); and
  - (iii) the Warden is consulted by the Trustees prior to the appointment of the Principal.
- c. delegate authority to the Principal to enrol Pupils.
- d. fix fees and other payments payable by or in respect of all or any Pupils.
- e. appoint a chaplain in consultation with the Bishop and the Principal if the Parish is unable to provide Chaplaincy to the School. This person must be ordained and a member of the Anglican Church sympathetic to the Anglo-Catholic traditions and faith unless otherwise agreed by the Warden. It would be expected that any chaplain would work closely with the Vicar of the Parish.
- f. Identify skills needed among the Trustees and when vacancies arise make recommendations for appointment to the Appointor.
- g. review from time to time the Anglican Character of the School and the statement of worship and religious education contained in the Schedule of Intent in respect of Worship and Religious Education in consultation with the Appointor, Vicar and the Warden, and to recommend changes to the definition of Anglican Character and/or the statement of worship and religious education under this Trust Deed for amendment in accordance with clause 18 of the Trust Deed.

#### 2. Raising funds

To raise money for any of the Purposes, including by soliciting, receiving, and enlisting financial or other aid from individuals and organisations, including gifts and bequests from individuals and organisations, and to conduct fundraising activities.

#### 3. Investments

To invest the Trust Fund and the income from it on such terms as the Trustees decide and to vary such investments from time to time. The Trustees may retain any investments for as long as the Trustees think proper. The duties in sections 29 and 30 of the Act do not apply to the Trustees. However, if one or more of the Trustees is or are engaged in a profession, employment or business which is or includes acting as a trustee or investing money on behalf of others, then that Trustee or those Trustees (as the case may be) shall be required to exercise the care, diligence, and skill that a

prudent person of business would exercise in managing the affairs of others. The Trustees may hold any part of the Trust Fund uninvested and in any currency for as long as the Trustees think fit.

#### 4. Discharge all obligations

To discharge all obligations, financial or otherwise in respect of any contract, lease, memorandum or other agreement whatsoever entered into with the Parish, Church Property Trustees, or any third party.

#### 5. Property

##### 5.1 School Buildings and Facilities

To procure the School to meet all obligations regarding the use and care of the buildings and other facilities of the Parish which are used by the School as outlined within this Trust Deed, any contract, lease, memorandum or other agreement whatsoever between the Trustees on behalf of the School and either Church Property Trustees or the Parish Trust on behalf of the Parish.

##### 5.2 The School

To maintain and develop, in collaboration with the Parish Trust, the property in which the School resides provided however any requirement for expansion of the School on the Durham Street site or other site will require the consent of Vestry.

##### 5.3. Purchasing property

To purchase or otherwise acquire any property and to agree to any covenants or other interests to be registered against the title to any real property not owned by Church Property Trustees on behalf of the Parish.

##### 5.4. Selling property

To sell, exchange or otherwise dispose of any property owned by the Trust on such terms as the Trustees decide, including power to allow such part of the purchase price as the Trustees think fit to remain on loan with or without security or to be payable by instalments.

##### 5.5. Granting or obtaining options

To grant or obtain an option to purchase, sell, lease, or exchange any property.

##### S.6. Postponing sale

To postpone the sale, calling in and conversion of any property (even if it is of a wasting, speculative, terminable, or reversionary nature) not owned by Church Property Trustees on behalf of the Parish.

##### 5.7. Leasing property

To lease, take on lease or renew, vary, or surrender any lease of any property not owned by Church Property Trustees on behalf of the Parish on such terms as the Trustees decide.

##### 5.8. Insuring property

To insure against any risk for their full insurable value any property:

- a. not owned by Church Property Trustees on behalf of the Parish.

b. any property owned by Church Property Trustees on behalf of the Parish for which this Trust or the School is responsible to provide the insurance.

#### 5.9. Subdividing property

To subdivide any real property not owned by Church Property Trustees on behalf of the Parish.

#### 5.10. Maintaining property

To maintain, manage and improve property owned or leased by the School, that is not beneficially owned by Church Property Trustees on behalf of the Parish.

#### 5.11. Developing property

To develop any real property owned by the School or leased by the School, that is not beneficially owned by Church Property Trustees on behalf of the Parish, and to do all things which the Trust consider necessary *or* desirable for the proper completion of the development.

#### 6. Capital, income, and blended funds

To determine whether any money is to be considered as capital or income, and which expenses should be paid out of capital and out of income respectively, and to apportion blended funds. Each determination or apportionment shall be final and binding.

#### 7. Depreciation or replacement funds

To set up and maintain any depreciation or replacement funds for any purpose the Trustees think fit, and in this regard to determine in their discretion:

- a. the amount of income to be credited from time to time to any of those funds; and
- b. whether those funds are income or capital.

### B. Operating bank accounts

To open any bank accounts in any name(s) either on the Trust's behalf or jointly with another, and to overdraw any such account with or without giving security. The Trustees may also make arrangements with any bank for any one or more of the following persons to operate any of the Trust's accounts at that bank:

- a. the Trustees; and
- b. any delegate(s) named in writing by the Trustees.

#### 9. Borrowing money

To borrow money providing any mortgages are raised on property owned by the Trust.

#### 10. Lending money

To lend money to any person on such terms as the Trustees decide and whether with or without security or interest.

#### 11. Granting security

To grant security over any property owned by the School (whether or not the liabilities or obligations secured are joint, several, or joint and several).

## 12. Granting guarantee or indemnity

To grant any guarantee or indemnity that the Trustees consider is for the benefit of the Trust.

## 13. Waiving debts

To waive any debts due to the Trust, either absolutely or on such terms as the Trustees think fit.

## 14. Actions in relation to debts, securities, guarantees or indemnities

**To renew, confirm or vary any debt, security, guarantee, or indemnity.**

## 15. Compromise of claim

To agree to any compromise of claim for or against the Trust.

## 16. Creditor meetings

To vote at any meeting of creditors of any debtor of the Trust.

## 17. Carrying on a business

17.1 To acquire, begin, or carry on any type of business, either alone or in partnership with any person or persons for such time as the Trustees think fit and, if it does so, then:

- (a) The Trustees may employ managers, agents, contractors, and employees in that business.
- (b) The Trustees may wind up or agree to wind up that business or otherwise withdraw from that business.
- (c) The Trustees will not be liable for any loss caused by carrying on the business.
- (d) The Trustees will meet any business losses for any accounting period out of the income and capital of the Trust Fund in such proportions as the Trustees think fit.

## 18. Promoting a corporation

18.1 To promote and form a corporation anywhere in the world for any purpose, ensuring that it is aligned with Christian practice, ethical considerations and environmentally responsible.

18.2 To agree on any terms in the winding up, reconstruction or amalgamation of any corporation in which the Trustees hold shares.

## 19. Holding shares in a corporation.

19.1 To subscribe for or otherwise acquire shares in a corporation (even though the Trustees may incur liability for future calls on the shares).

19.2 To exercise the Trustees' rights (as director, member, or otherwise) in respect of the corporation under the corporation's constitution or the law whether or not the corporation may do or cause to be done an act which the Trustees cannot do personally; and

19.3 To generally act in relation to the corporation in whatever manner the Trustees think fit.

## **Schedule of Intent in Respect of Worship and Religious Education**

**The Parish of St Michael and All Angels and St Michael's Church School have a long history with the Anglo-Catholic faith. Part of the expression of this faith is the regular participation in the Eucharist or Mass. There is a desire by all that the Parish and School continue to foster the spiritual growth of all Pupils of St Michael's Church School.**

1. The School is to be a community of worship, learning and ministry, within the Catholic tradition of Anglicanism, in which the Christian faith as proclaimed in and through the Anglican Church in Aotearoa, New Zealand and Polynesia may be nurtured.
2. The School will provide an environment in which true Christian values are sought and fostered, and taken into account in decisions, actions and methods.
3. The Vicar shall guide the religious teaching and spiritual care given in the School, under such provisions as shall be agreed with the Principal. This work may, however, be undertaken by others with the Vicar's approval and/or through a chaplain licensed to the Vicar by the Bishop of Christchurch, as shall be agreed with the Principal.
4. The Vicar or Chaplain will undertake, or delegate to an appropriate member of the School or Parish community, school Mass weekly or otherwise at the vicar's discretion and on other special occasions at a mutually agreeable time during or after school hours, during term time, as negotiated with the Principal.
5. It is expected that the School community and the parish community will join in worship at least once a term; for example, for Mothering Sunday, Founders' Day and the School Carol service.
6. Members of the School community may lead any chapel service at the discretion of the Vicar or Chaplain.
- 7.

## THE ST MARGARET'S COLLEGE CONSOLIDATION STATUTE 2011

Enacted 2011; Amended 2012, 2015

- 1. Title**

The title of this Statute is the **St Margaret's College Consolidation Statute 2011**.
- 2. Commencement**

This Statute comes into force on passing.
- 3. Purpose**

The purpose of this Statute is to amend the St Margaret's College Consolidation Statute 2011 (referred to as the "principal Statute"), which is the governing document of the St Margaret's College Trust, so as:

  - (1) To ensure that it complied with the requirements of the Charities Act 2005; and
  - (2) To introduce term limits for Trust Board members.
- 4. The St Margaret's College Trust Board**
  - (1) The Governing Body of St Margaret's College will be the St Margaret's College Trust Board (the "Trust Board"), a Board duly incorporated under the Charitable Trusts Act 1957.
- 5. Charitable objects of the Trust Board**
  - (2) The charitable objects of the Trust Board are to advance education and Christian religion by:
    - (a) the provision of education through the maintenance and operation of St Margaret's College; and
    - (d) the provision of such other forms of education and training as are from time to time approved by the Trust Board; and
    - (e) the undertaking of such other religious, educational and charitable activities as are from time to time approved by the Trust Board.
  - (3) The objects of the Trust Board may not extend to any matter or thing which is not charitable in the meaning of the Income Tax Act 2004 or not carried out within New Zealand.
  - (4) The Trust Board is empowered to carry out any one or more of the objects of the Trust Board independently of any other object of the Trust Board."
- 6. Trust Board Membership**
  - (1) The membership of the Trust Board will include:
    - (a) The Bishop of the Diocese who is the Warden of the College and will preside at meetings of the Trust Board if the Bishop desires.
    - (b) No less than four (4) and no more than twelve (12) further members, to be appointed as follows:
      - (i) Two (2) members appointed by the Standing Committee of the Diocese at its annual session in the manner prescribed in its Standing Orders governing the conduct of its elections.

Sept 2022

- (ii) Up to ten (10) members appointed by the Trust Board, recognising the desirability of having a parent of a Boarder or Boarders on the Trust Board.
- (c) A person who does not meet the requirements of s16 of the Charities Act 2005 is not to be eligible for appointment, or to remain in office, as a member of the Trust Board.
- (d) If the above event occurs to an existing Trust Board member, they shall be deemed to have vacated their office upon such event.
- (2) Of those members appointed pursuant to clause 5(1)(b), one member:
  - (d) will represent the Trust Board at meetings of the St Margaret's College Old Girls' Association Inc.
  - (e) will represent the Trust Board at meetings of the St Margaret's College Parents and Friends Association.
  - (f) Will represent the Trust Board at meetings of the St Margaret's Foundation.
- (3) Each member appointed under clause 5(1)(b) will hold office for a term of four (4) years but does not vacate office until such time as his or her successor is elected. At the expiration of his or her term, a member is eligible for re-appointment for two further terms, after which the member may not be reappointed and may not serve as a member of the Trust Board until a further four (4) years has passed.
- (4) Any member may tender his or her resignation in writing to the Trust Board at any time. The member tendering his or her resignation must provide a notice period of no less than three (3) months.
- (5) If any member is absent from three consecutive meetings of the Trust Board without leave, his or her seat on the Trust Board will be declared vacant. Notice will be given in writing to the member that his or her appointment has been terminated effective immediately. The minutes of the Trust Board meeting are definitive evidence of a member having missed that Trust Board meeting.
- (6) Within one week of the Trust Board being notified of a vacancy of a position appointed pursuant to clause 5.1(b)(i) the Trust Board will notify the Standing Committee the Diocese which will appoint a person to fill the vacancy.
- (7) If a vacancy arises in a position appointed by the Trust Board then the Trust Board has the discretion to fill this position ensuring that the Trust Board fulfils its obligations under the Policy Document and clause 5(1)(b)(ii).
- (8) Where a new member fills a vacancy on the Trust Board the new member will hold office for the remainder of the term of the member they are replacing.
- (9) Any member except the Bishop may be removed from his or her appointment by special resolution of the Trust Board of no less than seventy five per cent (75%) of its members.
- (10) The Trust Board will, from among its members, elect a Chairperson who, subject to the provisions of clause 5(1)(a), will preside at all meetings of the Trust Board. The Chairperson will be elected by a majority of those present and voting at the relevant meeting.

- (11) The Trust Board will, from among its members, elect a Vice Chairperson. The Vice Chairperson will be elected by a majority of those present at voting at the relevant meeting.
- (12) In the absence of the Warden, Chairperson and Vice Chairperson, the members present will elect a Chairperson for the meeting.
- (13) Any Chairperson elected under clause 5(10) will hold office for a term of three(3) years from the time of election and is entitled to be re-elected.
- (14) Any Vice Chairperson elected under clause 5(11) will hold office for a term of three (3) years from the time of election and is entitled to be re-elected.
- (15) It is desirable that Trust Board members are members of the Anglican Church in Aotearoa, New Zealand and Polynesia or a member of the Church of any other Christian denomination approved by the Standing Committee of the Synod of the Diocese for the purpose of membership of the Trust Board.
- (16) The quorum for a meeting of the Trust Board is no less than one half plus one of the members of the Trust Board.

#### **7. Benefits to Trust Board members**

- (1) Any income, benefit or advantage received by the Trust Board or its members in their capacity as members of the Trust Board must be applied for the objects and purposes of the Trust Board;
- (2) No member of the Trust Board, or any person associated with a member of the Trust Board, may derive any income, benefit or advantage from the Trust Board where the member in question can materially influence the payment of the income, benefit or advantage, except where that income, benefit or advantage is derived from:
  - (a) Goods or services provided to the Trust Board which advance the purposes of the Trust Board and are rendered in the course of business and charged at no greater rate than market rates; or
  - (b) Interest on money lent at no greater rate than current market rates.

#### **8. Duties and Functions of the Trust Board**

- (1) The Trust Board must adhere to the Trust Board Policy document as attached, marked "Schedule One". The Trust Board may alter the Trust Policy Document by special resolution of the Trust Board of no less than seventy five per cent (75%) of its members.
- (2) The Trust Board is responsible for enabling the provision of educational excellence to the students of St Margaret's College by:
  - (a) maintaining and safeguarding the special character and Anglican nature of the school;
  - (b) maintaining those traditions of St Margaret's College supportive of educational excellence; .
  - (c) providing the governance, financial viability, conduct and strategic direction of St Margaret's College as a school.
- (3) The Trust Board may do all acts as may from time to time be necessary [to fulfil its objects] including:
  - (a) The appointment of an Executive Principal responsible to the Trust Board who must either be a member of the Anglican Church in

- Aotearoa, New Zealand and Polynesia or a member of the Church of any other Christian denomination approved by the Standing Committee of the Synod of the Diocese for the purpose of the appointment of such an Executive Principal.
- (b) The appointment of a Chaplain who must be an ordained priest of the Anglican Church in Aotearoa, New Zealand and Polynesia.
  - (c) The appointments by the Trust Board of an Executive Principal and a Chaplain are subject to approval by the Bishop.
  - (d) The hire and employment and payment of all teaching staff and or employees or contractors. This duty and function will be delegated to the Executive Principal except in special circumstances at the discretion of the Trust Board.
  - (e) The purchase, lease, gift, hire or otherwise or the sale, exchange, gift, lease, hire of any property either real or personal, buildings and furnishings.
  - (f) The borrowing or raising and giving security for money by the issue of bonds, debentures, stock, mortgages, or charge either unsecured or secured upon all or any of the property of the Trust Board or otherwise.
  - (g) The administering of all sums of money subscribed or donated by any person or organisation for the support or benefit of the Trust Board or St Margaret's College or St Margaret's College Foundation whether by the operation of any trust, devise or bequest or otherwise, subject to any special provision attaching.
  - (h) The establishment of sub-committees governed by the following rules:
    - (i) Each sub-committee will have a minimum of three (3) Trust Board members with a quorum for meetings of two (2) of those three (3) Trust Board members.
    - (ii) Each sub-committee will after each meeting of the sub-committee report in writing to the Trust Board and keep a record in the form requested by the Trust Board.
    - (iii) Any decision by a sub-committee is subject to ratification by the Trust Board.
- (2) The Trust Board must meet at least eight (8) times in each calendar year.
  - (3) The Trust Board will keep minutes of its acts and proceedings and such minutes will be on the Table of Synod at its annual session.
  - (4) The Trust Board will lay before Synod at its annual session a report covering its proceedings during the year together with an audited copy of the previous year's Financial Accounts.
  - (5) The appointment of the Executive Principal and the composition of the subcommittees must be as described in the Trust Board Policy document as attached marked "Schedule One".

## **9. Liability of Trust Board Members**

- (1) Any member of the Trust Board, Officer or employee of the Trust Board will be indemnified out of the assets of the Trust Board for and in respect

of any loss or liability which the said person may sustain or incur by reason of:

- (a) any act or omission in carrying out, or purporting to carry out, any:
  - (i) function;
  - (ii) duty; or
  - (iii) power  
in the execution of his or her duties or responsibilities in the management and administration of the Trust Board and/or the assets of the Trust Board except:
  - (iv) If such loss is caused by the member's dishonesty; or
  - (v) By his or her breach of trust when that breach is known to the member.
- (2) No member is obliged to take any proceedings against any co-member for breach or alleged breach of trust committed by a co-member and will not be liable for any losses for not taking such proceedings.

#### **10. Chargeable for Monies**

- (1) Every member of the Trust Board will be chargeable for only such monies that he or she has received. A member will not be liable for any loss which arises from trust funds being lawfully given by him, her or any other member to any banker, solicitor or agency or invested in any security.

#### **11. Winding Up**

- (1) The Trust Board may be wound up or dissolved upon:
  - (d) A resolution of seventy-five per cent (75%) of members of the Trust Board, considered at a meeting of the Trust Board held after at least ten (10) working days' notice has been given to all members of the Trust Board, that the matter of winding up or dissolution be referred to the Synod; and
  - (e) A resolution by Synod, passed in accordance with its Standing Orders, that the Trust Board be wound up or dissolved.
- (2) On the winding up or dissolution of the Trust Board, all surplus assets, after the payment of costs, debts and liabilities, will be given to the Church Property Trustees to be held on trust for such charitable purposes (with a preference for the purposes of Christian education) as the Standing Committee of the Diocese directs or, if the Standing Committee is unable to make such a decision, will be disposed of in accordance with the directions of the High Court under section 27 of the Charitable Trusts Act 1957.

#### **12. Interpretation**

- (1) The decision of the Standing Committee upon any question as to the construction or interpretation of this Statute or upon any matter for which express provision has not been made, will be conclusive unless or until revoked by Synod.
- (2) For the purpose of assisting the Standing Committee in the construction or interpretation of this Statute, it is declared that the provisions of this

Statute are enacted and are to be interpreted as being for the purpose of extending the powers of the Trust Board so far as reasonably possible.

**13. Repeal**

- (1) The St Margaret's College Consolidation Statute 1982 as amended in 1989, 1992 and 1995 is repealed.

## **SCHEDULE ONE**

### **St Margaret's College Trust Board**

**1. Policy Document**

- 1.1. This St Margaret's College Trust Board Policy Document ("Policy Document") governs the appointment by the St Margaret's College Trust Board (the "Trust Board"), of the members of the Trust Board, that the Trust Board itself is empowered to appoint pursuant to the St Margaret's College Consolidation Statute 2011.
- 1.2. The Policy Document also governs the establishment of subcommittees by the Trust Board and any other matters that the Trust Board deems necessary in its absolute discretion.

**2. Amendments**

- 2.1. The contents of this policy document may be amended by a special resolution of the Trust Board of no less than seventy-five (75) % of its members, from time to time.

**3. Trust Board Appointments**

- 3.1. Pursuant to the St Margaret's College Consolidation Statute 2011, the Trust Board has the right to appoint up to ten members to the Trust Board.
- 3.2. When appointing any member to be a member of the Trust Board, the Trust Board must ensure that at least one member of the Trust Board is also a member of, the St Margaret's College Old Girls Association Incorporated, the St Margaret's College Parents and Friends Association and the St Margaret's College Foundation, to enable the representation of the Board in each of these respective bodies.
- 3.3. The Trust Board will, when appointing a new member to the Trust Board follow the process set out below:
- (a) Make it known within the wider St Margaret's Community that a new member is to be appointed to the Trust Board.
  - (b) Request those persons interested in applying for the appointment to the Trust Board to provide the current Trust Board members with their professional CV and a covering letter outlining their skills and appropriate experience.
  - (c) A committee of the Trust Board will be established to interview the appropriate applicants and report back to the full Trust Board.

- (d) The Trust Board will then make a decision upon the appointment of the new member and the decision of the Trust Board shall be final.

#### 4. **Trust Board Re-appointments**

- 4.1. Where a Trust Board member has come to the end of their term and wishes to be reappointed to the Trust Board, they must give notice of this intention to the Trust Board three months prior to the expiry of their term.
- 4.2. The Trust Board will hold a discussion and then a vote on this reappointment in the absence of the member seeking reappointment.

#### 5. **Subcommittees**

- 5.1. As set out in the St Margaret's College Consolidation Stature 2011 the Trust Board may establish subcommittees.
- 5.2. The Trust Board may appoint these subcommittees as it sees fit.
- 5.3. Each subcommittee will have its own clearly defined Terms of Reference, which will be reviewed on an annual basis.
- 5.4. The subcommittees can include members of the management from St Margaret's College but these members of any subcommittee will not have voting rights.
- 5.5. Each subcommittee will have a chairman appointed by the Trust Board who will prepare an agenda prior to each subcommittee meeting and forward it to the Trust Board secretary for incorporation in the Trust Board papers.
- 5.6. Formal minutes are to be taken and inputs and recommendations made to the Trust Board.

#### 6. **Appointment of the Executive Principal**

- 6.1. The Executive Principal must be appointed by the Trust Board using a process that is appropriate taking into account the employment law currently in place in New Zealand.
- 6.2. The appointment of the Executive Principal must be approved by 75% of the members of the Trust Board and is subject to the approval of the Bishop of Christchurch.

## CRAIGHEAD DIOCESAN SCHOOL STATUTE

Enacted 1981; Amended 1989, 1992, 1995, 1999, 2010

TO CONSOLIDATE AND AMEND EXISTING LEGISLATION AFFECTING CRAIGHEAD DIOCESAN SCHOOL AND TO MAKE PROVISION FOR THE CONSTITUTION AND CONTROL OF THE SCHOOL.

### WHEREAS

- (a) The existing legislation affecting Craighead School is contained in the Craighead Diocesan School Statute 1953.
- (b) On the 20th November 1980 the School entered into a Deed of Agreement with Her Majesty The Queen, acting by and through the Minister of Education, to provide for the integration of the School pursuant to the Private Schools Conditional Integration Act 1975.
- (c) Consequent upon the said Agreement it is desirable to amend and consolidate the Statute to bring it into harmony with the provisions of the said Agreement and the Private Schools Conditional Integration Act 1975.
- (d) The School is administered by a Trust Board incorporated under Part II of the Religious Charitable and Educational Act 1908.
- (e) At the date hereof the Schools owns the four properties named and described in the Schedule hereto.
- (f) Part of the property being Lots 36 and 37 on Deposited Plan 3110 and Lots 1 and 3 on Deposited Plan 3203 Certificate of Title 281/97 known as the Shand Property is subject to a Deed of Agreement dated 8th October 1926 and made between the Vendors of the School of the first part, certain persons therein named and described representing the Purchasers of the School of the second part and the Bishop of the Diocese as representing the Diocesan Board of Education and the Diocese of the third part.
- (g) The said Deed of Agreement dated 8th October 1926 provides that the School shall not be carried on for the pecuniary profit of any person or persons, and shall be carried on for the giving of a good education, inclusive of religious training and instruction under the Church in Canterbury, and for the furtherance of the establishment and carrying on of Church Schools both primary and secondary, more especially in South Canterbury, and for the development and extension of its own work.

BE IT THEREFORE ENACTED by the Bishop, Clergy and Laity of the Diocese of Christchurch in Synod assembled as follows:-

## SHORT TITLE

1. THE Short Title of the Statute shall be "The Craighead Diocesan School Statute 1981".

## DATE OF COMING INTO OPERATION

2. THIS Statute shall come into force immediately on the passing thereof.

## STATUTES REPEALED

3. THE following Statutes are hereby repealed:
  - (a) Part III of "The Schools and Youth Work Statute 1935".
  - (b) Part IV of "The Schools and Youth Work Statute 1935" in so far as it relates to the School.
  - (c) The Craighead School Loan Statute 1947.
  - (d) The Craighead School Loan Amendment Statute 1950.
  - (e) The Craighead Diocesan School Statute 1953.

PROVIDED HOWEVER that all documents executed, all engagements entered into or liabilities assumed or payments made or other acts of authority which have originated or been made, performed or done under any of the said Statutes repealed by this Statute shall be deemed to be carried out done or performed under this Statute and shall ensure for the purposes of this Statute as if they had originated thereunder.

## PART I CONSTITUTION

### NAME

4. THE name of the School shall be "Craighead Diocesan School" (hereinafter called "the School").

### THE PROPRIETORS

5. THE Board is incorporated under the name of "CRAIGHEAD DIOCESAN SCHOOL PROPRIETORS" (hereinafter called "The Proprietors").
6. THE School is an integrated School under the Private Schools Conditional Integration Act 1975 as evidenced by a Deed of Agreement bearing date the 20th day of November 1980 and made between the Proprietors of the one part and Her Majesty the Queen, acting by and through the Minister of Education, of the other part.
7. THE Statute shall be read and interpreted in conjunction with the said Deed of Agreement and where any of the provisions in the Statute and the Deed conflict then the provisions of the said Deed shall prevail.

## GOVERNING BODY

8. THE Proprietors shall be composed of the following fourteen persons who shall hold office on the conditions hereinafter set forth:-
- (a) The Bishop of the Diocese, who shall be Warden of the School and shall preside (ex officio) at meetings of the Proprietors if the Bishop so desires.
  - (b) THIRTEEN other persons who shall be elected or appointed in accordance with the provisions hereinafter contained namely:-
    - (i) THREE members who will each be elected by the Synod of the Diocese at its annual session in the manner set forth in its Standing Orders governing the conduct of its elections. The term of each member so elected will be three years with one member retiring each year.
    - (ii) TWO members who will be appointed by the meeting convened by the Archdeacon of South Canterbury prior to each annual session of the Diocesan Synod, and attended by the Clergy, Lay Members of Synod and Churchwardens of the parishes of the Archdeaconry of South Canterbury. The term of each member so appointed will be three years.
    - (iii) THREE persons to be elected by the Board, taking cognizance of gender balance and necessary skills to fulfill the duties and functions of the Board.
    - (iv) ONE member shall be appointed by the Craighead Old Girl's Association (Incorporated) in the month of November in each year.
    - (v) THREE members shall be appointed by the Craighead Parents' and Friends Association in the month of November in each year each appointee to serve a three year term with one appointee retiring each year, with the initial terms and expirations to be determined by the Association.
    - (vi) THE Chairperson of the Board of Trustees of the Craighead Diocesan School ex officio.
    - (vii) The existing members of the Board elected by the Synod be deemed to retire at the annual sessions of Synod as follows:
      - a. Mr John Hammond – 2010
      - b. Mrs Jane Evans – 2011
      - c. Mr Ross Wells – 2012
    - (viii) The existing members of the Board appointed at the meeting convened by the Archdeacon of South Canterbury prior to each annual session of the Diocesan Synod, and attended by the Clergy, Lay Members of Synod and Churchwardens of the parishes of the Archdeaconry of South Canterbury be deemed to retire as follows:
      - a. Mr Wayne Pahl – 2010
      - b. Dr William Rolleston – 2012.
  - (c) ANY member may in writing addressed to the Bishop tender their resignation from the Proprietors, and if a member shall be absent from three consecutive meetings of the Proprietors without leave or absence, their seat shall become vacant and such vacancy and all vacancies caused by

death or resignation shall be filled forthwith by the body or bodies which elected or appointed the member whose seat arose has become vacant PROVIDED THAT vacancies in respect of members elected by the Synod shall be filled by the Standing Committee. The person so appointed shall hold office only for the unexpired portion of the term of the person they replace, so that no person, other than the Bishop of the Diocese, shall hold office for a longer period than three years without being re-elected or re-appointed.

- (d) SHOULD any body charged with the election or appointment of a member or members of the Proprietors under sub-clause (b), (c) or (d) hereof fail for three months being notified by the Proprietors of the vacancy to make such election or appointment, the same shall be made by the Standing Committee.
- (e) RETIRING members should continue in office until their successors are appointed and the existing members of the Board who hold office at the passing of this Statute shall continue in office and may function as the Proprietors until all elections have been carried through as desired in Clause 8 (b).
- (f) The Proprietors shall, from among its members, and within three months after the close of the annual Session of Synod, elect a Chairperson who, subject to the provisions of clause 8 (a) hereof, shall preside at all meetings of the Proprietors and shall exercise powers and privileges of a Chairperson PROVIDED that in the absence of the Warden and the Chairperson the members present shall elect a Chairperson for the meeting.
- (g) No person shall be qualified to be a member of the Proprietors unless they are a member of the Anglican Church in Aotearoa, New Zealand and Polynesia or a member of the Church of any other Christian denomination approved for that purpose by the Standing Committee of the Diocese.
- (h) The quorum for a meeting of the Proprietors shall be seven.
- (i) Any person at present holding office shall continue as a member of the Proprietors until such member shall by virtue of the provisions of the Statute retire but shall, if a vacancy occurs at the time of such retirement, be eligible for re-appointment.

#### DUTIES AND FUNCTIONS OF THE PROPRIETORS

- 9. THE duties and functions of the Proprietors shall include the following:-
  - (a) TO hold any real and personal property at the date of the passing of this Statute subject to the trusts of the said Deed of Agreement bearing date the 8th day of October 1926 hereinbefore recited in accordance with the trusts thereof and to hold any real and personal property not subject to such trusts for the establishment, carrying on and furtherance of secondary schooling for girls under the Anglican Church in the Diocese of Christchurch.
  - (b) TO administer all sums of money provided by the Synod or subscribed or donated by any person or organisation for the support maintenance or benefit of the School.
  - (c) TO take over the control and administration of all sums of money or property of any kind at present held by any Trustees or other persons

Sept 2022

and Corporations other than the Church Property Trustees for the School or connected therewith or in relation thereto.

- (d) TO receive, take over and administer all money or property of any kind which would have been acquired by or have devolved upon the Diocesan Board of Education (had it continued in existence), the Proprietors, or any other administrative Board, or body, or trustees for the School whether by the operation of any trust, devise or bequest, or otherwise howsoever, and to administer and apply the same subject to any special provision attaching thereto in the same manner in all respects as the same would have been administered and applied by the said Diocesan Board of Education, the Proprietors, or such other board, body or Trustees had it or they continued in existence.
- (e) TO carry on and maintain and generally to conduct the School as a boarding and day school for the Anglican Church in the Diocese of Christchurch, subject always to the aforesaid Deed of Agreement.
- (f) TO acquire for any purpose of the Proprietors by purchase, lease, gift, hire or otherwise or dispose of by the way of sale, exchange, gift, lease, hire or in any other manner such lands, buildings or furnishings as the Proprietors may deem it necessary to acquire or dispose of as the case may be, and to do all acts in relation thereto as may from time to time be required including:-
  - (i) THE hire or employment and payment of all persons necessary for the maintenance, extension or prosecution of the activities of the Proprietors.
  - (ii) THE selling of any property, real or personal, held by the Proprietors.
  - (iii) THE borrowing or raising and giving security for money by the issue of bonds, debentures, stock, mortgage or charge either unsecured or secured upon all or any of the property The Proprietors otherwise.
  - (iv) THE administration of all sums of money subscribed or donated by any persons or organisation for the support, maintenance or benefit of The Proprietors or School, whether by the operation by any trust devise or bequest or otherwise howsoever, and to administer and apply the sums subject to any special provisions attached thereto and to appeal for, collect and receive monies in furtherance of the purposes hereinbefore referred to and to administer, control and disburse the same.
- (g) TO delegate to sub-committees such portions of its functions as it may think fit.

#### LIABILITY

10. NO Proprietor acting or purporting to act in execution of the said Deed shall be liable for any loss not attributable to the Proprietor's own dishonesty or to the wilful commission or omission by the Proprietor of an act where such commission or omission is known by the Proprietor to be a breach of trust and in particular no Proprietor shall be bound to take or be liable for failure to take any proceedings against a co-Proprietor for any breach or alleged breach of Trust committed by such co-Proprietor.

### REIMBURSEMENT

11. EVERY Proprietor shall be chargeable only for such monies as the Proprietor shall actually have received although the Proprietor may have joined in any receipt for money received by any other of them and shall not be answerable for the acts of any other Proprietor nor for any loss which may arise by reason of any Trust funds being lawfully deposited in the hands of any Banker, Solicitor or Agent or for the sufficiency or insufficiency or deficiency of any security upon which any Trust money or any part thereof may be invested or for any loss in the execution of any Trust unless the same shall happen through the Proprietor's neglect or default.

### INDEMNITY

12. ANY Proprietor, Officer or employee of the Proprietor shall be indemnified out of the assets of the Trust for and in respect of any loss or liability which the said person may sustain or incur by reason of the carrying out or omission of any function, duty or power under the said Deed and in respect of any expenses incurred by the said person in the management and administration of the Trust fund unless such loss or liability is attributable to the said person's dishonesty or to the wilful commission of an act known to the person to be a breach of trust or to the wilful omission by the said person of any act when that omission is known by the said person to be a breach of trust."

### ANNUAL REPORT TO SYNOD

13. THE Proprietors shall keep minutes of its acts and proceedings and shall lay before the Synod at its Annual Session a report covering its proceedings during the year with a statement of its receipts and expenditure and a copy of its balance sheet.

### SCHOOL BADGE

14. THE School shall be entitled to use as its badge such design as shall be agreed upon by the Proprietors, the Bishop of the Diocese and the Standing Committee.

### INTERPRETATION OF STATUTE

15. SUBJECT to Clause 6 hereof the decision of the Standing Committee upon any question as to the construction or interpretation of this Statute, or upon any matter which express provision has not been made, shall be conclusive unless or until revoked or altered by the Synod.
16. THIS Statute may be amended from time to time by enactments of Synod, but no such amendment shall in any way conflict with the said Deed of Agreement bearing date the 20th day of November 1980.

## SCHEDULE

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

### THE PROPRIETOR'S LAND

All that land, school buildings, residences, offices, chapel and other improvements the registered Proprietor whereof is the Craighead Diocesan School Proprietors.

All that parcel of land containing 3.2354 hectares more or less situated in the City of Timaru being Lot 1 on Deposited Plan 40947 Certificate of Title 18B/1238 subject to Mortgage 182085/1 to The Church Property Trustees and being Lots 1 and 2 on Deposited Plan 6273 and part of Lots 8 and 9 on Deposited Plan 9881 Certificate of Title 1D/863 subject to Mortgage 818757 to The Church Property Trustees and being Lots 36 and 37 on Deposited Plan 3110 and Lots 1 and 3 Deposited Plan 3203 Certificate of Title 281/97 SUBJECT to Mortgage 65448/1 to The Housing Corporation of New Zealand and being Lot 2 Deposited Plan 3203 Certificate of Title 293/20 SUBJECT to Mortgage 172777/8 to The Craighead Old Girls Association (Incorporated).

**THE TE WAI POUNAMU STATUTE**

Enacted 1943; Amended 1951, 1981, 1984, 1989, 1990, 1992

**Repealed September 2023**