

DATED: 16 DECEMBER 2016

The Congregation of the Enmore Spiritualist
Church Foundation Trust

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THIS DEED POLL dated

16 DECEMBER

2016

PARTIES

PERPETUAL TRUSTEE COMPANY LIMITED ACN 000 001 007 of Level 12, 123 Pitt Street Sydney in New South Wales (**Trustee**)

and


(**Settlor**)

INTRODUCTION

The Settlor has made a donation to the Trustee of the Settled Sum to be held by the Trustee upon the terms of this Deed and the Trustee accepts the trust hereinafter declared.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this document, unless otherwise indicated by the context:

The Congregation of the Enmore Spiritualist Church Incorporated means the incorporated association by the same name.

Person unless the context otherwise requires includes a company.

Property means real, personal, intellectual, movable or immovable property of any description and wheresoever situate including (without limiting the generality hereof) policies, cash and choses in action currently held by the Trustee for the objects of the Trust.

Registered Charity means an entity that is registered or otherwise recognised as a charity by the Australian Charities and Not-for-profits Commission or any successor body responsible for recognising entities as charities for the purposes of income tax exemption.

Settled Sum means \$100.00.

TAA 53 means the *Taxation Administration Act 1953* (Cth).

Trust means the trust confirmed by this Deed.

Trustee means Perpetual Trustee Company Limited.

Trust Fund means:

(a) the Settled Sum;

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- (b) any further or additional property which any person or company may donate to or vest or cause to be vested in the Trustee to be held upon the trusts and with and subject to the powers and provisions hereof;
 - (c) the Property for the time being and from time to time representing the Settled Sum and the further or additional property (if any) aforesaid.

Year means any financial year commencing on the first day of July in any calendar year and ending the thirtieth day of June in the following calendar year and in respect of any broken period occurring at the commencement or termination of this settlement or the trusts hereby created means the portion of the financial year running in the case of such commencement aforesaid from the date hereof to the thirtieth day of June next following and in the case of such termination aforesaid from the first day of July last preceding.

1.2 Interpretation

In this document, unless otherwise indicated by the context:

- (a) words importing the singular include the plural and vice versa;
- (b) headings are for convenience only and do not affect interpretation of this document;
- (c) a reference to a clause, paragraph, schedule or annexure is a reference to a clause, paragraph or schedule of or annexure to this document;
- (d) a reference to "\$" is to Australian dollars;
- (e) an expression importing a natural person includes a body corporate, partnership, joint venture or association;
- (f) a reference to a statute or regulation includes all amendments, consolidations or replacements thereof;
- (g) a reference to a party to a document includes that party's successors and permitted assigns;
- (h) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document;
- (i) a covenant, agreement, representation or warranty on the part of or in favour of two or more persons binds them or is for the benefit of jointly and severally;
- (j) if an event must occur on a stipulated day which is not a Business Day, then the stipulated day will be taken to be the next Business Day; and
- (k) a reference to a body, whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;

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- (l) this Trust is made under the laws of New South Wales and the rights of all parties in, and the construction and effect of each and every provision hereof, shall (subject to the provisions of **clause 5** hereof) be subject to such laws and the situs of this Trust and of all beneficial interests therein shall be deemed to be in New South Wales.

2. ESTABLISHMENT OF TRUST

- (a) The Trustee hereby declares that it will hold the Trust Fund upon the trusts and with and subject to the powers and provisions hereinafter contained.
- (b) The Trustee shall have the right in its absolute discretion at any time during the continuance of the trusts hereby created to accept such additional property as may be donated to the Trust hereby constituted by any person either personally or by testamentary act or disposition or by any company.
- (c) The Trust is to be known as the Congregation of the Enmore Spiritualist Church Foundation Trust.

3. OBJECTS OF TRUST

The charitable objects for which the Trust is established are:

- (a) to provide funds for the Congregation of the Enmore Spiritualist Church Incorporated whilst ever it is a Registered Charity and exempt from income tax; or
- (b) in the event that the Congregation of the Enmore Spiritualist Church Incorporated is not a Registered Charity and exempt from income tax, then to provide funds for another charity which is:
- (i) established and carries on activities for the advancement of religion;
 - (ii) has similar objects to the Congregation of the Enmore Spiritualist Church Incorporated;
 - (iii) a Registered Charity; and
 - (iv) endorsed as income tax exempt,
- as determined by the Trustee in its discretion.

4. APPLICATION OF INCOME

- (a) The Trustee shall pay or apply the net income of the Trust Fund for the charitable objects specified in **clause 3**.
- (b) The receipt of the person purporting to be the treasurer, secretary or other proper officer of any recipient of a payment or application of income from the Trust Fund or proof of transmission of funds by the Trustee through the

balancing system to the Congregation of the Enmore Spiritualist Church Incorporated or other entity entitled under **clause 3** shall be a sufficient discharge to the Trustee and the Trustee need not see to the application of the payment.

- (c) The Trustee may allow the Trust Fund to accumulate and retain income in the Trust Fund as deemed appropriate from time to time.

5. POWERS OF THE TRUSTEE

Solely for the purpose of carrying out the aforesaid objects and not otherwise, the Trustee shall have and may exercise from time to time, in addition to all of the powers vested in trustees by law or statute, the following powers:

- (a) to retain any property belonging to or forming part of the Trust Fund in the actual state or condition in which the same shall be received by the Trustee so long as the Trustee shall think proper;
- (b) to purchase any lease or otherwise acquire any real or personal property or any interest therein on behalf of the Trust on such terms and conditions as the Trustee thinks fit;
- (c) to sell alienate lease or otherwise dispose of or deal with all or any Property at any time forming part of the Trust Fund in such manner by public or private treaty and for such price in money or other consideration and on such conditions as the Trustee may think proper and to receive the consideration price and grant discharges therefor;
- (d) to exercise all the voting powers attaching to any shares stock debentures or other securities (hereinafter called "Securities") at any time forming part of the Trust Fund;
- (e) to exchange Property for other Property of like or different nature and for such consideration and on such conditions as the Trustee may consider advisable;
- (f) to compromise and settle for such consideration and upon such terms and conditions as the Trustee may consider advisable all matters arising in relation to the trusts hereby created or the Trust Fund;
- (g) to surrender and deliver up any Securities forming part of the Trust Fund for such consideration and upon such terms and conditions as the Trustee may approve to any company reducing its capital and the Trustee may receive such consideration in the form of cash Securities or other assets as may be agreed between the Trustee and such company;
- (h) to consent to any re-organisation or reconstruction of any company the Securities of which form part of the Trust Fund and to consent to any reduction of the capital or other dealing with such securities as the Trustee may consider advantageous or desirable;
- (i) to invest the Trust Fund including any moneys forming part thereof and requiring investment hereunder in such investments anywhere in the world and to take or move the Trust Fund to or from any place in the world as the

Trustee may in its absolute discretion deem to be fit and desirable whether or not such investments shall be authorised for the investment of the Trust Fund and without in any way restricting the foregoing provisions of this clause to invest the same:

- (i) in the purchase of shares or options to take up shares in any company (wherever incorporated) securities policies of assurance or other investments or Property (real or personal) whatsoever and wheresoever situate including the purchase or taking on lease for such period and upon such terms as the Trustee thinks fit or freehold or other immovable Property whether involving liability or not and whether in possession or reversion and whether producing income or not or upon such personal credit with or without security and upon such terms as the Trustee shall in its absolute discretion think fit; and
- (ii) on loan whether secured or unsecured and either with or without interest to any person or persons or to any company;

and the Trustee shall have the same full and unrestricted power of investing and transposing investments as if the Trustee were entitled in all respects beneficially to the Trust Fund;

- (j) to determine whether any sums received or disbursed are on account of capital or income or partly on account of one and partly on account of the other and in what proportions and the decision of the Trustee whether made in writing or implied from the acts of the Trustee shall be conclusive and binding;
- (k) to employ and pay for such professional or other assistance as the Trustee may deem requisite in the discharge of the duties of the Trustee;
- (l) to act on the opinion or advice of or information obtained from any financial adviser, lawyer, valuer or broker and the Trustee shall not be responsible for any loss depreciation or damage occasioned by acting or not acting in accordance therewith;
- (m) to determine all questions and matters of doubt which may arise in the course of the management, administration, realisation, liquidation, partition or winding up of the Trust Fund;
- (n) generally to perform all acts of alienation and hypothecation and other acts of ownership to the same extent and with the same effect as might have been done if this Deed had not been made;
- (o) to erect buildings on and effect improvements to any Property forming part of the Trust Fund and also to conduct farming operations and lease all or any part of such Property;
- (p) to institute and defend proceedings at law and to proceed to the final end and determination thereof or compromise the same as the Trustee shall consider advisable;
- (q) to incorporate any company or companies in any place under the law of that place at the expense of the Trust Fund with limited or unlimited liability for the

purpose of (inter alia) acquiring the whole or any part of the Trust Fund and so that the consideration on the sale of the Trust Fund or any part thereof to any company incorporated pursuant to this clause may consist wholly or partly of fully paid debentures or debenture stock or other Securities of the company and may be credited as fully paid and may be allocated to or otherwise vested in the Trustee and be capital money in the Trustee's hands;

- (r) to exercise or concur in exercising the voting and other rights attaching to any Securities for the time being of the Trust Fund so as to become a director or other officer or employee of any company and to vote for and to be paid and to retain for the Trustee's own use and benefit reasonable remuneration for the Trustee's services to that company;
- (s) to borrow at any time or times any moneys required for the purposes hereof upon such terms as to repayment of principal and payment of interest (if any) as it shall in its absolute discretion think fit and the Trustee may for this purpose mortgage or charge in favour of the lender the whole or any part of the Trust Fund or any interest therein and may execute and issue any bills of exchange, bank bills and any form of negotiable instrument and further the Trustee may lend its own money for the purposes hereof at such interest as the Trustee in its absolute discretion shall decide not exceeding a rate which is reasonable having regard to the rate at which money could be borrowed in the same circumstances in the open market at the time of making the loan;
- (t) to invest the Trust Funds as one fund together with other trust funds held by the Trustee and to distribute the income arising therefrom rateably among the several trusts to which the money so invested belongs and any loss arising from any such investment shall likewise be borne rateably by the several estates;
- (u) to carry on and conduct any business or businesses which it may think fit either alone or in partnership with another or others or to engage in any joint venture and to use any part of the Trust Fund for such purpose. The Trustee may employ any person or persons including any Trustee hereof for the purpose of managing or carrying on any such business or businesses on such terms and conditions as the Trustee may in its absolute discretion determine or the Trustee may leave the entire management of any partnership business or joint venture to any person or persons for the time being a partner or partners thereof or a member of such joint venture and the Trustee shall not be concerned to interfere in such management or be responsible for not interfering therein or attending thereto further than by requiring annual accounts to be delivered or audited;
- (v) to guarantee the payment of money and the performance of obligations and to give indemnities to or on behalf of any person or persons in any form the Trustee thinks fit and this power shall be exercisable notwithstanding the fact that there may be no contractual, legal or fiduciary relationship between the Trustee and the person or persons to whom or on behalf of whom the Trustee proposes to give the said guarantees;
- (w) to take out policies of life assurance on the life of any person in respect of whom the Trustee of the Trust Fund has an insurable interest and to take an assignment of any policy or policies of life assurance and to maintain any policy or policies of life insurance for the time being forming part of the Trust

Fund by paying the premiums, duties and other monies payable in respect thereof;

- (x) to exercise or concur in exercising all powers and discretions hereby or by law given notwithstanding that it or any person being a Trustee or any person being a director or shareholder of the Trustee hereof being a company may have a direct or personal interest in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole trustee;
- (y) to deposit from time to time the Securities or documents of title to Property being subject to the trusts hereof with a bank trust company investment broker or like institution in any part of the world and to delegate to such bank trust company investment broker or other like institution such of the trusts and powers hereby or by law vested in the Trustee with reference to the premises so deposited as the Trustee may consider expedient so to delegate and the Trustee shall not be liable or responsible for any loss whatsoever not caused by its own fraud which may in any manner occur in relation thereto;
- (z) to delegate any of its powers and or functions to one or more boards or committees consisting of such persons and upon such terms as the Trustee thinks fit and conversely to withdraw any delegated powers or functions from any board or committee at any time and further the Trustee may terminate the operation of any such board or committee at any time without being required to disclose the reasons for such termination or withdrawal of powers therefrom.

6. ACCOUNTS

- (a) In each Year the Trustee must cause financial statements, including a profit and loss account and balance sheet as at the end of each Year, to be prepared by a qualified chartered or public accountant authorised to practice in the place where the financial affairs of the Trust are in the main conducted, certified by such accountant to be a true and proper statement of affairs of the Trust Fund setting out all:
 - (i) income;
 - (ii) capital;
 - (iii) costs and disbursements and other outgoings paid or payable out of the Trust Fund and chargeable against income;
 - (iv) capital expenditure and liabilities chargeable to capital;
 - (v) investments and money comprised in the Trust Fund; and
 - (vi) to the extent to which the Trustee may require, the separate recording of any category of income or capital.
- (b) The Trustee must in relation to the Trust Fund:

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- (i) establish and maintain proper accounts in book or compute form which must accurately record all receipts and outgoings in relation to the Trust Fund; and
 - (ii) separately record income and capital of different categories as are provided by this Deed as the Trustee may decide.

7. INDEMNITY

The Trustee shall be indemnified against all liabilities (other than arising from its own wilful neglect or default) incurred in or in connection with the administration of the Fund and the exercise of its powers, duties and discretions and shall have a lien on the Fund for such indemnity.

8. EXPENSES

The expenses in connection with the administration of the Trust including the charges of the Trustee hereinafter provided for and of the investment and reinvestment of any part of the Trust Fund and the collection of income and other sums derivable therefrom shall be charged against the income of the Trust Fund but if such income is insufficient for the purpose then the same shall be charged against the Trust Fund or so much thereof as may be required in addition to the income for the purpose.

9. REMUNERATION OF TRUSTEE

The Trustee may pay or apply the Trust Fund:

- (a) for fair and reasonable remuneration at a rate not exceeding the rate published by the Trustee from time to time; and
- (b) to pay or reimburse reasonable costs and expenses which may include costs incurred by the Trustee or third party expenses payable or paid by the Trustee, relating to investment management, brokerage, fund manager expenses, specialist advice, preparation of returns and accounts or external or internal audits of the trust,

but may not apply the Trust Fund for a payment of, or reimbursement for, any penalties under section 426-120 of Schedule 1 to the TAA 53.

10. SECURITY FOR ADMINISTRATION OF TRUST

The Trustee shall not be required to give bond or security for the due and faithful administration of the Trust Fund or for the discharge of the trusts hereby created.

11. EXERCISE OF THE TRUSTEES POWERS

- (a) Every discretion or power hereby or by law conferred on the Trustee shall be an absolute and uncontrolled discretion or power subject to any contrary provision herein contained and the Trustee shall not be held liable for any loss or damage accruing as a result of the Trustee concurring or refusing or failing to concur in an exercise of any such discretion or power.
- (b) Trustee shall not be liable for any error of judgment or mistake of law or other mistake or for anything save the wilful misconduct or wilful breach of this Trust by such Trustee, and the Settlor and the Trustee shall be held harmless against any claims, losses, death duties, taxes and impositions arising in connection with the Trust Fund or any part thereof.
- (c) Provided the Trustee acts in good faith:
 - (i) It is entitled to be indemnified out of the Trust Fund for all debts, damages, obligations or other liabilities incurred, arising or awarded by or against the Trustee in the execution of any power, duty, discretion or authority under this Deed and in respect of all actions, claims, demands and costs relating to or concerning the Trust Fund;
 - (ii) entitled to reimbursement from the Trust Fund for all moneys expended and debts incurred in or about the administration of the Trust; and
 - (iii) may apply the Trust Fund or any moneys or property comprised in the Trust Fund as it may decide to satisfy the rights of reimbursement or indemnity to which it is under this Deed, or otherwise by law, entitled.
- (d) Any determination or resolution of the Trustee under any of the provisions hereof may be made or may be recorded in a written minute and such minutes shall be signed by the Trustee and kept with the accounts and records of the Trust Fund.

12. RETIREMENT OF TRUSTEE

- (a) If at any time it appears to the satisfaction of the Trustee that it would be desirable to do so, the Trustee may by deed retire as a trustee and by the same deed appoint a new Trustee provided that the retiring Trustee nominates a successor Trustee following which the Trust Fund and income thereof shall be transferred to such new Trustee (jointly with any co-trustee) and the receipt of such new Trustee shall be a good discharge to the resigning Trustee of its obligations hereunder.
- (b) Any successor Trustee under this Deed shall have all the powers, authorities and duties conferred upon and undertaken by the Trustee hereunder and by the applicable law or any rule of court and any and all attorneys-in-fact agents custodians or depositaries of the Property comprising the Trust Fund or income thereof shall be authorised to accept instructions from the said successor Trustee or Trustees as to the disposition thereof. Upon the

appointment of a successor Trustee pursuant to this Deed any attorneys-in-fact agent custodian or depository of the Property comprising the Trust Fund or income thereof shall forthwith become the same for such successor Trustee without the necessity for the execution or filing of any paper or any further act.

13. VARIATION OF TRUST DEED

- (a) The Trustee may, by Deed, release or revoke any power or powers conferred on the Trustee under this Deed and may vary or amend any of the provisions contained in this Deed provided that:
- (i) no such release, revocation, variation or amendment shall be valid if such release, revocation, variation or amendment would have the effect of infringing any rule against perpetuities or of directing all requiring any excessive accumulations of income or would entitle a Trustee to receive any of the income or corpus of the Trust Fund; and
 - (ii) there shall be no change to the objects of the Trust in **clause 3** without the consent of the Congregation of the Enmore Spiritualist Church Incorporated but such consent is only required whilst ever the Congregation of the Enmore Spiritualist Church Incorporated is a Registered Charity and exempt from income tax .
- (b) On execution of any deed pursuant to **clause (a)** and satisfaction of the conditions:
- (i) the power (if any) purported to be released or revoked pursuant to such deed shall be absolutely and irrevocably released or revoked;
 - (ii) the amendments to or variations of the provisions of this Deed purported to be effected thereby (if any) shall (subject as aforesaid) be deemed to be effective forthwith.

14. WINDING UP OF TRUST

- (a) The Trust shall be wound up if there is a resolution to that effect by the Trustee.
- (b) If on that date, the Trustee stands possessed of any part of the Trust Fund, the same shall not be paid to or distributed to the Trustee but shall either be applied in the furtherance of the objects of the Trust as provided in clause 3 of this Deed.
- (c) The recipient of the remaining assets must be an entity as determined by the Trustee in its discretion having similar objects to the objects of this Trust and must:
- (i) be established and carry on activities for the advancement of religion;
 - (ii) have similar objects to the Congregation of the Enmore Spiritualist Church Incorporated;

- (iii) be a Registered Charity; and
- (iv) be endorsed as income tax exempt.

15. GENERAL PROVISIONS

15.1 Waiver or Variation

- (a) A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- (b) The exercise of a power or right does not preclude:
 - (i) its future exercise; or
 - (ii) the exercise of any other power or right.
- (c) The variation or waiver of a provision of this document or a party's consent to a departure from a provision by another party will be ineffective unless in writing executed by the parties.

15.2 Severability

- (a) If any clause or part of a clause of this document is invalid, illegal, unlawful or otherwise being incapable of enforcement, that clause or part of a clause will be deemed to be severed from this document and of no force and effect but all other clauses and parts of clauses of this document will nevertheless prevail and remain in full force and effect and be valid and fully enforceable.
- (b) No clause or part of a clause of this document will be construed to be dependent upon any other clause or part of a clause unless so expressed.

15.3 Governing Law and Jurisdiction

- (a) This document is governed by the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

15.4 Further Assurance

Each party will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this document.

15.5 Counterparts

This document may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the document will be the date on which it is executed by the last party.

15.6 Whole Agreement

- (a) This document embodies the whole agreement between the parties relating to the subject matter of this document and supersedes any and all oral and written negotiations and communications by or on behalf of any of them.
- (b) The parties have not, in entering into this document, relied upon any warranty representation or statement, whether oral or written, made or published by any other party or any person on behalf of any other party or otherwise in connection howsoever with the subject matter of this document, except such as are expressly provided herein and subject thereto have relied entirely upon their own enquiries relating to the subject matter of this document.
- (c) The parties agree that to the extent that each of them may exclude any warranties or conditions which might otherwise be implied in connection with this document or the subject matter of this document by any competent legislation, then each party expressly excludes from application all such implied warranties and conditions.

15.7 Rights Not Affected by Failure to Enforce

The failure of either party at any time to enforce any of the provisions of this document or any rights in respect hereto or to exercise any election herein provided will not be a waiver of such provisions, rights or elections or affect the validity of this document.

EXECUTED

Executed by [Redacted])
[Redacted])
[Redacted]

as **SETTLOR**:

Signed [Redacted] Print Name/Position [Redacted]

SIGNED in my presence for and on behalf of
PERPETUAL TRUSTEE COMPANY LIMITED (ABN 42 000 001 007) by its
Attorneys [Redacted] and
[Redacted]
who are personally known to me and each of
whom declares that he/she has been duly
appointed by the Board of Directors of that
company as an Attorney of the company for
the purposes of the Power of Attorney dated
16 September 2014 (Book No. 4676 Number
802) and that he/she has no notice of the
revocation of his/her powers thereunder.
[Redacted]
Witness
[Redacted]
Witness [Redacted]

Attorney [Redacted]
Senior Trust Manager
Attorney [Redacted]
Property Manager