

Deed of Trust

Holy Trinity Orthodox Monastery of Monkerai Trust

This is a consolidation of Deeds and Variations to Deeds and is not a legal document. It has been prepared solely for the use of the Diocesan Council of the Australian and New Zealand Diocese of the Russian Orthodox Church outside Russia and should not be circulated or quoted in place of the actual Deeds or Variations of Deeds.

Contents

Clause	Headings	Page
1	Definitions	5
2	Constitution of Trust	6
3	Name of Trust	7
4	Statement of Purpose	7
5	Objects of Trust	9
6	How objects will be achieved	9
7	Trust Powers	10
8	The composition of Trustees	10
9	Secretary	11
10	Meetings of Trustees	11
11	Retirement and Removal of Trustees	12
12	Trustee Remuneration	12
13	Powers of appointment	12
14	Variation	13
15	Liability and indemnity of the Trustee	13
16	Final Distribution of the Trust	14
17	Governing Law	14

***Note:** The original Trust Deed contains a number of idiosyncrasies in formatting and expression. These have been maintained in the present document. Where there is a manifest error in the original Trust Deed this has been made evident by inserting “(sic)” immediately after the erroneous term or expression. All use of bold and italics is as in the original except for section 1.1 where defined terms are shown in bold type for the sake of clarity.*

The information on this page is a summary of information contained in the original Deed, Variations to that Deed, and the records of the Trust, and is set out here for convenience.

List of current and former Trustees

As at 15 June 2016

Current Trustees

Bishop George Schaefer

18 Chemsford Avenue
CROYDON NSW

Appointed: 6 August 2015

Rev. Dr Peter Hill

9 Deptford Avenue
ELIZABETH GROVE SA

Appointed: 6 August 2015

Rev. Gabriel Lapardin

12 St Clair Crescent
WISHART QLD

Appointed: 6 August 2015

Rev. Protodeacon Alexander Abramoff

11 Veronica Street
NORTHCOTE VIC

Appointed: 6 August 2015

Rev. Protodeacon Dr Constantine Moshegov

149 Livingstone Avenue
PYMBLE NSW

Appointed: 6 August 2015

Rev. Deacon Martin Naef

5 Pennant Avenue
GORDON NSW

Appointed: 6 August 2015

William George Reid

257 The Entrance Road
THE ENTRANCE NSW

Appointed: 2002, following resignation of Ms Brown

Former Trustees

Mr Michael Yastreboff

42 Dallas Street
KEIRAVILLE NSW 2500

Appointed: 12 August 1999

Resigned:

Mr Alan Teterin

10 Charlestown Road
NEW LAMBTON NSW 2305

Appointed: 12 August 1999

Removed: 6 August 2015

Dr Michael Giameos

4/274 Stanmore Road
STANMORE NSW 2048

Appointed: 12 August 1999

Removed: 6 August 2015

Steven James Rutten

Address unknown

Appointed: 2002, following resignation of Mr Bird

Removed: 6 August 2015

Mr Darren Bird

BLK29 Hillview Avenue
#01-07 Hillview Heights
Singapore 669561

Appointed: 12 August 1999

Resigned: 2002

Ms Janene Blanchfield Brown

154 "Willmere" Wiltshire Drive
KEW VIC 3101

Appointed: 12 August 1999

Resigned: 2002

Mr George Poulos

PO Box 108

MAROUBRA NSW 2035

Appointed: 12 August 1999

Resigned: 18 January 2010

Father John Macpherson

PO Box 115

DUNGOG NSW 2420

Appointed: 12 August 1999

Removed: 6 August 2015

Background

The Settlor desires to establish a trust for the purposes specified in this Deed on the terms and conditions specified in this deed.

Operative Part

1 Definitions

1.1. In this deed unless the context otherwise requires:

“**Appointors**” means the person holding the office of the Archbishop of the Russian Orthodox Church outside Russia of the Diocese of Australia and New Zealand and the person holding the office of Hegumen (Abbot) of the Monastery;

The “**Brotherhood of the Holy Trinity**” means the unincorporated association of the Members of the Monastic Brotherhood of Eastern Orthodox Monks established in accordance with the canons of the Orthodox Church and known as “The Holy Trinity Brotherhood of Monkerai”;

“**Chapter**” is the ruling body of the community comprising of all monks tonsured to the monastery of Holy Trinity Monkerai and recorded as so being in its records and headed by the legal Hegumen of the Monastery together with the support of the Spiritual Authority;

The “**Monastery**” means the Monastery to be established and be known as the Holy Trinity Monastery of Monkerai;

“**Spiritual Authority**” means that the Blessing and Spiritual Authority for the foundation of the monastery is that of His Grace Archbishop Hilarion, Archbishop of the Diocese of Australia and New Zealand Diocese (sic) of the Russian Orthodox Church outside Russia and his successors;

The “**Trust Fund**” means as at the date of this Deed the sum of one hundred Australian dollars (\$AU100.00) and after that date it means such monies as are held from time to time by the Trustees on the trusts contained in these deeds;

1.2. General

In this deed unless the context otherwise requires

1.2.1. A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;

- 1.2.2. A word denoting the singular number includes the plural number and vice versa;
 - 1.2.3. A word denoting an individual or person includes a corporation, an authority, government or governmental authority;
 - 1.2.4. A word denoting a gender [unintelligible];
 - 1.2.5. A reference to [unintelligible];
 - 1.2.6. A reference to any agreement [unintelligible];
 - 1.2.7. A reference to any party to this Deed, or any other document or arrangement, includes the party's executors, administrators, substitutes, successors and permitted assigns;
 - 1.2.8. A reference to this Deed includes a reference to the recitals, schedules and annexures of or to this Deed;
 - 1.2.9. An expression defined in any part of this Deed has that meaning throughout; and
 - 1.2.10. A reference to dollars of \$ is to an amount in Australian currency.
- 1.3. Headings and parts of speech
- In this Deed:
- 1.3.1. Headings are for convenience of reference only and do not affect interpretation;
 - 1.3.2. Where an expression is defined another part of speech or grammatical form of that expression has a corresponding meaning;
 - 1.3.3. Where an expression appears in bold and is used elsewhere not appearing in bold, the two are to have the meaning of the expression appearing in bold unless the context indicates otherwise.

2 Constitution of Trust

- 2.1. The parties acknowledge that the Settlor has paid to the Trustees the sum of one hundred dollars (\$100.00);
- 2.2. The Trustees will hold in trust for the trusts as set out in this Deed such other moneys and property as it receives as donations or additions to the trust fund

including such other monies as it receives from the Commonwealth Government or the Government of New South Wales for the purposes of the trust fund.

3 Name of Trust

3.1. The trust created by this Deed is to be known as The Holy Trinity Orthodox Monastery of Monkerai Trust (“the trust”).

4 Background [Statement of Purpose]

4.1. Holy Orthodox Tradition

The Holy Trinity Monastery at Monkerai will be in accord with the style and rule as accords with Holy Orthodox Tradition as established from the dawn of Christian spiritual living in community as described by the Early Monastic Fathers, from the time of Saint Anthony the Great who reposed in 356 to recent times.

The ordering of daily life and activity will endeavor to be in tune with all Authentic Orthodox Monastics, being open and friendly (irrespective of language or ethnicity) while without fear will be authentic in an Australian setting, rather than coming from another geographic place or time;

The Monastery will be directed by the Julian Calendar, the Monastic Fathers and teaching of the church, through its cycles of services, fasts and festivals

The Monastery will be open to all Orthodox Christians and will aim to offer hospitality to all who come in peace with an open heart, in respect for the Brotherhood and the Rules of the Foundation.

The services offered through the Trust and by the monastic community will be available to all males over eighteen years of age, irrespective of religion, race or creed. The Monastery will exercise hospitality in receiving guests at the Hegumen’s direction.

4.2. Spiritual Authority

The Blessing and Spiritual Authority for the foundation of the monastery is that of His Grace Archbishop Hilarion, Archbishop of Australia and New Zealand Diocese (sic) of the Russian Orthodox Church outside of Russia and his successors.

4.3. Service

The community will seek to serve Christ in all, especially among the poor addicted and socially dislocated, providing direct assistance to males over the age of eighteen years of age who are in need of relief of sickness, suffering, distress and helplessness. Such males may be suffering from substance abuse and other forms of addiction, recovering from illness, having difficulty adjusting from a period of incarceration, suffering from depression or in any way at risk of suicide.

4.4. Vows

Monks will take vows of Stability, Obedience, Poverty, and Chastity among others. The primal purpose of Orthodox Monastic Life is to live in penance and humility, in search of salvation, waiting and watching for the promised Kingdom and Glory of God in obedience, longing and struggling towards perfection.

4.5. Monastic Obedience

All monks will owe absolute obedience to their superior and others in authority. Only such orders as are manifestly contrary to the faith and morality may not be fulfilled, but this must then be reported to the next higher authority in the hierarchy having ultimate access to the Spiritual Authority.

4.6. Not for Profit Organisation

Each monk will divest himself of all property, renounce *the world*, and lay no claim to any property belonging to the Monastery or any other. At each *profession* (tonsure) a contract will be signed to this effect. Accordingly the Monastery will be a Public Benevolent Institution.

4.7. Benefactors

Benefactors of the Community and Monastery will be remembered in accordance with Orthodox Tradition, the Foundation being a memorial to their generosity and piety.

4.8. The Enclosure

The enclosure of the Monastery will be securely kept and adhered to by both members of the community, visitors and guests. Except under extreme circumstances, no woman is permitted to enter the enclosure. Women are forbidden to enter a monks (sic) cell.

4.9. Sanctuary

The Monastery Land held by the Trust will be registered as a Proclaimed National Sanctuary in respect to (sic) all indigenous native life, (flora and fauna), in recognition that all the created order is sacred and we therefore have responsibility as custodians before God.

5 Objects of Trust

- 5.1. The principal object of the trust is to establish a monastic community at Monkerai to direct and provide immediate assistance to males over the age of eighteen (18) years is offered (sic), to those who are in need of relief of sickness, suffering, distress and helplessness.
- 5.2. Such males will be:
 - 5.2.1. Suffering from substance abuse and other forms of addiction; or
 - 5.2.2. Recovering from illness; or
 - 5.2.3. Having difficulty adjusting from a period of incarceration; or
 - 5.2.4. Suffering from depression; or
 - 5.2.5. At risk of suicide.
- 5.3. Such work will be conducted by the Monks of the Holy Trinity community of Monkerai, which community has dedicated its life to assisting others in need as above described. Members of the Community working for no personal monetary profit or gain will provide aid directly to those in need either in the Monastery or in a community outreach strategy that may be part of the ongoing work of the Trust and the monks.

6 How the objects are to be achieved

- 6.1. The Trustees will achieve the principal object of the trust by:
 - 6.1.1. Making available the assets of the Trust for the use of the Brotherhood of the Holy Trinity Monastery of Monkerai to provide for building, establishment and operational maintenance to the community, its plant and work;
 - 6.1.2. The assets and income of the Trust shall be applied solely in furtherance of its objectives and no portion shall be distributed directly or indirectly to the members of the organization except as bona fide

compensation for services rendered or expenses incurred on behalf of the Trust.

7 Trust Powers

- 7.1. The Trustee in the management and investment of Trust funds has such powers as given by the New South Wales Trustee Act 1925, as amended.
- 7.2. The bank account of the Trust shall be maintained at such bank as shall be from time to time nominated by the Trustees.
- 7.3. All cheques and other negotiable instruments shall be drawn in the name of the trust and shall be endorsed in such manner as the Trustees shall determine from time to time.
- 7.4. All monies belonging to the Trust Fund shall as and when received be paid into the Trust's bank account.
- 7.5. The sole responsibility for all matters pertaining to the Monastic Community, its life, work and practice belong to the Hegumen (or Abbott) and the Community. It is not within the powers of the Trust to interfere in or direct any aspect of Monastic Life, work or Community practice.

8 The Composition of Trustees

- 8.1. The Trustees will consist of at least seven (7) persons.
- 8.2. One of the seven (7) persons will be the person holding the position of Hegumen of The Holy Trinity Brotherhood of Monkerai.
- 8.3. Where a person ceases to hold the position of Hegumen of the Holy Trinity Monastery of Monkerai ("The Hegumen") they will immediately cease to be a Trustee.
- 8.4. The other six (6) persons will be persons with professional qualifications such as:
 - 8.4.1. medical;
 - 8.4.2. legal;
 - 8.4.3. business;
 - 8.4.4. management;
 - 8.4.5. educational;

- 8.4.6. a person with specific expertise in the management and development of Charitable Trusts and Foundations (Philanthropy);
- 8.4.7. engineer.

9 Secretary

- 9.1. A person will be appointed by the Trustees to the position of secretary.
- 9.2. The secretary will be appointed by the Trustees for such term and at such remuneration and upon such conditions as the Trustees thinks (sic) fit.
- 9.3. The secretary will be responsible for:
 - 9.3.1. Keeping the records of the Trust;
 - 9.3.2. Notifying all trustees re notice of meeting;
 - 9.3.3. Keeping the Minutes of Meetings of the Trust;
 - 9.3.4. Assisting in the Administration of the trust as directed by the Trustees;
and
 - 9.3.5. Ensuring that proper accounting records are kept for the trust and submitted to the auditor to prepare the accounts for the trust.

10 Meetings of the Trustees

- 10.1. At least once a year on the dates and at the place determined by the Chairman.
- 10.2. Additional meetings of the Trustees can be called by any three of the Trustees requisitioning the Chairman to call a meeting of the Trust.
- 10.3. Twenty one (21) days' notice must be given of any meeting of the Trustees.
- 10.4. No business will be transacted at any meeting of the Trustees unless a quorum of members is present at the time when the meeting proceeds to business. A quorum of Trustees will be four (4).
- 10.5. Meetings of the trustees may be held by such technology as is agreed by the Trustees.
- 10.6. A Trustee will be in attendance at a meeting of the Trustees. Where the Trustee is not physically able to be present, he can attend by means of technology providing the Trustee can be heard by and can hear the other Trustees who are physically or technologically attending the meeting.

- 10.7. The vote of the Trustees will be determined by a show of hands, or where a Trustee is attending through technological means, by a verbal indication of that Trustee's vote on the resolution.
- 10.8. In the event of an equal number of votes for and against supporting a resolution the Chairman will exercise a casting vote.
- 10.9. The Trustees shall keep or cause to be kept (sic) in such a manner as the Trustees think fit, of all receipts and payments and for all other matters necessary for showing the financial position of the Trust.

11 Retirement and Removal of Trustees

- 11.1. A person will automatically cease to be a Trustee where:
 - 11.1.1. They become a bankrupt or make any arrangement or composition with their creditors;
 - 11.1.2. Become prohibited from being a director of a corporation as defined in the corporations law;
 - 11.1.3. They become of unsound mind or their estate is liable to be dealt with under any law relating to mental health or they have a guardian appointed to manage their financial affairs under the Guardianship Act or such comparable Act as is in force in the State in which the Trustee resides; or
 - 11.1.4. They do not attend two successive meetings of the Trustees unless leave of absence has been approved by the Trustees; or
 - 11.1.5. They cease to be a member of the Eastern Orthodox Church.

12 Trustees Remuneration

- 12.1. The Trustees may be reimbursed from the Trust Fund for all expenses incurred or payments made by them in request of the trust fund including interest on any credit accommodation procured for it by the trust fund. Such expenses shall [unintelligible] approval by the Trustees and be duly noted in the minutes.

13 Powers of Appointment

- 13.1. The Spiritual Authority on the recommendation of the Hegumen and with the support of the Chapter may:

- 13.1.1. Appoint a new Trustee in addition to the then existing Trustee;
- 13.1.2. Remove any one or more of the Trustees; and
- 13.1.3. Appoint any person as a Trustee in place of any Trustees (including the first trustee) that cease to be a Trustee.

14 Variation

- 14.1. The Trustee with the consent in writing of the Appointor may add to any of the provisions in this Deed and make new provisions in addition to any of the provisions at the time being in force providing that the objectives of the Trust remain constant.
- 14.2. Any addition to the provisions of this Deed may similarly be added to.
- 14.3. Any addition by the trustee under this clause may be effected in such manner and form as the Trustee may in its absolute discretion consider appropriate (including a resolution of the Trustee) and writing or the execution of any Deed is not necessary except where required by law.
- 14.4. Any addition by the Trustee under this clause must not:
 - 14.4.1. Result in or permit the assets comprised in the trust fund or the income of the trust fund being payable to the Appointor or to the Trustee;
 - 14.4.2. Alter revoke or add to clause 12 or clause 13.

15 Liability and Indemnity of the Trustee

- 15.1. The Trustee is not liable or answerable to or accountable under this Deed or in respect of the Trust for any loss other than attributable to:
 - 15.1.1. The dishonesty of the Trustee; or
 - 15.1.2. The wilful commission of an act known by the Trustee to be a breach of trust.
- 15.2. Provided the Trustee acts in good faith:
 - 15.2.1. 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;

15.2.2. Is entitled to reimbursement from the trust fund for all moneys expended and debts incurred in or about the administration of the Trust with prior approval in writing; and

15.2.3. It 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.

16 Final distribution of the Trust

16.1. On the final distribution of the assets of the trust, the trust fund or any part of the trust fund will not be paid to or distributed to the Trustee or any other person, but must be transferred to some other trust or organisation having objects similar to the principal objects of the trust, belonging **under the Authority of the Australian and New Zealand Diocese of the Russian Orthodox Church outside Russia**. And be approved (sic) by the Commissioner of Taxation as a public benevolent institution for the purposes of any Commonwealth Taxation Act. Such a trust or organisation must also be eligible for tax deductibility of donations under subdivision 30-B of the Income Tax Assessment Act 1997.

17 Governing Law

17.1. This document shall be governed by and constructed in accordance with the laws of the State of New South Wales and the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from any of those courts.