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Founder: Very Rev. Peter Edward Stasiuk

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Rev. Alexander Bohun Kenez

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Rev. Zenon Chorkawyj

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Rev. Peter Struk

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# Trust Deed

# Bishop Ivan Prasko Memorial Library and Museum

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Original Declaration Of Trust  
Section 38-9  
Doc ID: 2068090, 25 May 2006  
SRD Victoria Data, PSEI

## Parties

**Very Rev. Peter Edward Stasiuk** of 35 Canning Street, North Melbourne, Victoria (**Founder**)

**Rev. Alexander Bohun Kenez** of 35 Canning Street, North Melbourne, Victoria, **Rev. Zenon Chorkawyj** of 21 Alder Crescent, Bell Park, Victoria, and **Rev. Peter Struk** of 35 Canning Street, North Melbourne, Victoria (together with the Founder, called the **Trustees**)

~~Original Declaration Of Trust  
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## Background

- A The Founder is the Eparch of the Ukrainian Catholic Church in Australia and wishes to establish an institution consisting of a public library and a public museum to be known as the Bishop Ivan Prasko Memorial Library and Museum.
- B This institution will:
- (a) conduct a public library in respect of the collection of Ukrainian books, documents and other publications now comprised in what is known as the "Bishop's Library"; and
  - (b) conduct a public museum for collecting, recording, displaying and preserving numerous items of Ukrainian arts and craft including folk costumes, embroidery, as well as religious exhibits such as liturgical vestments, liturgical books and religious icons.
- C The respective collections of the Library and the Museum are made available to the public in separate parts of certain buildings at the Ukrainian Catholic Church's premises at 35 Canning Street, North Melbourne, Victoria.
- D Each of the Trustees is a Priest of the Ukrainian Catholic Church in Australia and a member of the College of Consultors to the Eparch of the Ukrainian Catholic Church. The artefacts and other items in the Museum and the books in the Library belong to the Church which has determined to establish the Library and Museum as a separate institution conducted and administered by the Trustees in accordance with the provisions contained in this document.
- E The parties wish to record the history leading to the establishment of this institution as follows:
- "The collection of museum items began in the 1960's with the blessings of the Late Bishop Ivan Prasko. In a short time the museum had a room in the Cathedral itself where items, originally donated by Bishop Ivan and Fr Zenon Chorkawyj, along with other donations, were kept.
- When the parish residence, school and hall were built, a number of rooms were set aside for the storage and exhibition of the artefacts.

A Board of Directors was elected for the museum. The museum was called the "Ukrainian Arts and Crafts Museum". There were seven directors nominated for the museum and Bishop Ivan Prasko was the chairperson. The museum had an official opening on 3 August 1979. This was the first Ukrainian museum in Australia. It has existed without interruption since its beginning in the 1960's.

The museum has had a very busy history. It acknowledges the tremendous help of the older Sisterhood of the Cathedral who marked the exhibits and entered them into the catalogue. Special recognition must be given to Fr Zenon Chorkawyj who has sacrificed much time, effort and money to build the museum. He is credited with collecting most of the exhibits. These were collected in Australia from the early Ukrainian immigrants and from sources outside Australia. Many items were purchased with his own money. The early Board of Directors also put in tremendous amounts of time and effort.

Today there are over 8,000 items of various categories, church art, ancient books and folk art. The museum is also rich in ancient examples of Ukrainian costumes and clothing; it has ceramics, wood carvings, Easter eggs, decorative rugs, embroidery, old maps and Ukrainian paintings. It has many books about Ukrainian art and crafts. This reference library is very extensive.

With the establishment of the "Bishop Ivan Prasko Memorial Library and Museum", trust it is hoped that the work of preservation and exhibition of these artefacts will be enhanced for the benefit of the Ukrainian population of Australia as well as a point of education for all Australians.

The trust is named after the first Ukrainian Catholic Eparch of Australia who, throughout his lifetime, showed a great dedication to the printed word. He collected a library of over 14,000 books; he established a newspaper and a publishing house and he established the museum to help collect and exhibit artefacts for the preservation of Ukrainian culture.

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# Agreed terms

## 1 Interpretation

### 1.1 Definitions

In this document:

**Accretion** includes bonus shares and any capital profits resulting or arising from the conversion or re-investment of a Gift;

**Administration Expenses** includes all expenses and outgoings of and incidental to the establishment of the Trust and the administration of the trusts of this document and of the Trustees in acting as the Trustees of the Trust;

**Capital** means the capital or corpus of the Trust Fund and does not include Income;

**Associate** has the meaning outlined in section 78A of the ITAA 36 as if the reference to the "donor" in that section were a reference to the person who under this document is referred to in relation to the Associate;

**College of Consultors** means the body of that name referred to in **recital D** and where membership, functions and other matters are more particularly described in Appendix F of the Statutes of the Eparchy;

**Commissioner** means the Commissioner of Taxation, a Second Commissioner of Taxation a Deputy Commissioner of Taxation for the purposes of the Tax Act;

**Donor** means the donor of a Gift to the Trust;

**Eparch** means the Eparch for the time being of Ukrainian Catholic Church or in the event of a vacancy, the duly appointed Apostolic Administrator;

**Eparchy** means the Eparchy for Ukrainian Catholics in Australia, New Zealand and Oceania;

**Gift** includes gifts and contributions which are tax deductible under Division 30 of the Tax Act;

**Gift to the Trust** includes the subject matter of that Gift and any accretions to it and the money, investments and property for the time being representing the same and the Income thereof respectively and applies to any residue of a Gift out of which a payment or application of Capital or Income has been made by the Trustees pursuant to the trusts or powers of this document;

**Gift Fund** means the public fund established and maintained pursuant to **clause 9.1**;

**Income** means the income of the Trust Fund and includes net capital gains and income accrued on any money, investment or property at the date it becomes subject to the trusts of this document but does not include any Accretion;

**Library** means the public library described in **clause 4.2**;

**Museum** means the public museum described in **clause 4.4**;

**Original Endowment** means the sum of one hundred dollars (\$100.00);

**Responsible Person** means an individual who is:

- (a) performing a significant public function such as Justice of the Peace, a mayor, councillor, town, city or shire clerk;
- (b) a member of a professional body having a code of ethics or rules of conduct, such as a legal practitioner, medical practitioner or an accountant;
- (c) a judge of a Victorian or Commonwealth Court;
- (d) a member of an Australian tertiary education institution of the status of principal lecturer or above (including appointments made by Chancellors);
- (e) a principal of any primary or secondary school;
- (f) a trustee or Board member of a non-profit school or college;
- (g) a member of State or Federal Parliament;
- (h) a person appointed to a public position by a Government Minister;
- (i) a person who has received formal recognition from a State or Federal Government for his or her service to the community;
- (j) a member of the clergy or other member of any religious order or other Church authorities;
- (k) a director or senior executive of a corporation listed on the Australian Stock Exchange; or
- (l) a person whose appointment is approved by the Commissioner or by a judge of the Supreme Court of Victoria.

**Subsidiary** in relation to a company means a company which would be deemed to be a subsidiary under Division 6 of the Corporations Act 2001;

**Tax Act** means the Income Tax Assessment Act 1997 (**ITAA 97**) and/or the Income Tax Assessment Act 1936 (**ITAA 36**) (as the case may be);

**Trust** means the institution hereby constituted known as **Bishop Ivan Prasko Memorial Library and Museum** and includes the money, investments and property from time to time subject to the trusts of this document and the charitable purposes and means of achieving those charitable purposes established by this document;

**Trust Fund** means in relation to the Trust:

- (a) the Original Endowment;
- (b) all Gifts to the Trust accepted by the Trustees subject to the trusts contained in this document;

- (c) the proceeds of sale, redemption or other dealing with the Original Endowment and any other assets, money or property (both real and personal);
- (d) any accumulation of Income directed or empowered to be made pursuant to this document;
- (e) money lent or advanced to the Trustees pursuant to this document;
- (f) all Accretions to, the Income, profits or gains of, any of those things previously mentioned; and
- (g) any property from time to time representing any of those things mentioned in **paragraphs (a) to (f)**;

**Trustees** means the original Trustees or any person who at the relevant time is a trustee of the Trust either alone or with another person or other persons and who has not retired as a Trustee, or been removed as a Trustee, or for any other reason ceased to be a Trustee of the Trust;

**Ukrainian Catholic Church** means the Ukrainian Catholic Church in Australia, Eparchy of Ss. Peter and Paul of Melbourne;

**Uncommercial Transaction** has the meaning set out in **clause 8.3(b)**.

## 1.2 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) "includes" means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) an obligation of two or more parties shall bind them jointly and severally;
- (g) an obligation incurred in favour of two or more parties shall be enforceable by them jointly and severally;
- (h) a reference to:
  - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
  - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;



- (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation; and
- (v) the doing, or the failure to do, any act matter or thing by a Church includes the doing, or failure to do, any act matter or thing by the nominated representative of the Church.

### **1.3 Headings**

Headings do not affect the interpretation of this document.

## **2 Declaration and name**

### **2.1 Declaration of Trust**

The Trustees declare that from the date of this document, they will stand possessed of the Trust Fund upon the trusts, and with and subject to the powers and obligations, contained in this document.

### **2.2 Name of Trust**

The Trust shall be known as "Bishop Ivan Prasko Memorial Library and Museum". Receipts for Gifts made to the Trust shall be issued in this name.

## **3 Public responsibility**

To ensure that the Trust shall be controlled and administered by persons who because of their past or present tenure of some public office or other position or activity in the community may be expected to have a high degree of responsibility to the public in exercising that control or administration, the following provisions shall have effect:

- (a) the original Trustees shall be the Trustees of the Trust until one or more of them resigns, dies, is replaced by a resolution of the Eparch or an order of the Supreme Court of Victoria or otherwise vacates office; and
- (b) if one or more of the original Trustees or a new Trustee ceases to be a Trustee for any reason:
  - (i) a new Trustee shall qualify for his or her first and subsequent appointment pursuant to **clause 10** of this document; and
  - (ii) the power of appointing a new Trustee of this Trust Deed shall be vested in the Eparch.

## **4 Purpose of the Trust**

### **4.1 Public library and public museum**

The Trust is established and shall be maintained for the purposes and to conduct activities of an institution comprising a public library and a public museum under the name "Bishop Ivan Prasko Memorial Library and Museum".

## 4.2 Public library

The Trust shall conduct a public library containing Ukrainian and Ukrainian-related books, documents, manuscripts and other reference material (**reference collection**). The Library shall have the following features:

- (a) its reference collection shall be available to the public to borrow or use for studying, reading or other reference purposes;
- (b) it shall be part of an institution separate from the general affairs of the Church and with separate rooms and other facilities, accounts and staff with appropriate knowledge and skills and shall be clearly identifiable as a public library;
- (c) the preservation, maintenance and enhancement of its reference collection; and
- (d) it shall operate and be recognised and promoted as a public library in accordance with the Library rules although it may be integrated with the conduct and activities of the Museum.

## 4.3 Library rules

The rules governing the conduct of the Library are as follows:

- (a) as determined by the trustees, the Library shall be open to the public by appointment and/or at particular times and on particular days during normal business hours and at such other times as the Trustees decide;
- (b) the Trustees may make special arrangements with Universities and other educational institutions and colleges for their students to borrow or study from, or otherwise refer to, the Library's reference collection;
- (c) the Library shall be operated on a non-profit basis;
- (d) although at the time of establishment of the Trust the reference collection is owned by the Church, it has agreed to make the reference collection available to the Trustees for the purposes of the Library and although members of the Church, other Church authorities and other people may assist the Trust by handling appointments and enquiries concerning the use of the Library reference collection, all financial transactions in respect of the Library shall be dealt with separately and through a separate bank account; and
- (e) without limitation, the Trustees may make such other rules not inconsistent with the above as they consider necessary or desirable for the efficient operation of the Library as a public library.

## 4.4 Public museum

The Trust shall also conduct a public museum for the keeping, exhibiting and studying of various Ukrainian artefacts including folk costumes, embroidery and religious items such as liturgical vestments and religious icons (all **artefacts**). The Museum shall have the following features:

- (a) the collection of artefacts (or some of them) shall be on display for public viewing and the Museum may change the artefacts exhibited from time to time and in accordance with the occasion being commemorated;
- (b) it shall be part of an institution separate from the general affairs of the Church and with separate rooms and other facilities, accounts and staff with appropriate knowledge and skills and shall be clearly identifiable as a public museum;
- (c) the preservation, maintenance and enhancement of its collection of artefacts; and
- (d) it shall operate and be recognised and promoted as a public museum in accordance with the Museum rules although it may be integrated with the conduct and activities of the Library.

#### **4.5 Museum rules**

The rules governing the conduct of the Museum are as follows:

- (a) as determined by the Trustees, the Museum shall be open to the public by appointment and/or at particular times on particular days during normal business hours and at such other times as the Trustees decide;
- (b) the Trustees may make special arrangements with the National Gallery of Victoria and other museums to display some of the Museum's collection of artefacts;
- (c) the Museum shall be operated on a non-profit basis;
- (d) although at the time of establishment of the Trust the collection of artefacts is owned by the Church, it has agreed to make the collection of artefacts available to the Trustees for the purposes of the Museum and although the members of the Church, other church authorities and other people may assist the Trust by handling appointments and enquiries concerning the use of the Museum collection of artefacts, all financial transactions in respect of the Museum shall be dealt with separately and through a separate bank account; and
- (e) without limitation, the Trustees may make such other rules not inconsistent with the above as they consider necessary or desirable for the efficient operation of the Museum as a public museum.

#### **4.6 Endorsement under the Tax Act**

It is intended that the Trust shall qualify as, and apply for and retain endorsement by the Commissioner of Taxation as, a deductible gift recipient under sub-division 30-BA of the Tax Act and as a tax concession charity whose income is exempt from income tax under subdivision 50-B of the Tax Act.

## 5 Income

### 5.1 Application

The Trustees shall hold the Income upon trust to pay or apply the whole or such part of the Income as the Trustees may from time to time determine for the purposes set out in **clause 4.1**, by any means or methods which to the Trustees seem desirable.

### 5.2 Accumulation

It shall not be necessary for the Trustees to pay or apply Income in the year of its receipt and the Trustees may in their absolute discretion pay or apply any Income at any time or hold and carry forward for a reasonable time (or otherwise as from time to time approved by the Commissioner) that Income for subsequent payment or application for the purposes set out in **clause 4.1**.

## 6 Capital

The Trustees may in their absolute discretion from time to time advance, pay or apply all or any part of the Capital for the purposes set out in **clause 4.1**, by any means or methods which to the Trustees seem desirable.

## 7 Trustees' powers

In addition to the powers and discretions vested in the Trustees by law, the Trustees may exercise all or any of the following powers and discretions for the purposes of the Foundation:

- (a) to retain any Gift in its original form without selling or converting it into money, and subject to **clauses 8.1, 8.2 and 8.3**, may also in the Trustees' absolute discretion at any time and from time to time sell, exchange, realise, call in, convert or otherwise deal with any real or personal property comprising or forming part of the Trust Fund in like manner as if the Trustees held the same upon trust for sale;
- (b) to invest any Gifts or parts of Gifts in a common fund or aggregate any Gifts or parts of Gifts for investment and shall have plenary power of allocating among any Gifts or parts so invested, any Accretions to, or Income of, that investment;
- (c) to exercise all rights and privileges and perform all duties appertaining to any shares or stock for the time being subject to the trusts of this document with liberty to assent to any arrangements modifying those rights and privileges or duties or providing for the listing of those shares or that stock on a stock exchange and to agree to any scheme or arrangement for reconstruction or the increase or reduction of the capital of any corporation and for such purpose to deposit, surrender or exchange any of those shares or that stock or the title thereto and to pay any calls or contributions or other necessary expenses in connection with those shares or that stock or any such scheme or arrangement;

- (d) when the Trust Fund or any part of it is invested in land of any tenure, to manage, use or let the same or any part of it and erect, pull down or repair buildings and carry out improvements of any nature and make allowances and arrangements with tenants and grant or acquire easements or other rights and generally deal with the land or join in dealing with the land as if beneficially entitled to it without being responsible for any loss;
- (e) to form or promote or join in the forming or promotion of any company formed or promoted for the purpose of acquiring any shares, stock or other property subject to the trusts of this document;
- (f) to raise or concur in raising any money the Trustees think expedient for any purpose in relation to the execution of the trusts or powers contained in this document including (without limitation) by mortgaging or charging with or without a power of sale all or any part of the Trust Fund or the investments or property representing the same, or by organising or being involved in fundraising by any means and whether or not in connection with some service offered to the public;
- (g) to hire, engage or employ and avail itself of the services of professionally qualified persons and specialists (including stockbrokers, bankers, accountants, solicitors, architects and surveyors) and managers, secretaries, clerks or other persons as in the Trustees' absolute discretion the Trustees think fit and may remunerate them out of the Capital or Income, and subject to **clauses 8.1, 8.2 and 8.3**, the Trustees may employ and remunerate any Trustee or any firm in which that Trustee is a partner in a professional capacity in or about the affairs of the Trust and may remunerate that Trustee in like manner as if the person had not been such a Trustee;
- (h) to formulate any scheme for the distribution of the Capital or Income and to make such rules and regulations in that connection as the Trustees think proper (including without limitation those rules contained in **clauses 4.3 and 4.5**) and such rules and regulations shall be binding on the persons affected by them, and the Trustees may from time to time revoke, amend or alter such scheme, rules and regulations and formulate another or others; and
- (i) to pay the Administration Expenses out of the Capital or Income.

## **8 Restrictions on the Trustees' powers**

### **8.1 Investments**

The Trust Fund may not be invested by the Trustees otherwise than in the manner in which trustees are permitted by a Commonwealth Act, a State Act or a law of a Territory of the Commonwealth, to invest trust moneys without special authorisation.

## 8.2 Interested Trustees

- (a) The Trustees may exercise or concur in exercising all powers and discretions under this document or by law given but no part of the Capital or Income shall be paid or transferred directly or indirectly to any Trustee or Trustees beneficially although nothing shall prevent the payment in good faith to a Trustee or to any firm in which a Trustee is a partner or to any private company in which a Trustee owns all or a substantial proportion of the share capital, in return for services actually rendered to the Trust nor for goods supplied to the Trust in the ordinary and usual course of business nor as reimbursement of reasonable out-of-pocket expenses.
- (b) Without limiting the generality of **clause 8.2(a)**, no part of the Capital or Income may be lent to or deposited with any Trustee or to or with any firm in which a Trustee is a partner or to or with any private company in which a Trustee owns all or a substantial proportion of the share capital or in any manner whereby any Trustee may directly or indirectly derive any pecuniary benefit otherwise than as a shareholder in a public company or corporation listed on a stock exchange in Australia or in a Subsidiary of such a company or corporation.

## 8.3 Uncommercial Transactions

- (a) Apart from a payment or application under **clauses 5 or 6** or a payment or application approved by the Commissioner, no part of the Trust Fund or the income may be paid or applied, directly or indirectly, to or for:
  - (i) the Founder;
  - (ii) the Trustees or a Trustee;
  - (iii) a Donor; or
  - (iv) an Associate of the Founder, a Trustee or a Donor, by way of an Uncommercial Transaction.
- (b) In **clause 8.3(a)**, an Uncommercial Transaction means the provision of a financial or other benefit on terms which:
  - (i) would not be reasonable in the circumstances if the benefit was provided on an arm's length basis; or
  - (ii) are more favourable to the recipient than the terms referred to in **clause 8.3(b)(i)**,

and which a reasonable person in the position of the Trustees would not have entered into having regard to all relevant circumstances.

## 9 Gift fund

### 9.1 Requirements

- (a) The Trustees will establish and maintain a Gift Fund for the principal purposes of the Trust.

- (b) All Gifts and any income derived from such money, property or other investments arising out of such Gifts must be paid into or credited to the Gift Fund, and the Gift Fund shall not receive any other money or property.
- (c) A separate bank account must be opened and maintained for the Gift Fund and all Gifts and income derived from such Gifts or the investment of such Gifts shall be kept separate from the other funds of the Trust.
- (d) The Trustees must appoint at least three of their number to administer the Gift Fund and may by resolution change those appointees from time to time.
- (e) Receipts for Gifts to the Trust shall be issued in the name of the Trust and the name of the Gift Fund is not required. However, proper accounting records and procedures must be kept and used to properly identify the Gift Fund and record its transactions.
- (f) Notwithstanding any other provision in this document, if upon the first occurrence of the winding up of the Gift Fund or the Trust ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA 97, there remains, after the satisfaction of all of the debts and liabilities of the Gift Fund, any property or money whatsoever, the surplus assets shall not be given or distributed to the Trustees (or any of them) but shall be paid or distributed to some other (one or more) fund, authority or institution determined by the Trustees or failing which by the Eparch and which is a public library and/or a public museum.

## **9.2 Future Gifts**

If any person, firm, company or association shall at any future date pay or transfer to the Trustees any money or any real or personal property and shall direct the Trustees to hold the same upon like trusts as are contained in this document, the Trustees will in that event hold that money or property in the Gift Fund and as fully as if it had been paid or transferred to the Trustees at the time of the execution of this document.

# **10 The Trustees**

## **10.1 Qualification of Trustees**

A majority of the Trustees must be persons who at the time of their appointment or re-appointment are Responsible Persons.

## **10.2 Number**

Subject to **clause 10.7**:

- (a) the number of Trustees for the time being in office shall be a minimum of four and a maximum of seven, being the Eparch and at least three members for the time being of the College of Consultors; and

- (b) if the number of Trustees in office at any time falls below four, the Trustees shall not act in the affairs of the Trust until the number of Trustees is made up to at least four.

### **10.3 Appointment and Removal**

- (a) Each of the Trustees shall remain in office until he or she is replaced pursuant to **clause 10.3(b)**, resigns or otherwise vacates office pursuant to this document.
- (b) Subject to **clauses 3(b), 10.1, 10.2 and 10.7** the Eparch may at any time and from time to time by resolution in writing appoint a new Trustee or remove any of the Trustees.

### **10.4 Resignation**

A Trustee may at any time resign from the office of a Trustee of the Trust by giving not less than 30 days' written notice to the Eparch.

### **10.5 Office of Trustee Vacated**

The office of a Trustee is immediately determined and vacated if a Trustee:

- (a) dies;
- (b) is found to be a lunatic, of unsound mind or otherwise incapable of managing his or her own affairs;
- (c) becomes subject to any bankruptcy laws;
- (d) ceases to be the Eparch or a member of the College of Consultors (as the case may be); or
- (e) without the consent of the other Trustees, remains out of the place in which the Trust is being administered for more than 12 months.

### **10.6 Vacancies**

Subject to **clauses 10.1, 10.2 and 10.3**, any vacancy occurring in the Trustees pursuant to **clause 10.5** shall be filled within three calendar months of the vacancy occurring by the Eparch.

### **10.7 Corporate trustee**

- (a) The Eparch may appoint a corporate trustee to be the sole Trustee of the Trust.
- (b) The provisions of **clauses 10 and 11** shall (the necessary changes being made) apply to a corporate trustee as if the references to Trustees were to directors of the corporate trustee and its constitution shall reflect those provisions.



## 11 Proceedings of the Trustees

### 11.1 Regulation of Meetings

- (a) The Trustees may meet for the dispatch of business, adjourn and otherwise regulate Trustees' meetings in accordance with this document, the Statutes of the College of Consultors and otherwise as the Trustees think fit.
- (b) Subject to **clauses 11.1(a)** and **11.2**:
  - (i) The quorum for a meeting of the Trustees shall be three people (one being the Eparch) personally present.
  - (ii) All decisions of the Trustees shall be made by a majority of the Trustees. However, a resolution in writing signed by all of the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly called and constituted. Any such resolution may consist of several documents in like form, each signed by one or more Trustees.
  - (iii) The Eparch shall be the chairman of all meetings of the Trustees. The Eparch may at any time convene a meeting of the Trustees by written notice served upon each of the other Trustees.
  - (iv) The Trustees shall cause minutes to be kept of all proceedings of meetings of the Trustees and shall cause entries to be made in those minutes of all resolutions put to the vote and of the result of the voting and any such minutes signed by the chairman of the particular meeting shall be conclusive evidence of the due passing of any resolution.

### 11.2 Committees

The Trustees may appoint committees consisting of such persons as the Trustees think fit to assist the Trustees in carrying out the principal purposes of the Trust. Any committee so formed must in exercise of the powers given to it comply with any regulations imposed on it by the Trustees. The meetings and proceedings of committees are governed by the provisions of this document regulating the meetings and proceedings of the Trustees so far as they are applicable and any regulations made by the Trustees.

## 12 Bank account

### 12.1 Bank

Subject to **clause 9.1**, the bank account of the Trust shall be maintained at such bank as shall from time to time be nominated by the Trustees.

### 12.2 Moneys Received

Subject to **clause 9.1**, all moneys belonging to the Trust shall as and when received be paid into the Trust's bank account.

### **12.3 Cheques**

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.

## **13 Accounts and audit**

### **13.1 Accounts**

The Trustees shall keep or cause accounts to be kept in such manner as the Trustees think fit, of all receipts and payments, assets and liabilities of the Trust and of all other matters necessary for showing the financial position of the Trust.

### **13.2 Audit**

The Trustees shall at the expense of the Trust Fund cause those accounts to be audited at least once a year by a properly qualified auditor appointed by the Trustees.

## **14 Indemnity**

### **14.1 Extent**

The Trustees shall be entitled to be indemnified out of the Trust Fund in respect of:

- (a) all Administration Expenses and other costs and expenses incurred by the Trustees relating to this document or any amending document or the termination or winding up of the Trust or otherwise in respect of the Trust; and
- (b) all liabilities incurred (including liability for income tax and any other taxes, fines and penalties payable in relation to taxes) and acts and things done in connection with or in consequence of such liabilities including, without limitation, the fulfilment, performance and exercise by the Trustees of any duties, obligations, powers, rights, authorities and discretions pursuant to this document.

### **14.2 Limitation**

The right of the Trustees to be so indemnified shall in respect of any matter whatsoever be limited to the money, property and investments comprising the Trust Fund from time to time and, in particular, no persons directly or indirectly benefiting from the trusts of this document nor any person disposing of property to the Trustees on these trusts, shall be personally liable in any way directly or indirectly to indemnify the Trustees in respect of any liability or loss of expenditure incurred by the Trustees in the administration of the Trust Fund of the Trust.

### **14.3 Liability for Loss**

The Trustees shall not be liable for any loss occasioned by the default of their officers, servants or employees or any person rendering services in connection with the Trust nor for any default of the Trustees' own other than wilful default, nor for any involuntary loss occasioned by the failure to insure or keep up any insurance, nor for any loss accruing from a loss in value of any investment or property comprising part of the Trust Fund or in which the Trust Fund is invested.

## **15 Variation of trust deed**

### **15.1 Manner of Variation**

The Trustees may with the prior written consent of the Eparch, by unanimous resolution at any time and from time to time by supplemental deed vary, delete or add to any of the trusts, powers and provisions of this document in any manner but so that:

- (a) no amendment shall be made which would cause the Trust to lose its income tax deductible status;
- (b) no part of the Trust Fund shall become subject to any trusts other than trusts for public charitable purposes in the Commonwealth of Australia; and
- (c) the prohibitions contained in **clauses 8.2 and 8.3** are not abrogated or relaxed.

### **15.2 No Other Variation**

The provisions of this document shall not be capable of being deleted, added to or varied other than in accordance with **clause 15.1**.

### **15.3 Notification to Authorities**

The Commissioner shall be notified of any changes to this document.

## **16 Winding up**

### **16.1 Intention**

It is the intention of the Founder and the Trustees that the Trust shall continue indefinitely, but the Trustees may with the written consent of the Eparch at any time and for any reason determine that the Trust shall be wound up.

### **16.2 Surplus Assets**

Subject to **clause 9.1(f)**, if upon the winding up or dissolution of the Trust there remains, after the satisfaction of all its debts and liabilities, any property or money whatsoever, the surplus assets shall not be given or distributed to the Trustees (or any of them) but shall be dealt with as follows:

- (a) Any parts of the reference collection and artefacts owned and/or made available to the Trust by the Ukrainian Catholic Church whether upon the

establishment of the Trust or afterwards, shall be given back to or distributed to the Ukrainian Catholic Church; and

- (b) Subject to paragraph (a), those parts of the reference collection and artefacts acquired by the Trust through application of the Gift Fund or otherwise acquired after the establishment of the Trust and any other surplus assets of the Trust shall be given or distributed to some other (one or more) fund, authority or institution approved by the Eparch and which is a public library and/or a public museum.

## **17 General**

### **17.1 Capital or Income Determination**

The Trustees shall have the power to determine whether any money is to be considered as Capital or Income and whether any expense, outgoing or other payment ought to be paid out of Capital or Income and to determine all questions and matters of doubt arising in the execution of the trusts of this document and so that every such determination (whether made upon a question actually raised or implied in the acts or proceedings of the Trustees) shall be conclusive and binding on all persons interested under this document.

### **17.2 Exercise of Trustees' Discretion**

- (a) Subject always to an express provision to the contrary in this document, every discretion (unless known by the Trustees to be a fraudulent breach of trust in bad faith) vested in the Trustees shall be absolute and uncontrolled and every power vested in the Trustees shall be exercisable in their absolute and uncontrolled discretion and the Trustees shall have the like discretion in deciding whether or not to exercise any such power.
- (b) No Trustee shall be responsible for any loss or damage occasioned by the exercise of any discretion or power by this document or by law conferred on a Trustee or by failure to exercise any such discretion or power or for any loss or damage accruing as a result of any power or discretion.

### **17.3 Employees**

Without prejudice to any powers of delegation conferred upon them by statute or otherwise by law, the Trustees are authorised and empowered to employ and pay or provide any benefit for (including paying to or creating any scheme of superannuation, retirement benefit or pension for the benefit of any person so employed) any agent, servant, employee or professional person to transact any business or do any act required to be done in connection with the trusts of this document including the receipt and payment of money, and the Trustees shall be allowed and paid all charges and expenses so incurred and shall not be responsible for the default of any such agent, servant, employee or professional person or for any loss occasioned by his or her employment.

#### **17.4 Governing Law**

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

Executed as a deed

Signed sealed and delivered  
by Very Rev. Peter Edward Stasiuk in  
the presence of:

*A. Tkaczuk*  
.....  
Witness

*ANNA TKACZUK*  
.....  
Name of Witness (print)

*Peter Stasiuk*  
.....

Signed sealed and delivered  
by Rev. Alexander Bohun Kenez in  
the presence of:

*A. Tkaczuk*  
.....  
Witness

*ANNA TKACZUK*  
.....  
Name of Witness (print)

*Alexander Kenez*  
.....

Signed sealed and delivered  
by Rev. Zenon Chorkawyj in the  
presence of:

*A. Tkaczuk*  
.....  
Witness

*ANNA TKACZUK*  
.....  
Name of Witness (print)

*Zenon Chorkawyj*  
.....

Signed sealed and delivered  
by Rev. Peter Struk in the presence of:

*A. Tkaczuk*  
.....  
Witness

*ANNA TKACZUK*  
.....  
Name of Witness (print)

*Peter Struk*  
.....