

DATED

19 December

2006

**BETWEEN**

**JOHN HUNT**

("Settlor")

**AND**

**TRUSTEES OF THE CHRISTIAN BROTHERS  
(ABN 64 066 939 786)**

("the Trustee")

**DEED OF TRUST**

**RE: ST PIUS X COLLEGE SCHOLARSHIP FUND**

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**DEED OF TRUST**  
**RE: ST PIUS X COLLEGE SCHOLARSHIP FUND**

**THIS DEED** made the 19<sup>th</sup> day of December 2006

**PARTIES**

**BETWEEN JOHN HUNT**

[REDACTED]  
 ("the Settlor")

**AND TRUSTEES OF THE CHRISTIAN BROTHERS**  
**(ABN 64 066 939 786)**  
 of 2 Thames Street, Balmain  
 ("the Trustee")

**WHEREAS**

- A. The Settlor desires to establish a public charitable fund ("St Pius X College Scholarship Fund") to be established and maintained exclusively for the purpose of providing money for eligible scholarships, bursaries or prizes for students attending or wishing to attend St Pius X College of Chatswood in the State of New South Wales and for the purpose of giving effect to such desire has upon the execution hereof transferred to the Trustee the settled property being the sum of one hundred dollars (\$100.00).
- B. The Settlor contemplates that from time to time further moneys and property both real and personal may be contributed as additions to the aforesaid sum.
- C. The Trustee has consented to become the Trustee hereof upon the trusts and with and subject to the powers and provisions hereinafter expressed.

**NOW THEREFORE THIS DEED WITNESSES** that it is hereby agreed and declared as follows:-

**1. Definitions and Interpretations**

**1.1 Definitions**

**"Advisory Committee"** means an Advisory committee appointed under clause 5.1.

**"Approved Eligible Applicants"** means Eligible Applicants who have been approved to receive benefits from the Trust Fund.



**"the Area"** means the State of New South Wales.

**"ATO"** means the Australian Taxation Office.

**"Authorised Investments"** are those investments listed in clause 3.7.

**"Cash"** includes cheques, bank cheques, deposits at call and moneys standing to the credit of any bank account of the Trustee (held in that capacity).

**"Corporations Act"** means the *Corporations Act* 2001 (Cth).

**"Deed"** means this deed.

**"Eligible Applicants"** means any Australian citizen or permanent resident of Australia.

**"Eligible Charity"** means a fund that is a scholarship fund and has Deductible Gift Recipient status pursuant to the Income Tax Act.

**"Gift Fund"** means the fund established and maintained pursuant to clause 3.

**"Income Tax Act"** means, as the context requires, *the Income Tax Assessment Act* 1936 (Cth) and/or *the Income Tax Assessment Act* 1997 (Cth) as amended.

**"Initial Sum"** means \$100.

**"Principal Purpose of the Trust"** means the purposes established under clause 2.3.

**"Property"** means real or personal movable or immovable property of any description and location, including cash choses in action, policies of any type, shares and any beneficial interest in any of the foregoing.

**"Registered Company Auditor"** means a person registered as an auditor or taken to be registered as an auditor under the *Corporations Act*.

**"School"** means St Pius X College of Chatswood in the State of New South Wales.

**"Securities"** means securities of any kind issued by a company or a unit trust or any other entity, including without limitation, shares, units, debentures, options and warrants.

**"Trust"** means the trust fund constituted by this Deed comprising the Trust Fund and to be known, pursuant to clause 2.2, as St Pius X College Scholarship Fund.

**"Trust Fund"** means all relevant and personal property held pursuant to the terms of this Deed, including:

(a) the Initial Sum;

- (b) all moneys, investments and property paid or transferred to, and accepted by, the Trustee, by way of gift or otherwise, comprising or including the Gift Fund and to be held in accordance with this Deed;
- (c) the moneys, investments and Property from time to time representing the Initial Sum and the Property mentioned in paragraph (b) above (if any); and
- (d) any moneys borrowed or raised by the Trustee to be held in accordance with this Deed.

**“Trustee”** means the trustee for the time being of the Trust Fund.

## **1.2 Interpretations**

- (a) headings are for convenience only and do not affect interpretation; and unless the context otherwise requires:
- (b) words denoting the singular number include the plural and vice versa, and words denoting any gender include all genders;
- (c) if at any time there is more than one Trustee of the Trust, then all references to the Trustee will be construed, as references to all of the Trustees jointly;
- (d) the expression “person” includes an individual, the estate of an individual, a body politic, a corporation and a statutory or other authority or association (incorporated or unincorporated) and where a person is referred to as the trustee of any trust or settlement the reference is to that person in that capacity;
- (e) references to clauses, subclauses, or schedules are references to clauses, subclauses, and schedules of or to this Deed and references to this Deed include any schedule;
- (f) references to this Deed or any other deed, agreement or instrument will be deemed to include references to this Deed or the other deed, agreement or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (g) references to statutes, regulations, ordinances or by-laws shall be deemed to extend to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing the same;

- (h) where any word or phrase is given a defined meaning, any other part of speech or grammatical form in respect of that word or phrase has a corresponding meaning;
- (i) the word "includes" in any form is not a word of limitation;
- (j) the expression "as the Trustee thinks fit" gives the Trustee the widest possible discretion but subject always to the Principal Purpose of this Deed.

## **2. The Trust**

### **2.1 Establishment of the Trust**

The Trustee irrevocably declares that the Trust will hold, subject to this Deed, the Trust Fund, on trust for the Principal Purpose of the Trust.

### **2.2 Name of the Trust**

The Trust hereby created shall be known as "St Pius X College Scholarship Fund".

### **2.3 Purpose of Trust**

The purpose of this Trust is to provide eligible scholarships, bursaries and prizes at the School awarded as follows:-

- (a) To Eligible Applicants who reside within the Area;
- (b) On the basis of merit or by reason of equity.

### **2.4 Factors Trustee may consider**

In exercising its discretions under clause 2.3, the Trustee may have regard to:

- (a) any recommendations of the Advisory Committee pursuant to clause 5;
- (b) special ability or abilities of an Eligible Applicant;
- (c) Information provided to the Trustee going to the circumstances of an Eligible Applicant and Eligible Applicant's household including information going to the assets, liabilities, income, family responsibilities, illnesses and disability of the Eligible Applicant or the Eligible Applicant's carers.

### **2.5 Policies**

The Trustee subject to the Trust Fund being only used for the Principal Purpose of the Trust shall act as the Trustee thinks fit in making decisions as to:

- (a) the choice of Approved Eligible Applicants;
- (b) determine how any benefit will be paid or applied to an Approved Eligible Applicant;

- (c) terminate at any time the assistance given by the Trust Fund to any particular Approved Eligible Applicant.

## **2.6 Policies and rules**

For the purpose of paying or applying the income or capital of the Trust Fund pursuant to clause 2.3, the Trustee shall:

- (a) formulate policies including policies to ensure openness to Eligible Applicants;
- (b) make rules in connection with a policy; and
- (c) revoke or amend a policy or rule and formulate others.

## **2.7 Public fund**

The Trust is a public fund and will at all times:

- (a) be open to contributions by all members of the public; and
- (b) be controlled or administered by a majority of persons who are of good standing and have a degree of responsibility to the community as a whole.

## **2.8 ATO endorsement**

The Trustee shall, as soon as practicable after the execution of this Deed, apply to the ATO for the endorsement for all relevant taxation purposes including, as applicable, endorsement as a fund to which income tax deductible gifts can be made and/or endorsement as a charitable institution.

## **3. Establishment and operation of Gift Fund**

### **3.1 Maintaining Gift Fund**

The Trustee shall maintain the Trust Fund, whether income or capital, for the Principal Purpose of the Trust as a gift fund ("Gift Fund") in conformity with applicable requirements of the Income Tax Act, including the requirements that the Gift Fund be maintained as a fund:

- (a) to which gifts of money or Property for the Principal Purpose of the Trust are to be made.
- (b) to which any money or Property received by the Trust in respect of those gifts is to be credited; and
- (c) that does not receive any other money or Property.

### **3.2 Application for the Principal Purpose of the Trust**

Subject to this clause and the other terms and conditions of this Deed, the Trustee as it thinks fit may at any time pay or apply all or any part of the income or capital of the Trust Fund for the Principal Purpose of the Trust.

### **3.3 Accumulation of Income**

The Trustee may accumulate and invest the income of the Trust Fund in accordance with this Deed including without limitation any rules or policies formulated by the Trustee under clause 2.6, insofar as to do so is consistent with the Principal Purpose of the Trust.

### **3.4 Limitation of benefit - payment of expenses**

No person whatsoever other than an approved Eligible Applicant shall receive any benefit from the Trust Fund provided that the Trustee may pay out of the Trust Fund all proper expenses and outgoings in respect of the Trust Fund including payments to members of the Advisory Committee.

### **3.5 Trustee to issue receipts**

The Trustee shall, upon request, issue or arrange for the issue of receipts in the name of the Trust to those members of the public who make contributions to the Trust Fund.

### **3.6 Investments**

Money investments and property forming part of the Trust Fund may be applied or invested by the Trustee in its own name, or in the name of any corporation approved by it and willing to act as its nominee, only in a manner in which trustees are permitted by an Act of the Commonwealth, a State Act or a law of a Territory of the Commonwealth to invest trust moneys, without special authorisation and the Trustee shall not invest money in any other manner.

## **4. Powers of the Trustee**

- (a) The Trustee may exercise all or any of the powers and discretions given to the Trustee pursuant to law or by an order of a court with appropriate jurisdiction.
- (b) The Trustee:
  - (i) shall be indemnified out of the Trust Fund from and against any expense and liability that may be incurred in prosecuting, defending or intervening in any action or suit in respect of the provisions of this Trust Deed, except where the action or suit arises out of any act of deceit, neglect or default or breach of trust by the Trustee;

- (ii) shall not incur any liability to anyone in respect of doing or performing or failing to do or perform any act or thing which, by reason of any provision of any present or future law of any State or Territory or the Commonwealth of Australia thereof or any ordinance, rule, regulation or by-law made pursuant thereto or of any decree, order or judgment of any court competent jurisdiction either the Trustee is required to do or perform or is hindered, prevented or forbidden from doing or performing;
- (iii) shall not incur any liability to anyone in consequence of the Trustee relying in good faith on information which proves to be incorrect;
- (iv) shall not be liable to account for any payments made by the Trustee in good faith to any duly empowered fiscal authority for taxes imposts or other charges made upon or in respect of the Trust or with respect to any transaction involving the Trust, notwithstanding that any such payment ought or need not have been made except to the extent that such payments may be attributable to the Trustee's own act of deceit, neglect or default;
- (v) may act upon information obtained from any beneficiary or potential beneficiary of the Trust or the opinion advice of or information obtained from barristers or solicitors being persons independent of the Trustee and instructed by the Trustee and upon any statement of or information obtained from any bankers, accountants or other persons appointed by the Trustee being persons independent of the Trustee and believed by the Trustee in good faith to be the expert in relation to the matters upon which they are consulted and the Trustee is not liable for anything done or suffered by it in good faith in reliance upon any such opinion, advice, statement or information;
- (vi) shall not be responsible for any misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of any auditor, actuary, approved valuer, attorney, banker, receiver, receiver and manager, barrister, solicitor, agent or other person

acting as agent or adviser of the Trustee except to the extent that such loss is attributable to the Trustee's own act of deceit, neglect or default; and

- (vii) shall not be liable for any action taken or thing suffered by the Trustee in reliance upon any notice, resolution, direction, consent, certificate, receipt, affidavit, statement, holding out, certificate for stock, plan for reorganisation, application or other paper or document reasonably believed by the Trustee to be genuine and to have been possessed, produced, passed, signed or endorsed by the proper parties where liability but for this indemnity would attach by reason solely that such paper or document was not, in fact, genuine or so possessed, produced, passed, signed or endorsed.
- (c) The receipt of a person authorised to receive money on behalf of a beneficiary shall be a full and sufficient discharge and will absolve the Trustee from seeing to the application of the benefit.
- (d) Should the Trustee purchase or otherwise acquire any investment in regard to which there is liability, the Trustee will have a right of indemnity out of the Trust Fund in respect of that liability except to the extent that such liability may be attributable to the Trustee's own act of deceit, neglect or default.
- (e) In the event that the Trustee has incurred a liability as Trustee and the Trustee is entitled under the terms of this Trust Deed or as otherwise allowed by law to be indemnified in respect of such liability out of the Trust Fund, the Trustee may claim such indemnity from the Trust Fund but the Trustee shall not be entitled to be indemnified for that liability by any beneficiary of the Trust unless by a separate agreement with that beneficiary.
- (f) The Trustee is expressly allowed and authorised to enter into transactions where the Trustee's interests and duty in relation to the transactions could conflict with interests of the trust in relation to the transaction. Without limiting the foregoing, the Trustee is expressly allowed and authorised to

contract by way of fee or for service with itself or with any related association, corporation, trusts foundation or other entity.

## **5. Advisory Committee**

### **5.1 Establishment and purpose**

- (a) Without limiting the rights and powers of the Trustee, the Trustee may establish an Advisory Committee to assist and advise the Trustee in obtaining donations to the Trust Fund or in the making of payments from the Trust Fund.
- (b) The Advisory Committee shall consist of such persons as the Trustee from time to time determines, provided a majority of members of the Advisory Committee have a degree of responsibility to the general community.

### **5.2 Chairman**

The Trustee may from time to time designate a chairman and other officers of the Advisory Committee.

### **5.3 Powers**

The Advisory Committee and the members will have the powers or authorities delegated to them, or any of them, from time to time by the Trustee. The Trustee is entitled to delegate all or any of its powers to the Advisory Committee.

### **5.4 Liability of Advisory Committee**

The Advisory Committee and the members will not be liable for any loss or damage to the Trust arising by reason of any mistake or omission made in good faith by any member of the Advisory Committee hereof or by reason of any other matter or thing except fraud or wilful neglect on the part of the member of the Advisory Committee who is sought to be made so liable.

## **6. Trustee protections and indemnities**

### **6.1 Liability of Trustee**

The Trustee will not be liable:

#### **(a) Exercise of power or discretion**

For any loss or damage occasioned by the exercise of any power or discretion conferred on the Trustee by this Deed or by law, or by failure to exercise any power or discretion.



**(b) Breach of duty or trust**

For any breach of duty or trust, except to the extent (if any) that the breach results from the fraud or wilful neglect of the Trustee.

**(c) Reliance on apparently genuine documents**

In respect of any action taken or thing suffered by the Trustee in reliance upon any notice, resolution, direction, authority, consent, certificate, receipt, affidavit, statement, holding out or other paper, document or communication given made or executed by any person whosoever reasonably believed by the Trustee to be genuine and to have been passed, signed or endorsed by the proper parties where liability for this subclause would attach by reason solely that such paper or document or other communication is not in fact genuine or so passed, signed or endorsed.

**(d) All tax payments made in good faith**

To account to any person for any payments made by the Trustee in good faith to any duly empowered fiscal authority for taxes or other charges upon the Trust Fund or with respect to any transaction under this Deed notwithstanding that any such payment ought or need not have been made for or on account of the retention of any money or other asset of the Trust Fund or to meet any prospective liability on the part of the Trustee in relation to the Trust to any such fiscal authority.

**(e) Expert opinions**

For anything done or suffered by it in good faith in reliance upon any opinion, advice, statement or information provided by any barrister, solicitor, banker, accountant, broker or other person believed by the Trustee in good faith to be competent in relation to the matters on which that person is consulted, provided that the Trustee reasonably believes the opinion, advice, statement or information to be independent of the Trustee.

**(f) Default of others**

For the failure of any person or corporation to carry out any agreement or the negligence or fraud of any agent employed, contracted or retained by the Trustee (whether or not the employment, contract or retainer of that agent was necessary or expedient or otherwise).

## **6.2 Reimbursement and Indemnity**

- (a) Subject to clause 6.2(b), the Trustee may reimburse itself out of the Trust Fund for all losses, liabilities, costs or expenses (including taxes) which it incurs as Trustee of the Trust, and without limiting the generality of any protection conferred on the Trustee by this Deed, the Trustee acting in good faith will be entitled to be indemnified out of the Trust Fund in respect of all the liabilities incurred by the Trustee relating to the execution of any powers, duties, authorities or discretions vested in the Trust by this Deed, and in respect of all actions, proceedings, costs, claims and demands in relation to any matter or thing done or omitted to be done concerning the Trust.
- (b) The right of the Trustee to be indemnified in respect of any liability incurred by the Trustee or arising in or about the investment and administration of the Trust Fund, in the conduct and management of any business forming part of the Trust Fund, in the acquisition of any investment under any contract entered into by the Trustee, or by reason of the execution of any power, duty, authority or discretion vested in the Trustee, will be limited always to the assets of the Trust Fund in the hands of the Trustee for the time being.

## **6.3 Act as Trustee of other trusts**

Nothing herein contained shall be construed to prevent the Trustee from establishing or acting as manager or trustee for trusts whether of a nature similar to or different from the trusts of this Deed, provided that the terms of this Deed, including without limitation clause 3, are complied with and all of the Trust Fund is kept separate and distinct from the property of any other trust.

## **6.4 Trustee liability limited to Trust Fund**

The Trustee shall not be liable to any greater extent than in respect of the Trust Fund vested in the Trustee or received or to be received by the Trustee in respect thereof in accordance with the provisions of this Deed except, subject to this clause 6, in respect of any fraud, neglect, default or breach of duty on the part of the Trustee.

## **6.5 Discharge of Responsibility**

Where the Trustee pays money or transfers property which was part of the Trust Fund to another person in accordance with this Deed, the Trustee is

discharged from all responsibility under this Deed in respect of that money or property, whether or not the Trustee obtains a receipt. Subject to clause 3, the Trustee is not bound to inquire concerning the authority of, or see to the application of the money or property by, the person to whom it is paid or transferred.

## **7. Bank account**

### **7.1 Bank account**

The Trustee will open and maintain in its name an account or accounts entitled the "St Pius X College Scholarship Fund" or words to that effect at such bank or banks as the Trustee from time to time thinks fit.

### **7.2 Separate account**

The Trustee shall maintain a separate bank account for the Gift Fund. The Trustee shall ensure that all donations to the Gift Fund and any earnings thereon are kept in an account separate from any other money. In accordance with clause 3.1, this separate account may be used only for the Principal Purpose of the Trust.

### **7.3 Operation**

The Trustee will determine who will be entitled to operate on such account or accounts.

## **8. Trust Accounts**

### **8.1 Separate property**

All Property of the Trust Fund shall be accounted for and kept separate and distinct from any Property otherwise owned or controlled by the Trustee.

### **8.2 Trustee must keep accounts**

The Trustee must establish and maintain proper books of account in relation to the Trust Fund (prepared in accordance with accounting practices and standards) and must keep accurate accounts of their trusteeship.

### **8.3 Audit**

The Trustee shall appoint a Registered Company Auditor to audit the Trust accounts annually.

### **8.4 Valuations**

The Trustee may at any time establish general and other reserves as part of the Trust Fund, to an extent consistent with the Principal Purpose of the Trust, and

may cause valuations of real property and assets of the Trust Fund to be made by such competent valuers or experts as the Trustee may decide.

## **9. Appointment, resignation and removal of Trustee**

### **9.1 Trustee to act continuously**

The Trustee covenants that it will act continuously as Trustee until the Trust is determined, or until it ceases to be a Trustee in accordance with this Deed.

### **9.2 Procedure**

Subject to clause 2.7(b):

- (a) the power of appointment of a new trustee in addition to or in place of an existing trustee may be exercised by the Trustee for the time being of this Deed;
- (b) any appointment of a new trustee pursuant to clause 9.2(a) shall be made by deed;
- (c) a Trustee may by deed retire as Trustee provided that by the same instrument a new Trustee is appointed in the place of such Trustee;
- (d) a natural person or corporation may alone or with others hold office as Trustee of this Deed; and
- (e) in the event that and for so long as a natural person is a Trustee, the number of Trustees shall not be less than three.

### **9.3 Powers of New Trustee**

Every new Trustee, on execution of a deed in accordance with clause 9.2 shall have all the powers, authorities, duties and discretions of the outgoing Trustee and may in all respects act as if the new Trustee had been originally named as a Trustee by this Deed.

### **9.4 Effect of retirement or removal of Trustee**

On the retirement or removal of a Trustee, the outgoing Trustee immediately ceases to be Trustee and all property, rights and benefits of any kind vested in the outgoing Trustee will vest in the continuing Trustee or the new Trustee when the new Trustee signs the deed.

## **10. Amendment of the Deed**

### **10.1 Amendment**

The Trustee may by deed amend the provisions of this Deed including the trusts created by this Deed provided that:

- (a) no amendment may be made that would, or would be likely to, change the Principal Purpose of the Trust;
- (b) no amendment may be made that would be contrary to the terms of this Trust, including without limitation, clause 3 of this Deed;
- (c) to the extent, if any, that the amendment is restricted by the provisions of any law or the requirements of any relevant Government Authority, those provisions or requirements have been complied with (including any applicable requirements relating to charitable fundraising);
- (d) no amendment shall be made without prior notification to the ATO and, if obtainable, the written approval of the ATO; and
- (e) where the Trust has been endorsed for taxation purposes, no amendment may be made that would, or would be likely to prejudice the status of the Trust for all relevant taxation purposes, including, as applicable, the endorsement of the Trust as a fund to which income tax deductible gifts can be made and/or endorsement as a charitable institution.

#### **10.2 ATO to be notified**

The Trustee must, as soon as practicable after any amendment is made to this Deed in accordance with clause 10.1, notify the ATO of the amendment made.

### **11. Winding up of the Trust**

#### **11.1 Winding up**

If:

- (a) the Trust and/or the Gift Fund is wound up or dissolved; or
- (b) where the Trust has been endorsed for taxation purposes, the Trust ceases to be endorsed for all relevant taxation purposes including, as applicable, endorsement as a fund to which income tax deductible gifts can be made and/or endorsement as a charitable institution,

any surplus assets of the Trust remaining after the payment of all expenses and liabilities attributable to the Trust, shall be paid or transferred to such one or more entities, funds, authorities or institutions as are Eligible Charities as the Trustee thinks fit and as shall be nominated by the Trustee in writing, in such proportions and at such times as shall be determined by the Trustee (with power to pay or transfer amounts or assets to anyone such entity, fund, authority or institution to the exclusion of any other).

**11.2 Limitations**

- (a) To the extent, if any, that any distribution, payment or transfer to be made by the Trustee in the circumstances mentioned in clause 11.1(a) or (b) is restricted by the provisions of any law or the requirement of any relevant Government Authority, no distribution, payment or transfer may be made by the Trustee otherwise than in compliance with those provisions or requirements (including without limitation, any applicable requirements relating to charitable fundraising); and
- (b) No distribution, payment or transfer may be made by the Trustee in the circumstances mentioned in clause 11.1(a) or (b) otherwise than in accordance with this clause 11.

**11.3 Eligible Charities**

Where gifts to an Eligible Charity are deductible for income tax purposes only if, amongst other things, the conditions set out in the relevant table item in Subdivision 30-B of the Income Tax Act are satisfied, a payment or transfer under this clause 11 must be made in accordance with those conditions.

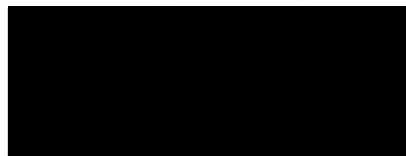
**12. Proper law**

This Deed will be governed by and construed pursuant to the law in force in the State of New South Wales.

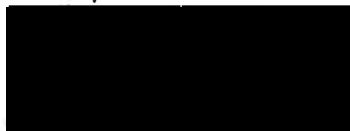
**EXECUTED AS A DEED**

**SIGNED SEALED & DELIVERED**  
by JOHN HUNT  
in the presence of:

)  
)  
)



Signature




Print Name of Witness