

**Trust Deed**

**Setting out the Terms of the Trusts**

**Governing**

**The Catholic Foundation of Vancouver Island**

**Dated February 15, 2004**

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# THE CATHOLIC FOUNDATION OF VANCOUVER ISLAND

WHEREAS The Catholic Foundation of Vancouver Island was established by a Deed of Trust (hereinafter referred to as the “**Original Deed**”) made on January 1, 1985;

AND WHEREAS the terms set out in the Original Deed were amended on September 24, 1988, February 22, 1997 and February 20, 2000;

AND WHEREAS it is convenient to make further amendments to the terms of the Original Deed and to restate the Original Deed, as amended;

NOW THEREFORE this Deed of Trust witnesses that the Original Deed is hereby revised and restated as follows effective as of February 15, 2004.

## **PART 1 -- THE TRUST**

### **1.01 EXISTENCE OF THE TRUST**

- (1) In furtherance of the Original Deed and the various amendments made to the Original Deed, the signatories to this Deed declare that they jointly hold the office of Trustee in respect of the Trust Property and the trusts set out in this Deed.
- (2) The signatories to this Deed and all other persons elected to the office of Trustee shall hold all Trust Property in trust pursuant to the trusts described in this Deed.

### **1.02 NAME OF THE TRUST**

- (1) For convenience of reference, the Trust shall be known as **The Catholic Foundation of Vancouver Island**.
- (2) For purposes of transfers of property to the Trust and other formal matters, the Trust may be referred to as follows.

The trustees for the time being of The Catholic Foundation of Vancouver Island, jointly and in the capacity of such persons as such trustees.

- (3) In addition to the above ways of referring to the Trust, any reference to the Trust shall be effective so long as that reference includes the name of at least one person then holding the office of Trustee and indicates that such person is acting in a fiduciary capacity pursuant to the trusts set out in this Deed.

### **1.03 DURATION OF TRUST**

- (1) The Trust shall exist in perpetuity until the earlier of the following times.
  - (a) The time at which there remains no further Trust Property.

- (b) Such time as may be determined by unanimous vote of all persons then holding the office of Trustee.
- (2) If the Trust at any time terminates, the Trustee shall deliver all remaining Trust Property to such one or more registered charities (as that term is defined in the Income Tax Act) as may be selected at that time by the Trustee. In exercising this discretion, the Trustee may give a preference to the Diocese and, in any event, shall endeavor to select one or more registered charities with purposes that are similar to the purposes of the Trust.

## **PART 2 -- CHARITABLE PURPOSES OF THE TRUST**

### **2.01 PURPOSES**

- (1) The Trust shall have the following purposes.
  - (a) To solicit and raise funds through the receipt of donations, pledges, bequests and other forms of gifts.
  - (b) At such times and in such proportions and amounts as the Trustee may determine from time to time, to pay or distribute all or any portion of the income of the Trust to assist in respect of any of the following purposes (hereinafter referred to collectively as the “**Charitable Purposes**”).
    - (i) Any capital project undertaken by any of the following.
      - (A) The Diocese.
      - (B) A parish (hereinafter referred to as a “**Parish**”) situated within the Diocese.
      - (C) A Roman Catholic school situated within the Diocese.
    - (ii) The establishment, development, support or maintenance of any of the following within the Diocese.
      - (A) A Parish (including a new Parish).
      - (B) A ministry, whether at the Parish or Diocesan level.
      - (C) Roman Catholic religious education.
      - (D) Social welfare projects.
      - (E) A Roman Catholic school situated within the Diocese.
    - (iii) The support or maintenance of Diocesan seminarians.
    - (iv) The support or maintenance of retired clergy of the Diocese.

- (v) The support or maintenance of retired lay workers of the Diocese.
  - (vi) The support or maintenance of missionary work of the Diocese.
  - (vii) The support or maintenance of the Roman Catholic faith, as practised within the Diocese.
  - (viii) Such other charitable objectives as the Trustee may consider appropriate, provided that those objectives are consistent with the teachings of the Roman Catholic Church as understood and applied within the Diocese.
- (2) The Trustee shall not distribute any part of the capital of the Trust except in accordance with the following provisions.
- (a) Section 2.01(3).
  - (b) On termination of the Trust, section 1.03(2).
- (3) The Trustee may distribute capital of the Trust in order to meet the requirements of any applicable law, including any disbursement quota imposed under the Income Tax Act. However, the Trustee shall keep any such capital distributions to the minimum amount required to fulfill such requirements. Specifically, the Trustee shall make any such distributions from capital
- (a) only to the extent that the income of the Trust is not sufficient to allow the Trust to meet the requirements;
  - (b) only to the extent necessary to meet such requirements; and
  - (c) only to the extent that the distribution is in respect of a Charitable Purpose.

For example, assume that the Trust has \$60 in income but the disbursement quota rules of the Income Tax Act require that the Trust disburse \$80 on charitable activities. In that case, the Trustee may distribute no more than \$20 out of the capital of the Trust in order to fulfill the disbursement quota rules (provided that the capital distribution is in respect of a Charitable Purpose).

### **PART 3 -- HOLDERS OF THE OFFICE OF TRUSTEE**

#### **3.01 NUMBER OF OFFICEHOLDERS**

- (1) As of the date of signature of this Deed, the number of Officeholders is nine and such nine Officeholders are the nine signatories to this Deed.
- (2) The Trustee may from time to time increase or decrease the number of Officeholders, subject to the following rules.
  - (a) At any one time, the Officeholders must consist of at least the following minimum

number of persons.

- (i) Two laypersons who reside in the South Island Region and who are not employees of the Diocese. For this purpose, the South Island Region consists of that part of the Diocese described on Schedule A to this Deed.
  - (ii) One layperson who resides in the Diocese but outside of the South Island Region.
  - (iii) The Bishop or a nominee of the Bishop. During any time that the Bishop declines to take office as a Trustee and fails to name a nominee for the purpose of this provision, however, this Deed will be read without reference to this section 3.01(2)(a)(iii).
- (b) At any one time, there must be no more than ten Officeholders.
  - (c) At any one time, no more than three Officeholders (including the Bishop) may be Roman Catholic clergy or employees of the Diocese.
  - (d) For every Roman Catholic clergy or other employee of the Diocese (other than the Bishop or the nominee of the Bishop) who is elected as an Officeholder, the Officeholders must include, in addition to the minimum number of laypersons referred to in section 3.01(2)(a), one layperson who is not an employee of the Diocese.

### **3.02 ELECTION OF OFFICEHOLDERS**

- (1) A person shall be elected to the office of Trustee by majority vote of the persons then holding the office of Trustee.
- (2) Persons elected to the office of Trustee shall hold office for the following terms.
  - (a) The Bishop or the nominee of the Bishop shall hold office for so long as the Bishop holds office as bishop of the Diocese.
  - (b) Each other Officeholder shall hold office for no more than two consecutive terms of three years each.
- (3) Any Officeholder may nominate another person for election to the office of Trustee.
- (4) A person who has been elected as an Officeholder shall, before acting as such, sign a declaration in which the person accepts the office of Trustee and the terms of this Deed.

### **3.03 RESIGNATION OF AN OFFICEHOLDER**

- (1) Any Officeholder may resign at any time.
- (2) On the resignation of any person from the office of Trustee, the following rules apply.

- (a) If the persons remaining in the office of Trustee fulfill the requirements of section 3.01(2), those remaining persons will have full authority to administer the Trust.
- (b) If the persons remaining in the office of Trustee fulfill the requirements of section 3.01(2), those remaining persons will have the power to elect such number of additional persons as may be required to fulfill the requirements of section 3.01(2). Until such time as the requirements of section 3.01(2) are once again fulfilled, those remaining persons shall not exercise any other powers, rights or authorities of the Trustee. As of the time that the requirements of section 3.01(2) are once again fulfilled, the persons then holding the office of Trustee will have full authority to administer the Trust and to exercise all powers, rights and authorities granted to the Trustee.

### **3.04 DEEMED RESIGNATION OF OFFICEHOLDER**

- (1) An Officeholder will be deemed to have resigned as an Officeholder at the time that is immediately prior to the occurrence of any of the following events.
  - (a) In the case of an Officeholder who is an individual, the death of the Officeholder.
  - (b) The insolvency of the Officeholder.
  - (c) The commission of an act of bankruptcy by the Officeholder.
  - (d) The Officeholder becoming Incapacitated.
  - (e) If the Officeholder is an individual, upon the pronouncement of a judgement against the Officeholder by a court of competent jurisdiction for an amount in excess of \$100,000.
  - (f) The termination of the status of the Officeholder as a resident of the Diocese.
- (2) An Officeholder who is deemed to have resigned pursuant to section 3.04(1) is not thereby disqualified from being re-elected as an Officeholder at any time after such deemed resignation (including the time that is immediately after the time of such deemed resignation).

### **3.05 DISMISSAL OF OFFICEHOLDER**

- (1) An Officeholder (hereinafter in this section 3.05 referred to as the “**Dismissed Officeholder**”) will be deemed to have resigned in the following circumstances.
  - (a) If the total number of Officeholders is then greater than 9, no less than 80% of the Officeholders have voted to dismiss the Dismissed Officeholder from the office of Trustee.
  - (b) If the total number of Officeholders is then 9 or less than 9, all Officeholders (other than the Dismissed Officeholder) have voted to dismiss the Dismissed



Officeholder from the office of Trustee.

- (2) An Officeholder may be dismissed only by resolution passed at a meeting of Officeholders if all the following criteria have been met in respect of such meeting.
  - (a) At least 14 days written notice of such meeting is given to all Officeholders (including the Officeholder whose dismissal is being considered).
  - (b) The written notice explicitly indicates that such meeting will consider the dismissal of an Officeholder, names that Officeholder and describes the reasons for the proposed dismissal of that Officeholder.
- (3) The Officeholder whose dismissal is being considered may speak at any meeting called to consider the dismissal of that Officeholder, but the failure of that Officeholder to attend the meeting shall not invalidate any resolution passed at that meeting.
- (4) A Dismissed Officeholder will not be eligible to serve again as an Officeholder until after the third anniversary of the deemed resignation of that Officeholder pursuant to this section 3.05.
- (5) The power to dismiss an Officeholder may be exercised notwithstanding that there is then a disagreement among the Officeholders on any matter or that an application has been made to any court or other person or body to resolve any such disagreement.

### **3.06 IDENTIFICATION OF OFFICEHOLDERS**

- (1) If any Officeholder has resigned, is dismissed or is elected in accordance with this Deed, a copy of the resignation, or the instrument dismissing or electing such person certified by the other Officeholders, is conclusive evidence to any person of such resignation or election.
- (2) Any person dealing with the Trustee shall be entitled to rely upon a notarially-certified copy of any instrument referred to in this Part as sufficient evidence of the facts set out in that instrument.

### **3.07 OFFICEHOLDERS TO SERVE WITHOUT REMUNERATION**

Each Officeholder shall serve without remuneration.

## **PART 4 -- ADMINISTRATION OF THE TRUST**

### **4.01 MEETINGS AND PROCEDURAL MATTERS**

- (1) The Trustee must meet at least once a year and otherwise shall meet as required from time to time.
- (2) Meetings of the Trustee shall be called by the person appointed as chair of the Trustee or by any two Officeholders. At least 14 days notice must be given of each meeting, unless

notice is waived by all Officeholders.

- (3) Subject to any minimum requirements set out in this Deed, the Trustee may from time to time determine rules for all procedural matters, including procedure in respect of meetings of the Trustee. Without limiting the generality of the foregoing, the Trustee may determine rules in respect of the following.
  - (a) The number of Officeholders required for a quorum, provided that such number shall never be less than 50% of the persons then holding office as Trustee.
  - (b) The procedure for holding Trustee meetings by telephone or by any other means of communication (including electronic means of communication).
- (4) The Trustee may provide rules for the making of Trustee decisions outside of a meeting by polling the Officeholders, including polls conducted by e-mail or other electronic communications facilities. Any such rules, however, must provide for the following minimum requirements.
  - (a) Each poll must be sent to all Officeholders.
  - (b) In order for any action to be taken on the basis of the poll, at least 75% of the Officeholders must respond to the poll.
  - (c) The poll must consist only of questions that can be answered by a “yes” or a “no”.

#### **4.02 DECISIONS OF THE TRUSTEE**

Unless otherwise stated in this Deed, all decisions of the Trustee shall be made by majority vote of the Officeholders present at a meeting of the Trustee, provided that a quorum is present at such meeting.

#### **4.03 DOCUMENTATION OF TRUSTEE DECISIONS**

The following documents shall be conclusive evidence of a decision of the Trustee.

- (a) A written resolution signed by each Officeholder, whether or not a meeting has been held in respect of the matter referred to in that written resolution. Any such written resolution may be signed in two or more counterparts, one of which will be deemed an original after all Officeholders have signed a copy of the written resolution.
- (b) Written minutes declaring any resolution to have been passed at a meeting attended by a quorum of Officeholders and purporting to be signed by the chair of such meeting.
- (c) A summary of the results of a poll of Officeholders, provided that the summary purports to be signed by at least two Officeholders, all responses to the poll are attached and the preceding documentation complies on its face with the provisions

of this Deed and the rules established by the Trustee in respect of polls.

**4.04 FINANCIAL STATEMENTS AND REPORTS**

- (1) The Trustee shall cause annual financial statements to be prepared and shall cause those financial statements to be audited or reviewed by an independent accountant.
- (2) The Trustee shall prepare an annual report on the activities of the Trust and shall include the audited or reviewed financial statements in that report.
- (3) The Trustee shall make a copy of the annual report (including the audited or reviewed financial statements) available to any member of the Diocese who wishes to review the report.

**4.05 OFFICEHOLDER MAY ABSTAIN FROM VOTING**

- (1) Any Officeholder may abstain from voting in respect of any specific act or decision of the Trustee, provided that such abstention is recorded in the written record of such decision.
- (2) If an Officeholder (hereinafter referred to as the “**Abstaining Officeholder**”) abstains from voting in respect of any specific act or decision of the Trustee, the Abstaining Officeholder
  - (a) will be counted in the quorum and in the number of Officeholders for the purpose of determining whether the required number of Officeholders has approved the matter; and
  - (b) shall be bound by the act or decision if it is approved by the required number of Officeholders and shall join in the execution of any acts, deeds, documents, assurances or writings reasonably necessary to implement the act or decision.

**4.06 GENERAL ADMINISTRATION PROVISIONS**

- (1) The Trustee will have all the powers, rights and discretions set out in this Deed, will hold the Trust Property upon the trusts set out in this Deed and will comply with all applicable laws (including the Income Tax Act of Canada).
- (2) The Trustee will manage the Trust Property based on the expectation that the Trust will have a perpetual existence for the purpose of fulfilling the Charitable Objects on a perpetual basis.
- (3) The Trustee will seek to distribute its annual income in accordance with the Charitable Purposes. However, the Trustee is not required to distribute all income of the Trust in any one year. Subject to section 8.02(4), the Trustee may elect to accumulate income.

**4.07 DISCRETIONARY POWERS OF TRUSTEE**

- (1) This Deed confers broad discretionary powers on the Trustee in order to permit flexibility

from time to time in respect of matters relating to the fulfillment of the Charitable Purposes of the Trust.

- (2) The judgment and discretion of the Trustee is to govern in respect of the manner in which the Trustee may exercise the powers and discretions conferred by this Deed on the Trustee, subject only to any specific directions set out in this Deed.

#### **4.08 TRUSTEE MAY REFUSE TO EXERCISE DISCRETION**

The Trustee has the discretion to refrain from exercising any discretionary power conferred on the Trustee.

### **PART 5 -- POWERS OF THE TRUSTEE**

#### **5.01 POWER TO OPERATE BANK ACCOUNTS**

- (1) The Trustee may open and maintain one or more savings, chequing, current or deposit accounts (hereinafter in this section referred to as an “**Account**”) with any bank, credit union, trust company, loan corporation or other financial institution empowered to accept money for deposit.
- (2) The Trustee may deposit to the credit of any Account all or any portion of the funds for the time being forming part of the Trust Property.
- (3) The Trustee may authorize withdrawals from any Account by cheque or other instrument executed by such one or more persons as the Trustee may from time to time authorize.
- (4) The Trustee may rent safety deposit boxes from any entity referred to in section 5.01(1) and may place in any such safety deposit box any securities, documents of title or any other documents relating to the Trust Property.

#### **5.02 POWER TO USE NOMINEE TITLE HOLDERS**

- (1) Notwithstanding any law to the contrary, the Trustee may register title to any asset included in the Trust Property in the name of any one or more nominees selected by the Trustee.
- (2) Any nominee shall not be obligated to see to the enforcement of the trusts set out in this Deed but may act on the instruction of the Trustee.

#### **5.03 POWER TO DELEGATE**

- (1) Notwithstanding any law to the contrary, the Trustee may delegate to any one or more Officeholders any of the powers, authorities, duties or discretions conferred on the Trustee (including the power to make any decision or execute any document).
- (2) Any delegation made pursuant to this section may be revoked at any time.

**5.04 POWER TO GRANT POWERS OF ATTORNEY**

- (1) The Trustee may grant a power of attorney to any person for the purpose of authorizing that person to transact business or other affairs on behalf of the Trustee.
- (2) Any power of attorney granted pursuant to this section may be revocable, irrevocable, general or limited and may grant to the attorney any of the rights, powers, authorities and discretions that the Trustee could have exercised in respect of the subject matter of the power of attorney.

**5.05 POWER TO RETAIN, SELL OR CONVERT TRUST PROPERTY**

- (1) The Trustee may retain all or any portion of the Trust Property in the form in which it was received by the Trustee for as long as the Trustee thinks fit.
- (2) The Trustee may, at any time or times, sell or dispose of any Trust Property or otherwise convert any Trust Property into money or money's worth.

**5.06 POWER TO REIMBURSE EXPENSES**

The Trustee may reimburse any Officeholder for any expenses reasonably incurred by that Officeholder in the course of acting in the office of Trustee.

**5.07 POWER TO INVEST TRUST PROPERTY**

- (1) The Trustee may invest and reinvest all or any portion of the Trust Property in any form of investment that meets the following criteria.
  - (a) The investment is authorized by law for the investment of trust funds.
  - (b) The investment is considered suitable for an investor who has a low tolerance for loss of capital.
  - (c) The investment is considered suitable for an investor who wishes to enjoy an income flow.
- (2) The Trustee may pay and discharge from and out of the Trust Property and income therefrom such proper and reasonable brokerage and other proper and reasonable expenses as the Trustee considers necessary or advisable in connection with the investment, reinvestment and disposition of the Trust Property.
- (3) The Trustee may vote in person or by proxy upon any securities held by the Trustee as an investment.
- (4) Subject to the criteria set out in section 5.07(1), the Trustee may acquire and hold any interest in real estate.

**5.08 POWER TO LEASE TRUST PROPERTY**

- (1) The Trustee may let or lease any interest or estate in any real or personal property forming part of the Trust Property. Any such leases may be from month to month, from year to year or for any specific period and may be on such terms and conditions as the Trustee considers acceptable.
- (2) The Trustee may accept surrenders of leases and tenancies, expend money in repairs and improvements on leased property; manage leased property, hold leased property with a view to the sale thereof, and grant such options in respect of leased property as the Trustee may consider advisable.

**5.09 POWER IN RESPECT OF EASEMENTS AND LICENCES**

- (1) The Trustee may acquire, grant or release any easement in respect of any real property included in the Trust Property.
- (2) The Trustee may acquire, grant or release any licence in respect of any property included in the Trust Property.

**5.10 POWER TO HOLD JOINT INTERESTS IN PROPERTY**

- (1) The Trustee may hold a partial undivided interest in any property with any other person or persons, whether as a joint tenant or a tenant in common, and may enter into co-ownership agreements with any one or more such co-owners. The Trustee may concur with any co-owner in exercising any rights of ownership in respect of such property (including powers of sale, leasing or managing).
- (2) The Trustee may partition or concur in partitioning any portion of any co-owned property and may agree to any apportionment of purchase money, rent, expense of sale or other matter on terms acceptable to the Trustee.

**5.11 POWER TO SUBDIVIDE TRUST PROPERTY**

- (1) The Trustee may subdivide any Trust Property.
- (2) The Trustee may sign subdivision or other plans and instruments in respect of any Trust Property.
- (3) The Trustee may dedicate all or any portion of any real estate included in the Trust Property as parks, streets or otherwise in such manner as the Trustee may consider advisable.

**5.12 POWER TO REPAIR TRUST PROPERTY**

The Trustee may repair, convert, improve or rebuild any real or personal property forming part of the Trust Property and, in connection therewith, make such expenditures as the Trustee may consider advisable.

**5.13 POWER TO DESIGNATE FUNDS FOR SPECIFIC PURPOSES**

- (1) The Trustee may allocate a portion of the Trust Property to a special-purpose fund created by the Trustee and may designate that future income from that special-purpose fund is to be applied for a specific purpose, provided that the purpose come within the Charitable Purposes. For the purpose of this provision, “**Trust Property**” includes newly-acquired property arising from a donation to the Trust as well as property that the Trustee expects to acquire.
- (2) Any designation made for the purposes of section 5.13(1) may be effective for a specified period of time or may be unlimited in duration, subject only to termination by a later decision of the Trustee.
- (3) Section 5.13(1) applies in respect of any donation or gift Subject to the Income Tax Act, the Trustee may accept a gift or other donation and may set aside that gift or other donation into a special-purpose fund made on the understanding that the donation is to be held for a specific purpose, provided that the purpose comes within the Charitable Purposes.

**5.14 NO POWER TO GUARANTEE**

The Trustee may not guarantee any liability of any other person.

**5.15 POWER TO INSURE**

- (1) The Trustee may acquire and hold insurance, in such amount as the Trustee may consider advisable, in respect of any of the following.
  - (a) Errors or omissions of the Officeholders.
  - (b) Any obligation, transaction or matter that the Trustee considers is related to the purposes of the Trust.
  - (c) As an investment, life insurance on the life of any person.
  - (d) Loss or damage to Trust Property by fire or other hazard.
  - (e) Liability for negligence associated with the ownership or use of any Trust Property.
  - (f) Any obligation, transaction or matter that the Trustee considers advisable.
- (2) The Trustee may name the Trustee (in the Trustee’s capacity as trustee) as the beneficiary of any life or other insurance policy held by the Trustee. In such case, any death benefit or other form of benefit paid to the Trustee under the policy shall be added to the Trust Property and be subject to the terms and conditions of the Trust.
- (3) Subject to the provisions of this Deed, the Trustee may deal with any insurance policy

(including any life insurance policy) held by the Trustee as if the Trustee were the full beneficial owner of the policy. Without limiting the generality of the foregoing, the Trustee may do any of the following, as the Trustee considers advisable in the sole, absolute and unfettered discretion of the Trustee.

- (a) The Trustee may exercise or refrain from exercising any power, right or option contained in any policy or otherwise available to the holder of such a policy.
  - (b) The Trustee may reduce the amount of a policy or convert or exchange a policy.
  - (c) The Trustee may surrender a policy at any time for the cash surrender value of the policy or upon such other terms as the Trustee considers appropriate.
  - (d) The Trustee may prepay all or any portion of the premiums payable under the policy.
  - (e) The Trustee may cancel a policy by terminating the payment of premiums.
  - (f) The Trustee may sell or otherwise dispose of any policy, including by selling the policy to any person having an insurable interest in the policy.
- (4) If the Trustee holds any life insurance policy, the Trustee shall make every effort to collect all sums that are payable to the Trustee on the death of the life insured and shall receive and hold such sums as Trust Property.
- (5) The Trustee shall not be liable for any of the following.
- (a) Any failure to maintain insurance.
  - (b) Any failure to maintain any particular amount or type of insurance.
  - (c) The form, genuineness, validity or sufficiency of any insurance policy.
  - (d) Any act which may vitiate any insurance policy, including any misrepresentation made in the application for the insurance policy.
  - (e) The failure of any insurance company or other entity to pay any amount that becomes payable under any insurance policy.
  - (f) Any delay occasioned by reason of any restriction or provision contained in any insurance policy.
  - (g) The lapse of any insurance policy.
- (6) No payer of any insurance proceeds to the Trustee need inquire into any of the provisions of the Trust or see to the application of the insurance proceeds by the Trustee. A receipt issued by the Trustee acknowledging payment of the insurance proceeds shall relieve the payer from any liability in connection with the payment of the insurance proceeds.



**5.16 POWER TO ACQUIRE ANNUITIES**

The Trustee may purchase or otherwise acquire annuities and select such type of annuity as the Trustee may consider advisable.

**5.17 POWER TO SETTLE CLAIMS**

The Trustee may settle, compromise or waive any claim made by or against the Trustee.

**5.18 POWER TO RETAIN ADVISORS**

(1) The Trustee may, in the discharge of the Trustee's duties hereunder, do the following.

- (a) Retain, employ or otherwise engage any lawyer, accountant, financial advisor, investment advisor, valuator, surveyor, broker, auctioneer or any other advisor (hereinafter in this section referred to as an "**Advisor**").
- (b) Determine the terms of engagement applicable in respect of any Advisor engaged by the Trustee (including the compensation payable to that Advisor) and pay any compensation payable in accordance with those terms. Any such compensation may be paid out of the income or capital of the Trust.
- (c) Act in accordance with any opinion, advice or direction given by any Advisor.

(2) The Trustee shall not be responsible for any loss or damage that results from the Trustee acting in accordance with any opinion, advice or direction given by any Advisor, provided that the Trustee has acted reasonably in relying on such opinion, advice or direction. The Trustee shall be deemed to have acted reasonably in relying on any opinion, advice or direction given by an Advisor if that Advisor has a reasonable degree of competence in the field in respect of which such opinion, advice or direction has been given.

**5.19 SEVERABLE NATURE OF POWERS**

Each power and authority conferred on the Trustee is severable. If any power or authority is found at any time to be invalid, illegal or unenforceable for any reason, the following rules will apply.

- (a) The invalid, illegal or unenforceable power or authority will be severed and deleted from this Deed.
- (b) The validity, legality and enforceability of the remaining powers and authorities set out in this Deed will not be affected or impaired in any way.
- (c) This Deed shall thenceforth be construed and enforced as if the invalid, illegal or unenforceable power or authority had never been included in this Deed.

**PART 6 -- AMENDMENTS TO THE DEED**

**6.01 POWER TO AMEND**

- (1) Subject to sections 6.01(2), 6.01(3) and 6.01(4), the Trustee may at any time and from time to time amend any provision of this Deed.
- (2) An amendment to an amendable provision of this Deed will have no effect unless both the following criteria have been fulfilled.
  - (a) At least 2/3 of the Officeholders have consented in writing to the amendment.
  - (b) The amendment has been approved by the Canada Customs and Revenue Agency (or any successor agency administering the registered charity provisions of the Income Tax Act).
- (3) The Trustee shall have no power to amend any of the following provisions.
  - (a) Section 1.03(2).
  - (b) Section 4.01(1).
  - (c) Section 4.01(3)(a).
  - (d) Section 4.04.
  - (e) Section 5.14.
  - (f) Section 6.01(1).
  - (g) Section 6.01(2).
  - (h) Section 6.01(4).
- (4) Section 6.01(3) may be amended only by the insertion of other provisions of the Deed that, as of the time of such insertion, are no longer subject to amendment.

**PART 7 -- LIABILITY OF THE TRUSTEE**

**7.01 POWER TO LIMIT LIABILITY**

The Trustee will be entitled to limit the liability of the Trustee (including any Officeholder) in respect of any contract, agreement, transaction or event in such a way that the only recourse for any breach or other cause of action will be against the Trust Property.

**7.02 CONFLICTS OF INTEREST**

No Officeholder shall be considered to be in breach of any fiduciary or other duty in

respect of the Trust by reason only of the Officeholder, in his own right, at any time directly or indirectly

- (a) owning, acquiring, or disposing, or failing to acquire or dispose of, any interest in any entity in respect of which the Trust holds an interest; or
- (b) exercising or failing to exercise any rights, votes, options, privileges or preferences attached to any shares, securities or other forms of interests that are similar to any interests held by the Trustee as Trust Property;

and the Officeholder shall not be liable to account to the Trust for any actual or possible preference or advantage that may be enjoyed by the Officeholder as a result thereof, even if the Officeholder acts in his own right in a way that is different from the action of the Trust in respect of the foregoing.

### **7.03 GOOD FAITH EXONERATES TRUSTEE**

- (1) An Officeholder will bear no liability of any kind whatsoever in respect of any act or omission of that Officeholder, any other Officeholder or the Trustee provided that the Officeholder performs the duties of the office of Trustee in good faith.
- (2) An Officeholder will be deemed not to have acted in good faith if the Officeholder is guilty of fraud or gross negligence in performing the duties of the office of Trustee.

### **7.04 NO REQUIREMENT TO FURNISH BOND**

No Officeholder shall be required to provide any bond in respect of the performance of the duties of Trustee.

## **PART 8 -- INTERPRETATION AND GENERAL PROVISIONS**

### **8.01 DEFINITIONS**

For all purposes, except as otherwise expressly provided or unless the context otherwise requires, the following terms have the following meanings.

- (a) “Bishop”, at any time and from time to time, means the individual who at that time holds office as bishop of the Diocese.
- (b) “Charitable Purpose” has the meaning assigned pursuant to section 2.01 of this Deed.
- (c) “Deed”, “herein”, “hereto”, “hereunder” and similar expressions refer to this Deed of Trust (as supplemented and varied from time to time) together with all other deeds and writings which supplement or implement the provisions of this Deed of Trust or which are ancillary to the provisions of this Deed of Trust.
- (d) “Diocese” means the Diocese of Victoria and any successor diocese, except that

the words “within the Diocese” means within the geographic boundaries of the Diocese as those boundaries existed on January 1, 2002 and also within any additional areas that may be added to the Diocese after January 1, 2002.

- (e) “Income” of the Trust and “income” from the Trust Property has the meaning assigned by section 8.02.
- (f) “Income Tax Act” means any applicable income tax legislation imposed in respect of any income of the Trust, as such income tax legislation may exist or be amended from time to time. As of the date of the creation of this Trust, the applicable income tax legislation is the Income Tax Act of Canada and the Income Tax Act of British Columbia. Notwithstanding the foregoing, a reference to one or more specific provisions of the Income Tax Act means such provision or provisions of the Income Tax Act of Canada on the date of the creation of this Trust and as such provision or provisions may be amended or substituted from time to time, together with any applicable provisions of like or similar effect in any applicable income tax legislation of a province or other political subdivision or in any applicable legislation of like or similar effect.
- (g) “Officeholder”, at any time and from time to time, means any one person who acts at that time in the office of Trustee.
- (h) “Original Deed” has the meaning assigned by the Recitals to this Deed.
- (i) “Parish” means a Roman Catholic parish situated within the Diocese.
- (j) “South Island Region” has the meaning assigned by section 3.01(2)(a)(i).
- (k) “Trust” means the trusts on which the Trustee holds the Trust Property and, where the context so requires, this Deed itself or the Trust Property.
- (l) “Trust Property” means the aggregate of all amounts and property transferred to or acquired by the Trustee from time to time and accepted by the Trustee as, or declared by the Trustee to be, Trust Property (including all income earned in respect of the Trust Property).
- (m) “Trustee”, at any time and from time to time, means the office of acting as trustee under this Deed and includes, as a collective, all the Officeholders then holding such office.
- (n) “Trustee Act” means the legislation that governs the actions of trustees, as such legislation may exist or be amended or be substituted from time to time, as in force from time to time in the jurisdiction of the Trust.

## **8.02 INCOME OF THE TRUST**

- (1) Subject to section 8.02(2), “**income**” of the Trust and “income” from the Trust Property means income as determined for purposes of the law of trusts (including interest income

and dividends received out of the current earnings of any corporation or other entity in respect of which the Trust holds any share or other interest).

- (2) For all purposes of this Deed, “income” of the Trust and “income” from the Trust Property specifically excludes the following amounts.
  - (a) All proceeds realized in respect of the sale or other disposition of any Trust Property. For this purpose, a disposition of any Trust Property that is a share in the capital stock of any corporation includes a disposition of that share to the corporation that issued the share (including the redemption of that share by the corporation).
  - (b) All capital gains realized by the Trust. For this purpose, a capital gain includes any amount that is deemed, pursuant to any applicable provision of the Income Tax Act, to be a capital gain.
  - (c) Any capital dividend (as the concept of a capital dividend applies for purposes of the Income Tax Act).
  - (d) The value of any property that has been substituted for any Trust Property, as the concept of substituted property applies for purposes of the Income Tax Act.
  - (e) The full value of any shares or other securities received by the Trust as stock dividends.
  - (f) The full value of all donations, gifts and other amounts contributed to the Trust.
- (3) Any amount that is not income of the Trust shall be considered to be capital of the Trust.
- (4) The Trustee shall have no power to capitalize any undistributed income but may accumulate income. Any income that has been accumulated from prior years shall retain its status as income and shall be available for distribution in any subsequent fiscal year of the Trust.
- (5) The Trustee shall have the power and discretion to characterize any expenses of the Trust as being of a capital or income nature and shall have the power to determine the extent to which such expenses shall be borne out of the capital or income of the Trust.

### **8.03 LAW GOVERNING THE TRUST**

The formal validity of the Trust and the interpretation of this Deed will be governed by the laws of British Columbia.

### **8.04 GENDER AND NUMBER REFERENCES**

Unless the context requires otherwise, the following rules of construction shall apply to the interpretation of this Deed.

- (a) Words denoting the singular may be construed as denoting the plural, and vice-versa.
- (b) Pronouns and other words denoting a specific gender may be construed as also denoting any other gender, whether masculine, feminine or neuter.

**8.05 HEADINGS**

The headings set out in this Deed are included solely for convenience of reference. The headings are to have no significance whatsoever in the interpretation of this Deed or of any provision of this Deed.

**8.06 BINDING NATURE**

The terms and conditions of the Trust will be binding upon the Officeholders from time to time.

**8.07 SEVERABILITY**

Each provision of this Deed is severable. If any provision of this Deed is found at any time to be invalid, illegal or unenforceable for any reason, the following rules will apply.

- (a) The invalid, illegal or unenforceable provision will be severed and deleted from this Deed.
- (b) The validity, legality and enforceability of the remaining provisions of this Deed will not be affected or impaired in any way.
- (c) This Deed shall thenceforth be construed and enforced as if the invalid, illegal or unenforceable provision had never been included in this Deed.

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BY SIGNING BELOW, the nine Officeholders in office as of the date of this Deed hereby acknowledge that this Deed sets out the terms of the trusts pursuant to which they hold the Trust Property.

<hr/> Most Reverend Raymond Roussin, SM Bishop of Victoria and Trustee	<hr/> Bernadette Chow Trustee
<hr/> Ton Cliteur Trustee	<hr/> Grant Crosswell Trustee
<hr/> Blair Dwyer Trustee	<hr/> Reverend Bernard Hanley Trustee
<hr/> Bob Payne Trustee	<hr/> Robert Rinfret Trustee
<hr/> Marilyn Simpson Trustee	

**SCHEDULE A  
TO THE TRUST DEED  
SETTING OUT THE TERMS OF  
THE CATHOLIC FOUNDATION OF VANCOUVER ISLAND  
DESCRIPTION OF THE SOUTH ISLAND REGION**

For all purposes of the Deed, the South Island Region consists of that part of the Diocese that lies south of a line drawn From the northern tip of Galiano Island to the northern tip of Salt Spring Island, then in a straight line from the northern tip of Salt Spring Island to the Crofton ferry terminal, then in a straight line from the Crofton Ferry Terminal to the intersection of the Trans-Canada Highway and Route 18, then from that intersection down the middle of Route 18 to the intersection of Route 18 and the Cowichan River, then from that intersection up the middle of the Cowichan River to its source at Cowichan Lake, then from such source through the middle of Cowichan Lake to the most westerly point of Cowichan Lake, then in a straight line from that point to the source of the Nitinat River, then down the middle of the Nitinat River and the middle of Nitinat Lake to the Pacific Ocean, all as indicated by the line drawn in red on the attached map.