

DEED OF RELEASE

THIS DEED dated

PARTIES

1. CH [redacted] of [address to be inserted] in the State of New South Wales ("the Releasor"); and
2. The parties named in the Schedule collectively referred to as the Releasee.

RECITALS

- A. The Releasor has commenced proceedings in Supreme Court Matter No. 20277/06 against Allan Kitchingman as first defendant and wrongly against the Anglican Diocese of Sydney as second defendant, alleging that whilst a resident of the Northcoast Children's Home in Lismore, in and around 1975 he was sexually assaulted by the first defendant and physically assaulted by the matron of the Home.
- B. Subject to the terms and conditions of this deed, it has been agreed between the Releasor and the Releasee that without any admission of liability on the part of the Releasee, the Releasee will pay and the Releasor will accept the sum of \$250,000.00 inclusive of costs ("the agreed sum") in full settlement and in full satisfaction and discharge of all actions, suits, claims, costs and demands in respect of personal injuries which the Releasor may now or at any time hereafter have against the Releasee arising out of the hereinbefore recited circumstances.
- C. A medical report has been obtained from Dr Dinnen, psychiatrist, which states Dr Dinnen's professional opinion that the Releasor has the capacity to give instructions through his solicitors for and to understand the effect of this settlement. A copy of Dr Dinnen's report is annexed hereto.

THIS DEED WITNESSES as follows:-

Subject to clause 4, and pursuant to the said agreement and in consideration of the agreed sum paid by the Releasee to the Releasor (the receipt of which is hereby acknowledged):

1. The Releasor releases and discharges the Releasee from all actions, suits, causes of action, arbitrations, debts, dues, claims, costs and demands either at law or in equity or arising under a statute which the Releasor, the Releasor's heirs, executors, administrators and assigns may now have or but for this deed might have against the Releasee, the Releasee's heirs, executors, administrators and assigns or any other person or corporation by reason or on account of or in any way connected with the said incident or any matter cause or thing whatsoever arising therefrom in respect of losses or injuries.
2. The Releasor indemnifies and keeps indemnified the Releasee, the Releasee's heirs, executors, administrators and assigns or any other person or corporation against any actions, suits, causes of action, arbitrations, debts, dues, claims, demands, verdicts, judgments, costs and expenses legal and otherwise and of any kind which have arisen or may arise out of the said incident or in any way in connection with the said incident by or on the part of the Releasor or any other person claiming under or by virtue of the Releasor in respect of the said incident.
3. The Releasor agrees that this deed may be pleaded in bar to any action, suit or proceedings arising out of or in relation to the alleged losses or injuries commenced or taken by or on behalf of the Releasor against the Releasee, the Releasee's heirs, executors, administrators and assigns or any other person or corporation.

4. The Releasor does not by this deed release and discharge Allan Kitchingman from action or suit and the said Allan Kitchingman, his heirs and successors are excluded from the persons collectively described in the Schedule as the Releasee.
5. The Releasor will file a Notice of Discontinuance of his action against the Anglican Diocese of Sydney in Supreme Court Matter No. 20277/06.
6. The Releasee is entitled to deduct from the agreed sum:
 - 6.1 any amount payable or repayable whether in respect of social services or social security payments concerning which any demand or notice has been served or may be served on or given to the Releasee or his solicitor or insurer and also any moneys paid or payable under the *Social Security Act 1991*;
 - 6.2 any amount payable or repayable in respect of workers compensation concerning which any demand or notice has been served or may be served on or given to the Releasee or his solicitor or insurer;
 - 6.3 any amount payable or repayable whether in respect of Medicare benefits or nursing home benefits concerning which any demand or notice has been served or may be served on or given to the Releasee or his solicitor or insurer and also any moneys paid or payable under the *Health and Other Services (Compensation) Act 1995* or the *Health and Other Services (Compensation) Care Charges Act 1995*; and
 - 6.4 any moneys in respect of fees paid to medical practitioners as a result of non-attendance by the Releasor at medical appointments scheduled by the Releasee.
7. Interest under paragraph 7 hereof will not recoverable by the Releasor in respect of that part of the agreed sum covered by any deduction under paragraph 4 hereof.
8. The Releasor undertakes and agrees to pay out of the agreed sum any moneys payable or repayable by the Releasor to any person or body whether in respect of workers compensation or social services or social security or pursuant to the *Health and Other Services (Compensation) Act 1995* or otherwise which may not have been deducted by the Releasee pursuant to paragraph 4 hereof and also to pay to the parties entitled all outstanding medical, hospital, ambulance and other out of pocket expenses.
9. Interest will not accrue in respect of the agreed sum if same is paid within:
 - 9.1 28 days from the date of the Deed of Release; or
 - 9.2 28 days after the receipt by the Releasee of the Deed of Release executed by the Releasor; or
 - 9.3 28 days after the receipt by the Releasee of an Authority to Receive satisfactory to the Releasee; or
 - 9.4 28 days after receipt by the Releasee of a notice pursuant to Part 3.14 of the *Social Security Act 1991*; or
 - 9.5 28 days after receipt by the Releasee of a notice pursuant to section 23 of the *Health and Other Services (Compensation) Act 1995* which is duly completed and signed by the compensable person in accordance with that section; or
 - 9.6 if an advance payment pursuant to the *Health and Other Services (Compensation) Act 1995* is not made, 28 days after receipt by the Releasee or the Releasee's insurer of a notice under section 24 of the *Health and Other Services (Compensation) Act 1995*

whichever is the later.

- 10. The Releasor acknowledges that in accordance with section 22 of the *Health and Other Services (Compensation) Act 1995* the Releasor has been informed of a possible liability to pay amounts under the said Act or under the *Health and Other Services (Compensation) Care Charges Act 1995*. The Releasor also acknowledges that in accordance with section 33A of the *Health and Other Services (Compensation) Act 1995* the Releasor has been informed:
 - 10.1 that the Releasee intends to make an advance payment to the Commonwealth;
 - 10.2 what the amount of the advance payment is to be;
 - 10.3 the circumstances in which the Commonwealth can retain all or some of the advance payment; and
 - 10.4 the circumstances in which the Releasor will be required to make an additional payment to the Commonwealth in respect of eligible benefits.
- 11. The parties agree that payment of the agreed sum will be sufficient evidence of the intention of the Releasee to be bound by the terms of this Deed.
- 12. The terms of this Deed are confidential. No party may disclose or permit to be disclosed, either directly or indirectly, the terms of this Deed except:
 - 12.1 to the extent required by law;
 - 12.2 for the purpose of enforcement of its terms;
 - 12.3 to the parties' legal advisers;
 - 12.4 to related bodies corporate within the meaning of section 50 of the *Corporations Act 2001*; or
 - 12.5 if required by listing rules of the stock exchange;
 - 12.6 to any professional advisers, auditors, bankers, financial or taxation advisers, insurers or reinsurers.

EXECUTION CLAUSE

EXECUTED as a deed.

SIGNED SEALED AND DELIVERED by the)
 Releasor in the presence of:

) _____
)

Signature of witness Kim Rawnsley
 Name of witness - please print KIM RAWNSLEY

Address of witness
5 WARICK ST,
HURSTVILLE, 2220

SIGNED SEALED AND DELIVERED by the)
Releasee's solicitor in the presence of:

)

)

Signature of witness

Name of witness – please print

Address of witness

SCHEDULE

The Releasee is the following:

- (i) The Anglican Diocese of Grafton and, subject to clause 4 of this Deed, all related or associated bodies, entities, parishes or persons whether clergy or lay persons and whether or not holding office or position within the Diocese.
- (ii) The North Coast Children's Home and, subject to clause 4 of the Deed, all related, associated or succeeding bodies, entities committees, trustees, corporations, persons or employees whether or not holding office or position with or employed by the unincorporated association known as the Northcoast Children's Home.
- (iii) Ansvar Insurance Limited and all other insurers or reinsurers of any person or body named above.

The parties described above benefit and are burdened by this deed jointly and severally but collectively are referred to as the Releasee.