BETWEEN

TRUSTEES OF THE CHRISTIAN BROTHERS
Of The One Part

AND

BARRY MACKINNON

AND

HAYDEN STEPHENS

AND

PETER MCGOWAN
Of the Other Part

CHARITABLE TRUST DEED

CARROLL & O'DEA
Solicitors
Level 19
111 Elizabeth Street
SYDNEY NSW 2000
DX 183 SYDNEY
Tel: 232 2133
Ref: HGH
CHARITABLE TRUST DEED

THIS DEED made the 14 day of August 1996

PARTIES

BETWEEN: TRUSTEES OF THE CHRISTIAN BROTHERS (ACN NO 66939786)
A BODY CORPORATE UNDER THE ROMAN CATHOLIC
CHURCH COMMUNITIES' LANDS ACT 1942 (A NEW SOUTH
WALES STATUTE)

of Thames Street, Balmain in the State of New South Wales

(HEREINAFTER CALLED "THE FOUNDER") OF THE ONE PART

AND:

1. BARRY MACKINNON

of REDACTED, Perth in the State of Western Australia

2. HAYDEN STEPHENS

of Slater & Gordon Solicitors of Melbourne in the State of Victoria

3. PETER MCGOWAN

of Phillips Fox Solicitors of Perth in the State of Western Australia

HEREINAFTER COLLECTIVELY REFERRED TO AS "THE
TRUSTEES" OF THE OTHER PART

BACKGROUND

A. The Founder is desirous of establishing a Trust Fund exclusively for the Class of potential beneficiaries set out hereunder and for the following charitable purpose, namely, the promotion of welfare for those beneficiaries in need, the relief of their poverty and/or illness and/or injury and/or hardship by providing

[Signature]

[Signature]
effective practical needs based, and in certain limited cases direct financial help as generally provided in Clauses 24 and 25 hereof.

**CLASS MEANS:**

(i) Ex-students (which expression shall include where appropriate the legal or personal representatives/administrators of the Estate of any ex-students) who have alleged that as a result of certain events occurring at Institutions in Western Australia conducted by the Christian Brothers including Bindoon, Clontarf, Castledare and Tardun they suffered and were subjected to sexual and/or physical and/or psychological abuse and/or forced to do inappropriate physical labour and/or suffered educational malpractice ("the claims"); and

(ii) REDACTED and certain ex-students of institutions conducted by the Christian Brothers other than the institutions referred to in (i) above being the individuals referred to in Category 3 of Annexure "A" who have alleged that as a result of certain events occurring at or in connection with institutions conducted by the Christian Brothers they were subjected to sexual and/or psychological abuse (the "claims") AND each of the aforementioned individuals shall be included within the expression "ex-students" where the same appear hereinafter.

B. Many of the aforesaid ex-students had commenced legal proceedings in respect of the claims and the remainder had contemplated or foreshadowed doing so and it has been agreed by the Founder and the various ex-students and their representatives that the litigation and foreshadowed litigation and various complaints in respect of the claims would be settled in accordance with the terms and conditions set out in Heads of Agreement between the parties and subject to Deeds of Release being executed and the establishment of this Trust Fund for the purposes as aforesaid;

C. For the purposes of the settlement and for the carrying out of the said purposes and establishing the Trust Fund (which shall be known as "WA
INSTITUTIONS RECONCILIATION TRUST" - hereinafter referred to as "The Trust Fund") the Founder is desirous of settling the sum of Three Million Five Hundred Thousand Dollars ($3,500,000.00) in the manner hereinafter appearing to be held by the Trustees upon the Trusts herein declared;

D. The said sum of Three Million Five Hundred Thousand Dollars ($3,500,000.00) shall subject to the delivery of Deeds of Release and the filing of Discontinuances in accordance with the Heads of Agreement dated 14 August 1996 be paid to the Trustees as follows:

(i) At the later of 30 days from the date hereof or 14 days after receipt from the Health Insurance Commission pursuant to the Health & Other Services (Compensation) Act 1995 of notice in writing of any clearance or any amount to be repaid to the Health Insurance Commission - One Million Dollars ($1,000,000.00) to be applied as follows -

(a) Clause 23(xiv) reimbursements to a maximum of $540,000.00 (270 x $2,000.00);

(b) Clause 24 payments - first instalments - to a maximum of $235,000.00;

(c) The balance shall be held in the Trust Fund for the general purposes of the Trust including any administration-establishment costs.

(ii) At the later of 90 days from the date hereof or 14 days after receipt from the Health Insurance Commission pursuant to the Health & Other Services (Compensation) Act 1995 of notice in writing of any clearance or any amount to be repaid to the Health Insurance Commission - One Million Dollars ($1,000,000.00) to be applied as follows:

(a) Clause 24 payments - balance of $765,000.00;

(b) The balance shall be held in the Trust Fund for the general purposes of the Trust including any outstanding payments pursuant to clause 23, and payments pursuant to clause 25 and any administration-establishment costs.
(iii) At the later of 180 days from the date hereof or 14 days after receipt from the Health Insurance Commission pursuant to the Health & Other Services (Compensation) Act 1995 of notice in writing of any clearance or any amount to be repaid to the Health Insurance Commission - One Million Five Hundred Thousand Dollars ($1,500,000.00).

E. In the event that the Health Insurance Commission notifies the Settlor that an amount of monies is to be repaid to the Health Insurance Commission pursuant to the Health & Other Services (Compensation) Act 1995, then the Settlor shall deduct such amount from the sum of Three Million Five Hundred Thousand Dollars ($3,500,000.00) before paying any monies to the Trustees and the balance shall be paid to the Trustees as set out in clause D above PROVIDED that the sum to be paid in D(iii) shall be reduced by the amount of any refund and any reference in this Deed or any associated document to the sum of Three Million Five Hundred Thousand Dollars ($3,500,000.00) shall mean such balance being the sum of Three Million Five Hundred Thousand Dollars ($3,500,000.00) reduced by the Health Insurance Commission refund.

OPERATIVE PART

NOW THIS DEED WITNESSES AS FOLLOWS:-

1. Declaration of Trust

The Trustees shall hold the said sum of Three Million Five Hundred Thousand Dollars ($3,500,000.00) together with any further sum or sums or other property which may at any time hereafter be donated or contributed to the Trust Fund by the public for the purpose aforesaid which sum or sums or property is hereinafter called "the Trust Fund" and such expression shall mean and include not only the said sum or sums or property but also any investment acquired with or out of the said sum or sums and any substituted investment and any undistributed income or accretions to capital and any investments acquired by the Trustees with any such undistributed income or accretions to capital upon the Trusts herein declared.
2. Donations - Public Subscriptions - Utilisation of CBERS

(a) (i) The Christian Brothers' Ex-Residents Service (hereinafter called "CBERS") is a service for Ex-Residents of Christian Brothers' Homes in Western Australia established and funded by the Holy Spirit Province of the Christian Brothers Order and conducted and managed by an independent management committee which is accountable to the Christian Brothers for its financial management only.

(ii) The Province Leader of the Holy Spirit Province of the Christian Brothers may in consultation with CBERS management committee establish a Trust (hereinafter called "the CBERS Trust") to receive donations and raise funds for the support of the work of CBERS.

(b) The Founder in conjunction with the Holy Spirit Province of the Christian Brothers Order has agreed to make the existence of the WA Institutions Reconciliation Trust and CBERS and/or the CBERS Trust known to members of the Catholic community and such members and members of the general public shall be entitled to subscribe or donate to the WA Institutions Reconciliation Trust and/or CBERS and/or the CBERS Trust subject to the following:

(i) It is the wish and intention of the Founder and the Holy Spirit Province of the Christian Brothers Order that any publicity in respect of the WA Institutions Reconciliation Trust should be joint publicity for that Trust and CBERS and/or the CBERS Trust PROVIDED that this provision shall not in any way prohibit, limit or prevent the Founder from publicising and seeking donations and subscriptions for CBERS and/or the CBERS Trust in their own right.

(ii) Any donations or subscriptions which are directed to CBERS and/or the CBERS Trust and/or the WA Institutions Reconciliation Trust jointly, as a result of such publicity, shall be paid into a joint account to be established by the Trustees and the duly authorised representative of CBERS, with an equal number of signatures from...
both the Trust and CBERS and any such fund so deposited shall thereafter be distributed upon a 50/50 (equal) basis between the Trust and CBERS.

(c) Notwithstanding anything contained herein the principal responsibility for publicising the Trust and soliciting donations and subscriptions to the Trust shall rest with the Trustees and not the Founder nor the Holy Spirit Province of the Christian Brothers Order and the intention of this Clause 2 is that the Founder and the Holy Spirit Province of the Christian Brothers Order will agree to show public support for the Trust and co-operate with and express support for the fundraising activities of the Trustees as is reasonable and appropriate.

(d) It is the wish of the Founder and the Holy Spirit Province of the Christian Brothers Order that inter alia, to avoid duplication there be co-operation and collaboration between the Trust and CBERS in the provision of non-cash assistance as envisaged by the Trust, and to this end, the Trustees shall where appropriate contract out to CBERS the management and provision of such assistance on agreed terms (including as to remuneration and reimbursement of expenses) PROVIDED that where such assistance is in the form of therapy and/or counselling, the Trustees shall first seek the consent of the beneficiary to utilise CBERS for such assistance. In the event that the beneficiary does not consent to utilising CBERS for this form of assistance, the Trustees shall wherever appropriate seek such services from another independent person or body.

(e) The beneficiaries under this Trust will not be eligible for the provision of services through CBERS should the same or similar services have been provided under this Trust and to ensure an equitable utilisation of resources and the avoidance of duplication, the Trust shall provide to CBERS, if requested and with the full knowledge of claimants, information in respect of services provided by the Trust to any nominated beneficiary or beneficiaries.
3. **Cy-Pres Scheme**

The Trustees hereby declare that they shall hold the Trust Fund for the purpose set forth in the recitals hereto. In the event that the trusts of this settlement shall for any reason wholly fail or come to an end (for reasons other than those set out in Clause 27 - Winding Up - Duration of the Trust) then for the purpose of the cy-pres application of this Trust Fund by the Court the sole charitable purpose of this settlement shall be deemed to be that set forth in the recitals hereto.

4. **Application of Funds**

Unless and until any failure or non-fulfilment of the conditions as set forth in the recitals hereto shall occur then the Trustees shall apply the whole of the income and capital of the Trust Fund for the said purpose and objects in such amounts as the Trustees shall in their absolute discretion think fit.

5. **Investment of Trust Fund**

The Trustees shall forthwith invest the Trust Fund in any investment in which the Trustees are authorised by law to invest trust funds and may from time to time vary such investments or others of a like nature as often as they deem expedient.

6. **Power to Apply Capital and Income**

In the distribution of the Trust Fund the Trustees shall have power to apply capital and income of the Trust Fund at the absolute discretion of the Trustees.

7. **Determination of Capital or Income**

The Trustees shall be entitled to determine as they consider just whether any monies for the purposes of these presents be considered as capital or income and whether out of income or capital any expense, outgoings or losses shall or ought to be paid or borne.
8. Appointment of Solicitors, Accountants, etc.

The Trustees may instead of acting personally employ and pay a solicitor, accountant, broker, agent or any other person whatever may be his or her profession to transact any business or any act required to be done in connection with the Trust Fund including the receipt and payment of money and shall be entitled to be allowed and be paid all charges and expenses so incurred and shall not be responsible for the default of any such solicitor, accountant, broker, agent or other person or for any loss occasioned by such employment.

9. Appointment of Executive Officer

The Trustees shall be entitled to appoint an executive officer to carry out such duties as the Trustees may require so that the Trust Fund may be more effectively and efficiently administered and the salary of such executive officer shall be paid out of the Trust Fund.

10. Appointment of Support Staff

The Trustees shall be entitled to appoint any other support staff that they deem reasonably necessary in order to assist in the efficient functioning of the Trust Fund and the salaries of all such support staff shall be paid out of the Trust Fund.

11. Administration & Other Costs

The costs of the preparation and execution of this Deed and all of the costs and expenses incidental to the creation and administration of the Trust including stamp duty shall be paid out of the Trust Fund.

12. Trustees' Powers and Remuneration

(a) In addition to the express powers hereby conferred on the Trustees the Trustees shall be entitled to exercise in respect of the Trust Fund wherever situated all the powers, authorities and discretions conferred on the Trustees by the law of the State of Western Australia as if the same
were expressly included in these presents and subject to this Deed the rights and liabilities of the Trustees and the administration of the Trust of this Deed shall be determined and regulated in accordance with the laws of the State of Western Australia.

(b) Any of the Trustees shall, with the unanimous vote of all Trustees other than the Trustee whose remuneration is under consideration be entitled, by way of remuneration for the Trustees services and loss of time, to be paid out of the Trust Fund reasonable remuneration for services rendered or performed by the Trustee (whether by way of periodical fee or otherwise).

13. Losses of the Trust Fund

In the execution of the trusts, powers and discretions hereof no Trustee shall be liable for any loss to the Trust Fund arising by reason of any investment made in good faith or the negligence or fraud of any person or agent employed by the Trustees or by any other Trustee hereof although the employment of such person or agent was not strictly necessary or expedient or by reason of any mistake or omission made in good faith by any Trustee hereof or by reason of any other matter or thing except wilful and intentional default or wrong doing on the part of the Trustee who is sought to be made liable.

14. Trustees may take Advice

The Trustees may take and act upon the opinion of Counsel of not less than five years standing practising in the State of Western Australia in relation to the interpretation of these presents or any other document or statute or as to the administration of the Trust hereof without being liable to any of the persons interested in respect of any act done by the Trustees in accordance with such opinion BUT nothing in this clause shall prohibit or impede the Trustees from applying to any court that the Trustees shall think fit.
15. Administration Records

The Trustees shall keep or cause to be kept a complete record of all matters essential to the administration and working of the Trust Fund.

16. Discretion

The Trustee in the exercising of the authorities powers and discretions hereby vested in them shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of such powers, authorities or discretions from time to time or not at all.

17. Indemnity

The Trustees shall be indemnified against all liabilities incurred by them in their execution of the duties herein and shall have a lien on the Trust Fund for such indemnity. The cost charges and expenses incurred by the Trustees in and incidental to the administration or closing of the Trust Fund or otherwise in relation thereto shall be paid out of the Trust Fund.

18. Variation of Trust Deed

The terms of this Trust Deed may be varied at any time by resolution of the Trustees provided approval is first obtained from the Australian Taxation Office (where necessary) and provided further that any such variation shall be consistent with the charitable purpose of this Trust as defined in Background A.

19. Execution of Instruments and Cheques

The Trustees shall determine the manner of signing instruments dealing with the Trust Fund provided that the minimum requirement hereunder shall be that all such instruments including cheques shall be signed by at least two Trustees for the time being.

20. Appointment of Trustees

(a) Barry Mackinnon of REDACTED, Perth has been appointed as an independent Trustee and the Chairperson Trustee
(b) Hayden Stephens of Slater & Gordon Solicitors Melbourne has been appointed as Trustee by Messrs Slater & Gordon, Solicitors, for the ex-students and

(c) Peter McGowan of Phillips Fox Solicitors Perth has been appointed as Trustee by Messrs Carroll & O'Dea.

(d) The Trustee representative of the ex-students (Hayden Stephens) and the Trustee representative of the Christian Brothers (Peter McGowan) shall in consultation with the Chairperson Trustee, Barry Mackinnon, appoint two further independent joint Trustees (making a total of five joint Trustees).

(e) If Hayden Stephens and Peter McGowan are unable (for whatever reason) within 60 days of the date hereof to appoint two such further Trustees, then the President of the Law Society of Western Australia for the time being shall appoint all or any of such additional outstanding Trustees to ensure that there are five appointed Trustees at the time of commencement of the administration of the Trust.

(f) It is hereby declared by the Founder that whilst it is the Founder's intent that the Trust shall have five Trustees, the trust shall commence on the date hereof with three Trustees and the decisions of those Trustees shall have full force and effect and all decisions required to be made by the Trustees shall be made by the three Trustees (or a majority) unless and until each of the remaining two Trustees are appointed whereupon the decisions of the Trust shall be made by four and five Trustees as is appropriate.

21. Appointment of Substitute Trustees

(a) If at any time during the life of this Trust, Hayden Stephens shall for whatever reason be unable to continue as a Trustee and/or shall retire from the Trust and/or shall die then a substitute Trustee may be appointed by Messrs Slater & Gordon by notification of appointment to
Messrs Carroll & O’Dea and the Trust under the signature of two partners of Messrs Slater & Gordon.

(b) If at any time during the life of this Trust, Peter McGowan shall for whatever reason be unable to continue as a Trustee and/or shall retire from the Trust and/or shall die then a substitute Trustee may be appointed by the authorised delegate of Messrs Carroll & O’Dea being the Provincial for the time being of the Holy Spirit Province of the Christian Brothers Order by notification of appointment to Messrs Slater & Gordon. Such appointment shall be under the signature of the Provincial for the time being of the Holy Spirit Province of the Christian Brothers Order.

(c) If at any time during the life of this Trust any of the three (3) independent Trustees (including Barry Mackinnon) for the time being appointed shall for whatever reason be unable to continue as a Trustee and/or shall retire from the Trust and/or shall die then substitute Trustee(s) shall be appointed by agreement between the authorised delegate of Messrs Carroll & O’Dea, being the Provincial for the time being of the Holy Spirit Province of the Christian Brothers Order and Messrs Slater & Gordon and if they fail to agree within 28 days of such death or retirement of such independent Trustee or such longer reasonable period as may be agreed to by the Trustees, then the substitute Trustee shall be appointed by the President of the Law Society of Western Australia for the time being. If the independent Trustee, who is unable to continue and/or retires and/or dies, is the Chairperson Trustee, then the same procedure shall be followed, provided that the substitute Trustee shall be the new Chairperson.

22. Management - Administration of the Trust

The Trustees shall administer the Trust in a proper, fair, expeditious and equitable manner and in such administration shall inter alia abide by the following:

(a) That the business of the Trust shall be managed by the Trustees.
(b) The Trustees shall meet at least every two months or at such more frequent times as they may otherwise determine.

(c) Questions arising at any meeting of the Trustees shall be decided by a majority of votes and a determination by a majority of Trustees shall for all purposes be deemed to be a determination of the Trust and in the case of an equality of votes the Chairperson shall have a second or casting vote.

(d) The Chairperson shall preside as Chairperson at every meeting of the Trust or, if the Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting (or such further time as may be agreed) then the Trustees present shall elect one of their number to be Chairperson of that meeting, and that Chairperson shall also have a second or casting vote.

(e) A quorum of Trustees for the transaction of business shall be the Chairperson and at least two other Trustees.

(f) The Trustees may delegate any of their powers to the Executive Officer as they shall think fit subject to such delegation not otherwise being in contravention of any obligations of the Trustees pursuant to this Deed.

(g) The Trustees shall forthwith call for and request the details of all potential beneficiaries and claims the subject of this Trust.

(h) (i) The Trustees shall notify each ex-student listed in the annexure A hereto of the establishment of the Trust and the need to make application in writing for any benefits pursuant to the Trust.

(ii) With respect to any ex-student listed in annexure "A" whose address or whereabouts are unknown, the Trustees shall fulfil their obligation to notify such person by advertising or using such other measure as they in their absolute discretion deem appropriate.

(i) The Trustees may refer out to experts any issue but shall not be bound by the opinion of such expert.
(j) The Trustees shall have the capacity to add categories and additional types of help that can be funded by the Trust Fund - provided that such additional categories are consistent with the charitable purpose of the Trust and subject, where appropriate to obtaining approval from the Australian Taxation Office.

(k) The Trustees shall assess each claim properly made upon the Trust Fund and shall decide what assistance can and should be made available to each potential beneficiary and shall so far as is equitable provide such assistance.

(l) The Trustees shall open and operate Bank Accounts for the sole use of the Trust Fund.

(m) The Trustees in considering any application for assistance shall be guided by the following statement of principles:

(i) The purpose of the Trust Fund is to provide effective practical needs based help to injured ex-students on an individual basis.

(ii) The Trust Fund is not to be utilised for cash payments except in the limited circumstances set out herein.

(iii) The usual process will be that the Trustees will identify the assistance which is appropriate to the claimant and make this assistance available.

(iv) The categories of assistance that the Trustees may determine are as set out herein.

23. Categories of Assistance

The categories of assistance the Trustees may determine are appropriate in individual cases include but are not limited to:

(i) therapy
(ii) treatment
(iii) rehabilitation
(iv) re-training
(v) adult literacy classes
(vi) family reunification
(vii) housing-accommodation
(viii) emergency relief
(ix) low and/or no interest loans
(x) finding employment
(xi) assistance for spouses and children who need treatment
(xii) transportation
(xiii) treatment for alcoholism, drug dependency and substance abuse
(xiv) a broad reimbursement discretion is permitted in respect of costs-expenses incurred by individuals in the past. Each Claimant shall, following receipt by the Trustees of a formal written claim, receive the sum of $2,000.00 as reimbursement for miscellaneous expenses incurred by each Claimant in relation to the claims, including medical or the like expenses not recoverable through Medicare or any similar fund, travelling expenses, time off work, telephone calls provided that if any Claimant seeks reimbursement of expenses in excess of the sum of $2,000.00, then such Claimant shall be entitled to claim such expenses, but subject to provision of whatever proof is considered reasonable and necessary by the Trustees and in accordance with the categories broadly set out in Clause 23 and provided further that there shall be deducted from any such claim, the said sum of $2,000.00 if already paid to the Claimant.

24. Incorporation of Cash Component in Assistance Outcomes

(i) Whilst the primary purpose of the Trust is to provide therapeutic help and help in kind, in cases of serious sexual abuse as is reasonably determined by the Trustees in accordance with the guidelines set out below, a direct payment can be incorporated into the overall assessment for any particular Claimant and can be authorised by the Trustees subject to the Trustees being satisfied as to the following:

(a) That the complaint is of serious sexual abuse as determined by the Trustees.
(b) The Trustees are satisfied as to the bona fides of the complainant.

(c) That there is evidence of the complainant suffering from a significant psychological impairment of such severity as to warrant therapy or treatment on an ongoing basis.

(ii) The maximum payment in any particular case or individual is $25,000.00.

(iii) The overall ceiling for all such payments shall be the sum of $1.16 million plus any monies allocated by the Trustees pursuant to Clause 25 hereof LESS all amounts paid out to the Schedule 1 and Schedule 2 serious injury Claimants referred to hereunder.

(iv) The Trustees shall:-

(a) Upon being provided with a Schedule (Schedule 1) from Messrs Slater & Gordon Solicitors, containing the names of a maximum of thirty Claimants who Slater & Gordon and their Counsel, Mr Rush QC, certify meet the required criteria set out in sub-clause 24(i) above and are in their reasonably held opinion, the most seriously affected claimants; and

(b) Upon Slater & Gordon providing to the Trustees copies of Statements made by these Claimants and all medical reports in connection therewith; and

(c) Upon being satisfied on that documentation that the relevant criteria are met,

pay to each such Claimant in whatever instalments are deemed reasonable by the Trustees in their absolute discretion the sum of $25,000.00 and thereupon those Claimants shall have no entitlement to any further cash payment.

(v) The Trustees shall:-

(a) Upon being provided with a Schedule of names (Schedule 2) from Messrs Slater & Gordon Solicitors, containing the names of a maximum of twenty-five Claimants who Slater & Gordon and their Counsel, Mr Rush QC, certify meet the required criteria set out in
sub-clause 24(i) above and are in their reasonably held opinion, the next most abused and affected claimants; and

(b) Upon Slater & Gordon providing to the Trustees copies of Statements made by these Claimants and all medical reports in connection therewith; and

(c) Upon being satisfied on that documentation that the relevant criteria are met,

pay to each such Claimant in whatever instalments are deemed reasonable by the Trustees in their absolute discretion the sum of $10,000.00 and thereupon those Claimants shall have no entitlement to any further cash payment pursuant to Clause 24.

25. Availability of Funds for Cash Payments to Serious Cases

(a) It is hereby agreed that for the purposes of funding cash payments to seriously affected individuals, as set out in the preceding Clause, the Trustees shall make available from the Trust Fund an initial sum of $1.16 million.

(b) In addition to that initial sum, the Trustees shall be entitled, but not obligated, to allocate for the purpose of providing cash payments to Claimants other than those mentioned in Schedules 1 and 2, and who they determine meet the criteria set out in 24:­

(i) One-third of all and any income earned by the Trust Fund; and

(ii) One-third of any subscriptions or donations paid to or received by the Trust Fund.

26. Non Liability of Trustees

Any question as to whether any person is or is not entitled to benefit under the provisions of the Deed shall be finally decided by the Trustees in their absolute discretion and they shall not be personally liable to pay any damages costs or expenses incurred by reason of opposing any such claim or part claim in any
court or in defending themselves against any action for defamation or for any other cause whatsoever brought against them or the Trust by any such person but all such damages costs and expenses shall be payable out of the Trust Fund.

27. Notification - Limitation on Claims

(a) Subject to sub-clause (b) below, the Trustees shall consider all claims in writing properly made to the Trust Fund prior to 1 November 1996 provided the Trustees shall have the right to accept any claims made after that date on a discretionary basis where the Trustees consider that it is fair and reasonable to accept such a claim provided that no claim can be considered by the Trustees where the potential beneficiary in question has not made a claim on the Trust prior to 1st May 1997.

(b) Notwithstanding anything contained herein it is hereby declared that the persons nominated in Schedule 1 and Schedule 2 referred to in clause 24 (iv)(a) and 24 (v)(a) shall be deemed to have given all necessary notifications to the Trust Fund as at the date hereof and it shall not be necessary for such persons to give any further notification to the Trust Fund provided that if the Trustees require any additional information from such persons they shall be entitled to request the same in order to assess such person's entitlement to any other form of assistance pursuant to the Trust.

28. Beneficiaries

The ex-students who may be the beneficiaries/claimants on this Trust shall be such of those persons whose names (and where appropriate addresses) are set forth in annexure "A" hereto and (apart from those persons referred to in clause 27(b) above) make formal application in writing to the Trust Fund within the time limits set out above Provided that unless and until an application is made to the Trust Fund and accepted by the Trustees a person shall not be or deemed to be a claimant for the purposes of the Trust Fund.
29. Winding up - Duration of the Trust

(a) It is the intention of the Founder that the purposes for which this Trust Fund have been established shall be fulfilled within a maximum period of three years from 30th June 1996 and the Trust shall be wound up at the earlier of:

(i) the exhaustion of the Trust Fund.
(ii) when the Trustees reasonably determine that the purposes of the Trust Fund have been fulfilled.
(iii) three years from 30 June 1996.

(b) any surplus remaining in the Trust Fund on the winding up of same shall be returned to the Founder to be used by the Founder for the relief of hardship, poverty and distress amongst those persons who claim to have been the subject of sexual and other abuse whilst in Institutions operated by the Founder within Australia.

30. Interpretation

In this Deed unless the contrary intention appears:-

(a) the masculine includes the feminine and vice versa;
(b) the singular includes the plural and vice versa;

(c) "person" includes a corporation.

EXECUTED AS A DEED

THE COMMON SEAL of the Body Corporate called
TRUSTEES OF THE CHRISTIAN BROTHERS (ACN 66939786)
was hereunto affixed in pursuance of a Resolution passed
at a Meeting of the said Body Corporate in the presence
of the Provincial a Member of the Body Corporate and of
two other Members of the said Body Corporate all of
whose signatures are hereto affixed:-

SIGNED SEALED AND DELIVERED
by the said BARRY MACKINNON
in the presence of

SIGNED SEALED AND DELIVERED
by the said HAYDEN STEPHENS
in the presence of
SIGNED SEALED AND DELIVERED

by the said PETER MCGOWAN

in the presence of
ANNEXURE "A"

(pages 22-32 in original Deed)

EX-STUDENTS WHO MAY BE THE BENEFICIARIES-CLAIMANTS UNDER THIS TRUST - CLAUSE 28

Category 1

The following ex-students being members of the Class who have by the date hereof agreed to resolve a claim or action they might have against the Christian Brothers and delivered or agreed to deliver executed releases and subject where appropriate to compliance with Clause 27 hereof may be entitled to make a claim on the Trust:-

(In order to protect the identity of the members of the class, details of ex-residents are not listed).
Category 2

The following ex-students being members of the Class who have not by the date hereof agreed to resolve any claim against the Christian Brothers but who may subsequently agree to resolve any such claim by executing an agreed form of release in the general format of the Deed of Release annexed hereto and marked "B" and conveying the same to Carroll & O'Dea solicitors and thereafter subject always to compliance with the provisions of Clauses 27 and 28 hereof may be entitled to make a claim on the Trust:-

(In order to protect the identity of the members of the class, details of ex-residents are not listed).

Together with any such other members of the class as may be identified and agreed to by Carroll & O'Dea and Slater & Gordon Solicitors by 1 November 1996.
Category 3

The following persons being deemed ex-students and members of the Class who allege that as a result of events occurring at, or in connection with, institutions conducted by the Christian Brothers, they were subjected to sexual and/or psychological abuse and who may agree to resolve any claim arising therefrom against the Christian Brothers by executing an agreed form of release generally in the format of Annexure "B" hereto (subject to any consequential amendments to reflect their particular circumstances and allegations) and conveying the same to Carroll & O'Dea and thereafter subject always to compliance with Clauses 27 and 28 hereof may be entitled to make a claim on the Trust:

(In order to protect the identity of the members of the class, details of individuals are not listed).

Together with any such other deemed ex-students and members of the class as may be identified and agreed to by Carroll & O'Dea and Slater & Gordon Solicitors by 1 November 1996 provided that such other persons are not to exceed eight (8) in number.
ANNEXURE "B"

THIS DEED made the day of 1996

BETWEEN: NAME OF PLAINTIFF

of Address of Plaintiff (hereinafter called "the Releasor") of the First Part

AND: TRUSTEES OF THE CHRISTIAN BROTHERS

of 2 Thames Street Balmain in the State of New South Wales, a body corporate under the Roman Catholic Church Communities Land Act 1942 (NSW) (hereinafter called "the NSW Body Corporate") of the Second Part

AND: TRUSTEES OF THE CHRISTIAN BROTHERS (WA) INC

of [REDACTED] State of Western Australia, a body corporate under the Associations Incorporation Act (WA) 1987 (hereinafter called "the WA Body Corporate") of the Third Part (which New South Wales and Western Australian Body Corporates are hereinafter also referred to as "the Bodies Corporate")

AND: BROTHER ROBERT JULIAN MCDONALD ("BROTHER JULIAN")

of [REDACTED] in the State of New South Wales in his capacity as:

(a) Provincial of the St Mary's Province of the Congregation of the Brothers of the Christian Schools of Ireland an unincorporated association;

and on behalf of:

(b) his predecessors and successors in title or at law;

(c) all members of the Congregation of the Brothers of the Christian Schools of Ireland (living or dead) present or past;
(d) the Provincial of the Holy Spirit Province of the Congregation of the Brothers of the Christian Schools of Ireland, an unincorporated association, and on behalf his predecessors and successors in title or at law; and

(e) the Provincial of the St Patrick's Province of the Congregation of the Brothers of the Christian Schools of Ireland an unincorporated association and on behalf of his predecessors and successors in title or at law (hereinafter collectively called "the Christian Brothers") of the Fourth Part

RECITALS

A. The Christian Brothers were involved in the operation of four institutions in the State of Western Australia known as Tardun, Clontarf, Castledare and Bindoon which institutions are hereinafter referred to as "the Institutes".

B. The Releasor alleges that while he was a resident or student at one or more of the four Institutes he was unlawfully sexually and/or psychologically and/or physically assaulted or abused by a member or members of the Christian Brothers, a resident or visiting chaplain or priest, a volunteer or other lay person (these allegations are hereinafter referred to as "the claims"). The Releasor alleges that as a result of the claims he has suffered loss and damage.

C. The Releasor has commenced or has foreshadowed the commencement of proceedings in relation to the claims inter alia on the basis of an allegation of negligence, breach of statutory duty and/or breach of fiduciary duty on the part of the Christian Brothers and/or the NSW Body Corporate and/or the WA Body Corporate and each and all of them. The Releasor claims or will claim damages, exemplary or punitive damages, medical expenses, equitable compensation, loss of income and costs.

D. The NSW Body Corporate was incorporated under the Roman Catholic Church Communities Lands Act 1942 (NSW) and the WA Body Corporate was
incorporated under the Associations Incorporation Act 1987 (WA) for certain purposes.

E. The Releasor has alleged that the Bodies Corporate, either or both of them, Brother Julian, the Christian Brothers and all individual members of the Christian Brothers from time to time, are liable to him in respect of the claims.

F. The NSW Body Corporate, the WA Body Corporate and the Christian Brothers do not admit and in fact deny any wrongdoing having been committed either by themselves at all or other members of the Christian Brothers or employees thereof in such a way as gives rise to any liability on the part of the NSW and WA Bodies Corporates or the Christian Brothers.

G. The NSW Body Corporate on an ex-gratia basis and without admission of any liability on the part of itself, the WA Body Corporate and the Christian Brothers, have agreed to forego any and all costs orders and to make the payments and to establish the Trust Fund upon the terms and conditions set forth in the document entitled "Heads of Agreement" which is annexed hereto and marked with the letter "A".

H. The Releasor has agreed to accept the terms contained in Annexure "A" in full and final satisfaction and discharge of any claim he may have against the NSW Body Corporate, the WA Body Corporate and the Christian Brothers and has agreed to execute this Deed of Release.

I. It is agreed between the Releasor and NSW Body Corporate, the WA Body Corporate, and the Christian Brothers, that subject to the terms and conditions set out hereinafter and contained in Annexure "A", the Releasor will accept the agreed terms in full and final settlement and discharge of any and all claims he may have against the Bodies Corporate and/or the Christian Brothers or any of them arising out of the claims.

OPERATIVE PART

In consideration of:

[Signature]

[Signature]
A. the making of the payments referred to and contained in Annexure "A" to the Trust; and

B. the Bodies Corporate and the Christian Brothers agreeing to forego any and all costs orders made in the proceedings:

1. The NSW Body Corporate without any admission of liability agrees to make the payments referred to in Annexure "A" and the Bodies Corporate and the Christian Brothers agree to forego any and all orders for costs made in any State or Commonwealth Court without any admission of liability.

2. The Releasor for himself, his executors, administrators, heirs and assigns forever hereby releases remits quits and discharges the NSW Body Corporate, the WA Body Corporate and the Christian Brothers, and any servant or agent of the Christian Brothers and any and all of them from all actions suits claims and demands of every description including any order for costs which he has now, or which but for this Deed might have or has had, or which could hereafter be asserted, brought or made by him, or by anyone on his behalf or through him either at law or at equity, or under the provisions of any Statute arising out of all or any of the acts, facts and circumstances constituted by the claims.

3. The NSW and WA Bodies Corporate and the Christian Brothers or any past or present member thereof may plead this Deed in bar to any claim or proceedings by the Releasor or any person claiming on his behalf in respect of the claims.

4. The Releasor agrees to file a Notice of Discontinuance of any proceedings commenced by him in relation to the Claim within seven (7) days of the execution of this Deed.

5. (a) The Releasor covenants and agrees that he has read the Heads of Agreement annexed hereto and that he understands and accepts the terms and conditions contained therein.
(b) The Releasor further covenants and agrees that he understands that his personal entitlement to assistance and/or compensation either in monetary terms or in kind relating to the claims is governed fully and completely by the terms and conditions of the WA Institutions Reconciliation Trust and that any such personal entitlement is subject always to the decisions to be made in good faith by the Trustees in accordance with the relevant Deed of Trust and the Releasor acknowledges that such decisions shall be made in the absolute discretion of the Trustees and the Releasor covenants and agrees that he will accept such decision and will take no steps whatsoever to challenge such decision.

(c) The Releasor acknowledges and agrees that he has entered into this Deed of his own volition and of his own free will and he accepts and wishes to participate in the terms of this settlement scheme as set out herein and in the annexures hereto.

6. This Deed and the Heads of Agreement (Annexure "A") are both governed by the law of Western Australia and the parties and each of them irrevocably submits to the jurisdiction of the Courts of Western Australia.

7. This Deed and its annexures set forth the entire agreement between the parties hereto and supersede any and all prior agreements or understandings between the parties.

8. In the event that the Releasor breaches any term of this Deed or at any time in the future alleges or it is established that the Releasor lacked the mental capacity to enter into this Deed, and without prejudice to any other rights available to the NSW Body Corporate, the WA Body Corporate and the Christian Brothers in respect of such breach, including the right set forth in clause 3, the Releasor covenants with the NSW Body Corporate, the WA Body Corporate and the Christian Brothers and each of them that forthwith upon such event as aforesaid accruing, he will
(a) repay any lump sum cash component of the settlement to the Releasor pursuant to the Heads of Agreement;

(b) consent to the restoration of any order for costs made in the Courts of any State or the Commonwealth against the Releasor in favour of the NSW Body Corporate, Brother Julian and the Christian Brothers.

and further agrees that:

(c) in respect of any monies paid to the Releasor, the Releasor consents to the NSW Body Corporate entering judgment in its favour in the amount of any monies so paid;

(d) in respect of any costs order to pay the amount as agreed taxed or assessed.

9. The Releasor covenants and agrees to indemnify the NSW Body Corporate, the WA Body Corporate, Brother Julian and the Christian Brothers in respect of any costs, claims, damages, liability, payment of expenses of any type (including any costs or contribution that the Christian Brothers or the Bodies Corporate or any of them might incur as a result of being joined into any litigation instigated by the Releasor against any other person or entity in respect of the claims) that arise as a consequence of his breach of the terms of this Deed or as a result of the pursuit of any other action arising from the claims PROVIDED that the entitlement to claim such costs and damages is consequent upon their proof.

10. In the event that any provisions of this Deed or any annexure hereto is held to be void or invalid, such provisions or part thereof shall be severed from the whole and the balance of the Deed or the provision (as the case may be) shall remain in full force and effect.

11. Each party shall bear its own costs of the preparation and execution of this Deed. The NSW Body Corporate shall be responsible for any stamp duty payable thereupon.
12. The Releasor acknowledges that in executing this Deed the Releasor has had access to his own independent legal advice.

EXECUTED AS A DEED

SIGNED SEALED AND DELIVERED
by the said
Name of Plaintiff
in the presence of:

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CARROLL & O' DEA
Solicitors
Level 19
111 Elizabeth Street
SYDNEY NSW 2000
DX 183 SYDNEY
Tel: 232 2133
Ref: HGH
SOLICITOR'S CERTIFICATE

I PETER GORDON of [REDACTED] in the State of Victoria certify that:

1. I am a legal practitioner holding a current practising certificate.

2. I have explained the purpose and effect of the above Deed and have answered any questions asked by the Releasor, who appeared to me to understand the purport and effect of such explanation and answers.

3. The Releasor has voluntarily executed the above Deed and after the matters referred to in 2 above have taken place.

DATED

..............................................................
Solicitor

..............................................................
Witness
DATED 1996

BETWEEN
NAME OF PLAINTIFF
The Releasor

TRUSTEES OF THE CHRISTIAN BROTHERS
The NSW Body Corporate

TRUSTEES OF THE CHRISTIAN BROTHERS (WA) INC
The WA Body Corporate

AND

BROTHER ROBERT JULIAN MCDONALD
Brother Julian

AND

BROTHER PAUL NOONON

AND

THE CHRISTIAN BROTHERS ORDER

DEED OF RELEASE