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The Most Rev Denis J. Hart, DD

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Carmel Rafferty

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# Deed of Release

Date: 30<sup>th</sup> November 2010

## Parties

**THE MOST REV DENIS J. HART, DD** [ "Archbishop" ] of 228 Victoria Parade, East Melbourne, Victoria, 3002

**CARMEL RAFFERTY** [ "Ms Rafferty" ] C/- Lewis Holdway Lawyers, PO Box 138, Collins St West, Victoria, 8007

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## Background

- A The Archbishop is Archbishop, for the time being, of the Catholic Archdiocese of Melbourne [ "**Archdiocese**" ].
  - B Ms Rafferty was employed, inter alia, as a teacher at the Holy Family School at Doveton within the Archdiocese [ "**Employment**" ] until her resignation in March 1993 [ "**Resignation**" ].
  - C Ms Rafferty made complaints to the Archdiocese arising out of her Employment as Teacher and her Resignation.
  - D Ms Rafferty's complaints have been investigated by Peter O'Callaghan QC [ "**Mr O'Callaghan**" ] on behalf of the Archdiocese.
  - E Mr O'Callaghan concluded that there was no breach by the Archdiocese of any of its contractual or tortious obligations in respect of the Employment or Resignation, but has recommended that the Archbishop make an ex gratia payment to Ms Rafferty, which recommendation the Archbishop has accepted.
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## Agreed terms

- 1 Without any admission of liability on the part of the Archbishop or any person who was, is or who becomes Archbishop of the Catholic Archdiocese of Melbourne, the Archbishop agrees, within fourteen days of this Agreement to make to Ms Rafferty an ex gratia payment of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00), which amount Ms Rafferty has agreed to accept. It is agreed and acknowledged between the parties that the ex gratia payment is made in satisfaction of the physical and mental stress occasioned to Ms Rafferty prior to, during and after the Resignation.

- 2 Ms Rafferty HEREBY FOREVER RELEASES AND DISCHARGES from all claims, actions and demands of any nature whatsoever related to the subject matter of this Agreement, any person who was, is or who becomes the Archbishop of the Archdiocese of Melbourne, the Roman Catholic Trust Corporation for the Diocese of Melbourne, and all entities, persons and bodies associated directly or indirectly thereto, and without limiting the generality of the foregoing, the Archbishop, Cardinal Pell, Archbishop Little, the Catholic Education Office and its past and present employees.
- 3 Without derogating from paragraphs 1 & 2 of these terms, the Archbishop agrees that Carelink will fund monthly psychotherapy costs for Ms Rafferty for a period of two years from the date of this document, equating to a total of 24 sessions, together with counselling costs for a further ten sessions.
- 4 The Archbishop and Ms Rafferty HEREBY AGREE that this Agreement and the terms thereof shall be and remain confidential, and shall not be disclosed to any other person whatsoever, unless compelled by law to do so.
- 5 Unless expressed to the contrary, in this document:
- (a) Words in the singular include the plural and vice versa;
  - (b) Any gender includes the other genders;
  - (c) If a word or phrase is defined its other grammatical forms have corresponding meanings;
  - (d) "includes" means includes without limitation;
  - (e) No rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it; and
  - (f) reference to:
    - (i) A person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
    - (ii) A person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
    - (iii) Any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced; and
    - (iv) An obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation.
- 6 Each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this document.
- 7 This document may only be varied or replaced by a document executed by the parties.

- 8 (a) A single or partial exercise or waiver by a party of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.
- 9 Except as expressly stated otherwise in this document, the rights of a party under this document are cumulative and are in addition to any other rights of that party.
- 10 Except as expressly stated otherwise in this document, a party may conditionally or unconditionally give or withhold any consent to be given under this document and is not obliged to give its reasons for doing so.
- 11 (a) This document is governed by and is to be construed in accordance with the laws applicable in Victoria.
- (b) Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Victoria and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.
- 12 This document may consist of a number of counterparts, and if so, the counterparts taken together constitute one document.
- 13 (a) This document contains the entire understanding between the parties as to the subject matter of this document.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this document are merged in and superseded by this document and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
- (i) affects the meaning or interpretation of this document; or
  - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

**Executed** as a deed.

**Signed by Archbishop Hart** in the presence of:

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+ *Amis J. Hart*  
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*N. Kitson*  
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Witness

*N. KITSON*  
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Name of Witness (print)

**Signed by Carmel Rafferty** in the presence of:

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*C. Rafferty*  
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*Luke Gale*  
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Witness

*Ruth Baker*  
.....

Name of Witness (print)