



CONSTITUTION OF THE FRESH HOPE INVESTMENT FUND

(with effect from 7 December 2017)

Introduction

1. The Churches of Christ Property Trust (ABN 73 068 989 953) ("**the Trust**") operates a charitable scheme known as the Fresh Hope Investment Fund ("**Fund**").

Definitions

2. In this document:
 - (a) **Act** means the Churches of Christ in New South Wales Incorporation Act 1947;
 - (b) **ASIC** means Australian Securities & Investments Commission;
 - (c) **Banking Act** means the Banking Act 1959 (Commonwealth);
 - (d) **Banking Exemption** means Banking Exemption No 1 2016 published under the Banking Act;
 - (e) **Charitable Investment Fundraiser** has the meaning of Charitable Investment Fundraiser in Instrument 2016/813;
 - (f) **Charitable Purpose** has the meaning of Charitable Purpose in the Charities Act 2013;
 - (g) **Churches of Christ in New South Wales** has the meaning set out in the Act;
 - (h) **Church of Christ** has the meaning set out in the Act;
 - (i) **COC Policy** means any policy of Churches of Christ in New South Wales or of Conference Executive or approved by Conference Executive in relation to the making of investments by Churches of Christ in New South Wales or any Conference Committee
 - (j) **Conference** has the meaning set out in the Act;
 - (k) **Conference Auxiliary** has the meaning set out in the Act;

- (l) **Conference Committee** has the meaning set out in the Act;
- (m) **Conference Executive** has the meaning set out in the Act;
- (n) **Constitution** has the meaning set out in the Act;
- (o) **Corporations Act** means the Corporations Act 2001;
- (p) **Exempting Legislation** means all legislation, regulations, legislative instruments, orders or enactments of any kind, relating to exemptions in relation to the requirements of the Banking Act, the Australian Prudential Regulation Authority and/or the Australian Securities and Investments Commission;
- (q) **Fund** means the Fresh Hope Investment Fund;
- (r) **Identification Statement** has the meaning of Identification Statement in Instrument 20116/813;
- (s) **Instrument 2016/813** means the ASIC Corporations (Charitable Investment Fundraising) Instrument 2016/813;
- (t) **Property** has the meaning of property in the Interpretation Act 1987 (NSW);
- (u) **Purposes** means the Charitable Purpose of advancing of religion and without limitation advancing and benefiting the work and objects of Churches of Christ in New South Wales and its agencies being Conference Executive, Conference Committees, Conference Auxiliaries ("**Agencies**") and its Constituent Churches (that is Churches of Christ affiliated under the Constitution) ("**Constituent Churches**");
- (v) **Retail Products** has the meaning in the Banking Exemption and terms used in the definition of Retail Products, as defined in the Banking Exemption, have the meanings as defined.
- (w) Where the context so requires:
 - (i) references to any legislation, or legislative instrument of any kind, refer to any such legislation, or legislative instrument, as amended from time to time and to any



legislation or legislative investment enacted in substitution for such legislation or legislative instrument; and

- (ii) references to the Identification Statement of the Fund are references to the Identification Statement of the Fund as registered with ASIC from time to time.
- (x) Words importing any one gender shall be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.

The Fund

- 3. The Fund:
 - (a) is recognised at law as being formed for Charitable Purposes and is to continue to be established and conducted for the purposes for which it was formed, that is the Purposes as set out in this Constitution;
 - (b) must be and continue to be limited to the Purposes; and
 - (c) is, and must be, operated not-for-profit.

Retail Products

- 4. The Retail Products of the Fund have the sole and dominant intention of furthering the Purposes.

Statutory Exemptions

- 5. The Fund is subject to certain statutory exemptions. In order to maintain its entitlement to those statutory exemptions the Trust adopted this Constitution with effect from 7 December 2017 and this Constitution has effect from that date.

Powers of the Trust as a Charitable Investment Fundraiser

- 6. The Trust is a body corporate capable of doing all such acts and things as bodies corporate made by law do and suffer and has the powers conferred on the Trust by the provisions of the Act. The Trust acts as a Charitable Investment Fundraiser through the issue of debentures. Without limitation, the Trust shall have power:

- (a) Subject to subclause (b), to invest monies held by it in each and all of the following:
 - (i) in investments and in securities authorised or deemed to be authorised by any law in force at the time in relation to the investment of funds held by trustees;
 - (ii) in any security which may in the opinion of the Trust benefit the work or objects of Churches of Christ in New South Wales, its Agencies and its Constituent Churches or trusts on whose behalf the monies are held by the Trust;
 - (iii) in loans to Churches of Christ in New South Wales, its Agencies and its Constituent Churches with or without security and on such terms and conditions as may be determined from time to time by the Trust;
 - (iv) in loans to any organisation where the monies will be used for the support or advancement of the work or objects of Churches of Christ in New South Wales;
 - (v) in deposits with, or loans to, any authorised deposit taking institution or other corporation approved by the Trust;
 - (vi) in the purchase or other acquisition of shares, units or other interests and securities other than those not permitted by any COC Policy; and
 - (vii) in any other such investments as may be approved from time to time by any COC Policy or resolution of Conference Executive.
- (b) to make investments outside of Australia provided that:
 - (i) such investments are assets held in the form of overseas equities and/or deposits at interest; and
 - (ii) any such assets will represent less than half of the assets of the Fund;
- (c) to borrow or raise money:
- (d) to receive money by way of loan or advance; and
- (e) subject to the provision of clause 14, to accept funds by way of investments on interest free terms or at interest.



Purposes of the Fund

7. The Fund is formed for religious and Charitable Purposes (and without limitation the Purposes) and the Property of the Fund is held for the Purposes.

Raising of Funds

8. The Trust will raise funds for the Fund and for the Purposes by the issue of debentures, in such manner, from such persons, and on such terms, as may be permitted by the applicable provisions of the Banking Exemption, Instrument 2016/813 and the Identification Statement of the Fund.

Income of the Property

9. Subject to:
 - (a) meeting the expenses of the Fund;
 - (b) the payment of interest to those that make advances to the Fund;
 - (c) the payment of interest to those that provide credit to the Trust for the purposes of the Fund;
 - (d) the creation of reserves, and the making of provisions, as the Trust determines from time to time as being appropriate,

the income of the Fund is to be applied for the Purposes and, without limitation, such of the Purposes that Conference Executive may determine from time to time by resolution.

Banking Exemption

10. Pursuant to the Banking Exemption, sections 7 and 8 of the Banking Act do not apply to the Trust as a controlling entity of the Fund.

Liability of the Trust

11. The Trust remains and continues to be solely responsibility for all liabilities incurred by it, or on its behalf, as trustee of the Fund.



Trust Fees

12. The Trust is entitled to be paid from time to time, from the Fund, a fee approved by Conference Executive by resolution, to recompense the Trust for the reasonable costs and expenses incurred by it or in connection with performing its functions in respect of the Fund.

Not For Profit and Dissolution of the Fund

13. The income of the Fund shall be applied solely in accordance with clause 9 and must not, as a matter of law, be distributed for the benefit of the members of the Trust either during the operation of the Fund or on its winding up or dissolution. If the Fund is wound up or dissolved the Property, after satisfaction of all of its debts and liabilities, must be applied for such purposes of Churches of Christ in New South Wales as Conference Executive may determine by resolution.

Application of Trustee Act 1925

14. Subject to the Trust complying with any obligation under any other law, to the extent permitted by any other law and subject to the Trust doing any act, or refraining from doing any act, in order to satisfy the obligations of any exemption under the Banking Act or the requirements of the Australian Prudential Regulation Authority and/or the Australian Securities and Investments Commission, in relation to the operation of the Fund, with respect to any power of investment exercised (or to be exercised) by the Trust in relation to the Fund, notwithstanding any provisions of the *Trustee Act, 1925* ("**Trustee Act**") (as may be amended from time to time):
 - (a) the Trust shall not be under any duty in exercising a power of investment to observe the provisions of Section 14A(2) of the Trustee Act, provided it is not negligent and acts reasonably, in doing so;
 - (b) the Trust shall not be under any duty to review the performance of the investments of the Fund (individually or as a whole) at any specific time period;
 - (c) the Trust shall not be under any duty to perform any duty specified in Section 14B(2) of the Trustee Act; and
 - (d) to the extent that the Trustee Act provides in Section 14C for matters which the Trust must have regard to when exercising powers of investment, the Trust is forbidden to comply with



Section 14C but the Trust may nevertheless in its absolute discretion have regard to the matters set out in that section.

Compliance with Exempting Legislation

15. The Trust must to the extent necessary comply with:
- (a) all Exempting Legislation and, without limitation, must satisfy the Banking Exemption, and Instrument 2016/813 as pertaining to the Fund from time to time; and
 - (b) the provisions of the Identification Statement of the Fund.

Precedence of Construction

16. Where the provisions of this Constitution are inconsistent with the provisions of the Exempting Legislation and/or the provisions of the Identification Statement of the Fund this Constitution shall be read down and construed in such a manner as to comply with the provisions of the Exempting Legislation and/or the provisions of the Identification Statement of the Fund as the circumstances require.

