MODEL TRUST DEED FOR CHURCH SITE

To all whom these presents shall come

all of [Trustees or Trustee]

Send Greeting -

A. **Whereas** under and by virtue of the [Certificate of Title or Conveyance] particularly mentioned or referred to in the First Schedule hereunder written the piece or parcel of land and hereditaments particularly described in the Second Schedule hereunder written, and the fee simple and inheritance thereof in possession are now vested in the said [Trustees or Trustee] as joint tenants

B. **And whereas** the said hereditaments do not belong to the said [Trustees or Trustee] beneficially but have been acquired by and become vested in them as Trustees only for the purposes hereinafter mentioned, and they are desirous of declaring by this deed the trusts ends intents and purposes upon and for which they acquired and shall henceforth stand seised and possessed of the said land and hereditaments and all buildings now and hereafter to be erected upon the same or any part thereof

Now therefore know ye and these presents witness that

1. the said [Trustees or Trustee] do and each of them doth **hereby declare** that they and the survivors and survivor of them and the heirs of such survivor their or his assigns (all and every of whom are hereinafter referred to as the said Trustees or Trustee) shall hold and stand seised of all the hereditaments described in the said Second Schedule **upon trust** for the religious denomination mentioned in the Act 22 Vic. No. 82* (*Printed in Blue Book of 1883, page 106.) and known as and called "The Presbyterian Church of Victoria" (hereinafter styled **the said Church**)

   (a) and to permit and suffer the said land and hereditaments to be used for such purposes and by such person or persons as the General Assembly of the said Church (hereinafter called **the Assembly**) may from time to time direct (of which direction the certificate in writing under the hand of the Moderator for the time being of the Assembly shall be sufficient evidence), and

   until such direction

(b) to permit and suffer the same to be used as a site for a church for the public worship of God by such persons as are now or at any time or times hereafter may be recognised by the Assembly as a Congregation of the said Church and who hold and shall continue to adhere to the standards of religious belief and of ecclesiastical government of the said Church and

(c) to permit and suffer the Minister for the time being of the said Congregation together with the Elders and other office-bearers thereof –

(i) to have free and uninterrupted enjoyment of the said land and hereditaments not only for the purposes of public worship as aforesaid but for such objects in connection with the affairs of the said Congregation as the Presbytery of the said Church for the time being entrusted by the Assembly with the superintendence of the said Congregation (hereinafter called **such Presbytery as aforesaid**) may approve of direct or appoint and

(ii) to enter on the said land and hereditaments or a sufficient part or parts thereof to erect and build such church and other necessary buildings and from time to time alter pull down remove renew enlarge and repair the same as shall at any time or from time to time hereafter be directed by the vote of at least two-third parts in number of such of the members and adherents for the time being as shall be personally present at a public meeting thereof called and held pursuant to notice in that behalf duly given in accordance with and conformity to the rules and regulations of the said Church for the time being affecting the convening and holding of meetings of members and adherents in similar cases.

2. **And it is hereby declared** that the said Trustees or Trustee shall have no power or authority to appoint dismiss or in anywise interfere with the appointment or dismissal of the Minister or any Office-bearers of the said Congregation nor in anywise meddle or interfere with such Minister or Office-bearers in the discharge of their official duties and that a certificate under the hand of the Moderator for the time being as aforesaid shall be conclusive evidence of the person for the time being claiming to minister as aforesaid being in fact such Minister.

3. And further that the said Trustees or Trustee shall be bound to obey and give effect

to the orders rules decisions and appointments made and to be made by the Assembly and of any such Presbytery as aforesaid and of the Office-bearers thereof relating to or concerning the admission or removal of the Minister and Office-bearers of the said Congregation and the rights and privileges belonging to him them or any of them in virtue of his or their office and concerning every other matter or thing whereon the Assembly or such Presbytery as aforesaid may or shall be by these presents or the constitution of the said Church declared to have authority and shall furnish to the Assembly and to such Presbytery as aforesaid such returns reports and other information as may be required.

4. And further that the said Trustees or Trustee shall by a mortgage or mortgages of or other security or securities over all or any part or parts of the said hereditaments raise such sums or sum of money for the completion extension or reparation of the said buildings or the improvement of the said hereditaments or for any other purposes of the said Congregation and on such terms in all respects as shall with the consent of the Assembly be directed by any such vote as aforesaid and shall make any such mortgage or other security either with or without a power of sale of the mortgaged hereditaments and with all usual and incidental covenants clauses and agreements and execute all necessary and proper assurances for effecting any such mortgage or other security provided always that the said Trustees or Trustee shall not be obliged to execute any covenant rendering them or him personally responsible to repay the amount mentioned in any such mortgage

5. And further that the said Trustees or Trustee shall absolutely make sale and dispose of the said hereditaments or any part or parts thereof and the fee simple and inheritance thereof when and on such terms and in such manner and subject to such conditions as to the title or otherwise as shall with the consent aforesaid be directed by any such vote as aforesaid and convey the hereditaments sold to the purchaser or purchasers thereof and shall pay the moneys received by virtue of any such mortgage or sale as aforesaid to the Treasurer for the time being of the Assembly (whose receipt shall be a sufficient discharge to the said Trustees or Trustee) who shall in the first place deduct thereout all costs and expenses attending such mortgage or sale and then payoff and discharge any encumbrance or encumbrances for the time being affecting the said hereditaments or any part or parts thereof and then pay the balance to the said Congregation or otherwise as

may be directed by the Assembly to be applied and disposed of in or towards the purposes for which such mortgage or sale shall have been authorised

6. And further that the said Trustees or Trustee shall from time to time demise or let such part or parts of the said hereditaments as shall not for the time being be actually required for the purpose of public worship or other Congregational purposes for such term or terms, at such rent or rents, upon such conditions, and subject to such covenants as shall be approved under the Rules of the Church and shall have been directed by any such vote as aforesaid but the reversion in the hereditaments demised or let shall continue subject to the powers of mortgaging and selling respectively herein contained Provided that the clear rents arising from any such demise or letting shall be collected by the Treasurer for the time being of the said Congregation and be paid and applied for such purposes as shall have been directed by any such vote as aforesaid and approved by such Presbytery as aforesaid

7. And it is hereby further declared and agreed that any receipt which shall be given by the said Trustees or Trustee for any money payable for or in respect of any mortgage sale or lease of or other dealings with the said hereditaments or any part or parts thereof shall effectually discharge the person or persons paying the same from being answerable or accountable for the non-application or misapplication or from being obliged or concerned to see to the application of the money in such receipt acknowledged or expressed to have been received

8. And that every covenant and agreement that shall be entered into and every mortgage conveyance or lease which shall be executed by the said Trustees or Trustee pursuant to the trusts hereinbefore declared shall be as good and effectual both at law and in equity as if every member and adherent of the said Congregation had joined therein or assented thereto and shall be binding and conclusive on all persons claiming any benefit or interest under or by virtue of these presents

9. And that it shall not be incumbent on any mortgagee purchaser lessee or tenant of the said hereditaments or any part or parts thereof to inquire into the necessity or propriety of any such mortgage sale demise or letting or whether the same is authorised by these presents or into the due nomination election or appointment of

any Trustees or Trustee under these presents and that a solemn statutory declaration by the persons or person purporting and claiming to mortgage sell lease or let as the Trustees or Trustee for the time being of these presents shall be conclusive evidence in favour of any mortgagee purchaser lessee or tenant of such person or persons being such Trustees or Trustee

10. And further that the said Trustees or Trustee shall have no power or authority to collect the revenues or to manage or interfere with the management of the temporal affairs of the said Congregation.

11. And further that three Trustees shall be held to be an actual quorum at any meeting duly convened and

12. if any of the said Trustees shall die or desire to resign his trust or shall cease to be a member or adherent of the said Congregation or shall have removed his residence to a distance of one hundred miles from the said place of worship for at least, twelve consecutive months or shall refuse to exercise and execute any of the powers and authorities hereby reposed in him when so required as aforesaid or shall disobey or neglect or refuse to carry out any order instruction or decision of the Assembly or of such Presbytery as aforesaid or shall by the Assembly be declared to have been guilty of conduct unbecoming a Trustee then and in any of the said cases it shall be lawful for and incumbent on such Presbytery as aforesaid by resolution reciting the facts to declare a vacancy in the Trusteeship in respect of such Trustee who shall immediately thereupon *ipso facto* cease to be a Trustee and shall be deprived of all powers and privileges vested in him of which resolution the certificate of the Moderator for the time being of such Presbytery as aforesaid shall be conclusive evidence and

13. that as often as the number of Trustees shall be reduced by any of the ways or causes aforesaid to less than three it shall be lawful for and incumbent on the said Congregation at a meeting duly convened for that purpose to proceed to the appointment of one person being a member of the said Church or Congregation for every such vacancy in the office of Trustee and that when and so often as such presbytery as aforesaid shall have ratified such appointment the said hereditaments shall thereupon with all convenient speed be conveyed and assured by the

surviving and acting Trustees or Trustee (together as the case may be with the Trustee or Trustees as to whom such vacancy or vacancies shall have been declared) so and in such manner as that the same shall be effectually vested in the surviving and acting Trustees or Trustee and in the new Trustees or Trustee jointly upon the same trusts and conditions and for the same purposes as have hereinbefore been provided and declared.

14. Provided always, and notwithstanding anything hereinbefore contained, it is hereby further agreed and declared that, should any Congregation at any time cease to exist (and such cesser of existence shall be deemed to have occurred if no Presbyterian Church service is held by a Minister or Elder or Home Missionary of the said Church, on the said land and hereditaments, for a continuous period of twelve months, and of which cesser the certificate in writing of the Moderator for the time being of the Assembly shall be sufficient evidence), the Assembly shall be at liberty to direct the Trustees or Trustee to sell, mortgage, lease, exchange, or otherwise deal with or dispose of the said land and hereditaments, and the buildings and erections thereon, or any part thereof, in any manner and upon such conditions (if any) as the Assembly may from time to time direct.

In witness whereof the said
have hereunto set their bands and seals the day of A.D., 19....

The First Schedule hereinbefore referred to
[Description of the Certificate of Title or Conveyance]

The Second Schedule hereinbefore referred to
[Description of the Land as in the Title]

EXTRACT FROM MODEL TRUST DEED FOR MANSE SITE

Same as for Church site except that the following Trusts are substituted for the corresponding clause in deed for Church site.

14. **Upon Trust** for the religious denomination mentioned in the Act 22 Vic. No. 82* (*Printed in Blue Book of 1883, page 100.) and known as and called "The Presbyterian Church of Victoria" (hereinafter styled the said Church)

(a) and to permit and suffer the said land and hereditaments to be used for a site for a Manse or Minister's dwelling to be occupied solely by such person or persons in succession as shall from time to time be inducted by the said Church into the office of and shall continue to be recognised by the General Assembly of the said Church (hereinafter called **the Assembly**) as the officiating Minister for the time being in connection with the Congregation at ..... in the Colony of Victoria which now is or at any time or times hereafter may be recognised by the Assembly as a Congregation of the said Church and holding and continuing to adhere to the standards of religious belief and of ecclesiastical government of the said Church

(b) and to permit and suffer the Minister for the time being of the said Congregation to have free and uninterrupted enjoyment of the said land and hereditaments for the purposes aforesaid

(c) and also to permit and suffer such Minister together with the Elders and other Office bearers of the said Congregation –

(i) to have free and uninterrupted enjoyment of the said land and hereditaments for such other objects in connection with the affairs of the said Congregation as the Presbytery of the said Church for the time being entrusted by the Assembly with the superintendence of the said Congregation (hereinafter called **such Presbytery as aforesaid**) may approve of direct or appoint and

(ii) to enter on the said land and hereditaments or a sufficient part or parts thereof to erect and build such Manse and other necessary buildings and from time to time alter pull down remove renew enlarge and repair the same as shall at any time or from time to time hereafter be directed by the vote of at least two-third parts in number of such of the Members and Adherents for the time being as

shall be personally present at a public meeting thereof called and held pursuant to notice in that behalf duly given in accordance with and conformity to the rules and regulations of the said Church for the time being affecting the convening and holding of meetings of Members and Adherents in similar cases.