

DEED OF AGREEMENT

ST FRANCIS XAVIER SCHOOL, WHANGAREI

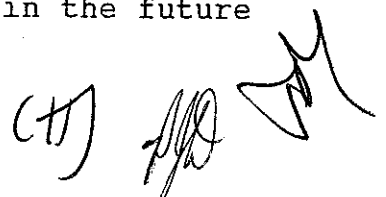
THIS DEED OF AGREEMENT is made the 10<sup>th</sup> day of April  
One thousand nine hundred and ninety-five (95)  
BETWEEN THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF  
AUCKLAND a "Corporation Sole" (hereinafter with his successors  
referred to as "the Proprietor") of the first part  
AND HER MAJESTY THE QUEEN acting by and through the Minister  
of Education (hereinafter referred to as "the Minister") of  
the second part.

WHEREAS

- A The Proprietor is the owner of St Francis Xavier School,  
Whangarei (hereinafter referred to as "the School").
- B The School is a Roman Catholic Primary School for boys  
and girls from new entrants to Standard 4 offering  
Education with a Special Character.
- C The Minister and the Proprietor have agreed to enter into  
this Deed of Agreement pursuant to the Private Schools  
Conditional Integration Act 1975, whereby the School is  
to be established as an integrated School.

NOW THIS DEED OF AGREEMENT WITNESSETH THAT IT IS HEREBY  
COVENANTED AGREED AND DECLARED BY AND BETWEEN THE PARTIES  
HERETO AS FOLLOWS:

1. THAT the Minister and the Proprietor HEREBY AGREE that  
the School is to become an integrated School pursuant to the  
Private Schools Conditional Integration Act 1975.
2. THE School's Special Character as is hereinafter  
described. shall incorporate the Education with a Special  
Character as provided in the School AND IT IS HEREBY AGREED  
AND DECLARED that the School shall at all times in the future

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be conducted and operated so as to maintain and preserve the School's Special Character and these presents shall be interpreted so as to maintain and preserve the Special Character of the School.

3. ON behalf of the Proprietor it is hereby agreed that:

(a) The Proprietor is the owner of all the land and improvements more particularly described in the First Schedule hereto (hereinafter referred to as "the Proprietor's land") and of which for the purposes of this Deed of Agreement, the School premises form part only. The School premises for the purposes of this Deed of Agreement being the land and improvements more particularly described in the Second Schedule hereto (hereinafter referred to as "the School premises").

(b) The Proprietor shall set apart and appropriate as owner all the School premises and all the chattels and other assets of the Proprietor associated with the School exclusively for the purposes of the School as an integrated School, so that the Controlling Authority of the School shall have the exclusive right to the possession and use of the School premises and chattels PROVIDED THAT

(i) At the request of the Proprietor, the Board of Trustees may grant the use of the School premises and chattels to the Proprietor or other person or persons at any time when the School premises and chattels are not required for School purposes and the Board of Trustees shall not unreasonably or arbitrarily withhold its consent. The Board of Trustees may require the Proprietor or other person or persons to pay a reasonable fee to the Board of Trustees as a condition of such use.

(ii) With the consent of the Proprietor, the Board of

Trustees may grant the use of the School premises and chattels to other person or persons at any time when the School premises and chattels are not required for School purposes and the Proprietor shall not unreasonably or arbitrarily withhold his consent. The Board of Trustees may require any such person or persons to pay a reasonable fee to the Board of Trustees as a condition of such use.

- (c) The Proprietor shall accept and meet the liability for mortgages, liens and other charges upon the land and buildings comprising the School premises.
- (d) The Proprietor shall plan, execute and pay for such capital works and associated facilities at the School as may be approved or required, from time to time, by the Minister pursuant to Section 40 (2) (d) of the Private Schools Conditional Integration Act 1975.
- (e) The Proprietor may own or hold upon trust, and control and maintain, any land, buildings and associated facilities that, although not part of the integrated School premises in terms of this Deed of Agreement are regarded by the Proprietor as appropriate to maintain the Special Character of the School.
- (f) The Proprietor shall insure all the buildings forming part of the School premises and the Proprietor's chattels (if any) owned or held upon trust for the purposes of the School and other assets owned by the Proprietor for the purposes of the School against risk normally insured against, in some responsible insurance office in New Zealand, and further acknowledges the obligations on him created by Section 40 (2) (h) of the Private Schools Conditional Integration Act 1975.
- (g) No person employed at the School and paid for his

services in whole or in part out of moneys appropriated by Parliament, shall be paid by the Proprietor or his servants or agents any remuneration additional to that provided for the Private Schools Conditional Integration Act 1975 or shall be granted or permitted any condition of service more favourable than that permitted in the case of a person employed in a comparable position in a State School **PROVIDED HOWEVER** that a teacher to whom the provisions of Section 71 of the Private Schools Conditional Integration Act 1975 apply, shall continue to be paid no less than the same salary, and be accorded the same status, as he received or was accorded on the day before the effective date of the integration of the School.

4. **THE** land and buildings constituting the School premises are subject to the mortgages, debts, liens, encumbrances, easements, licences, restrictions and other matters which affect the title to or enjoyment of the land and have the appurtenances or benefits attaching to the land more particularly described in the First Schedule hereto.

5. **THE** Special Character of the School is that it is a Roman Catholic School for boys and girls established by the Roman Catholic Bishop of the Diocese of Auckland, New Zealand, for the Roman Catholic Community of the Diocese of Auckland, which promotes and supports the School and of which the School is part, to provide and to continue to provide Education with a Special Character, that is to say:

The School is a Roman Catholic School in which the whole School community through the general School programme and in its Religious Instructions and observances, exercises the right to live and teach the values of Jesus Christ. These values are as expressed in the Scriptures and in the practices, worship and doctrine of the Roman Catholic Church,

as determined from time to time by the Roman Catholic Bishop of the Diocese of Auckland.

6. THE Proprietor of the School subject to the provisions of this Deed of Agreement:

- (a) Shall continue to have the responsibility to supervise the maintenance and preservation of the Education with a Special Character provided by the School;
- (b) Shall continue to have the right to determine from time to time what is necessary to preserve and safeguard the Special Character of the Education provided by the School and described in this Deed of Agreement;
- (c) May invoke the powers conferred upon him by the Private Schools Conditional Integration Act 1975, if in the opinion of the Proprietor the Special Character of the School as defined and described in this Deed of Agreement has been or is likely to be jeopardised or the Education with a Special Character provided by the School as defined and described in this Deed of Agreement is no longer preserved and safeguarded.

7. (a) THE Board of Trustees shall be the Controlling Authority of the School and shall be constituted pursuant to Part IX of the Education Act 1989.

(b) THE control and management of the School shall be exercised subject to the provisions of Section 25(6) of the Private Schools Conditional Integration Act 1975.

8. IT is agreed by and between the parties hereto that the maximum roll of the School shall be three hundred and fifty (350) pupils.

9. THE Proprietor agrees that pursuant to Paragraph (d) of Clause 3 of this Deed of Agreement he will bring the School up to the minimum standard of accommodation laid down from time to time by The Secretary for a comparable State School. \_

10. (a) PREFERENCE of enrolment at the School under Section 29 (1) of the private Schools Conditional Integration Act 1975 shall be given only to those children whose parents have established a particular or general religious connection with the Special Character of the School and the Controlling Authority shall not give preference of enrolment to the parents of any child unless the Proprietor has stated that those parents have established such a particular or general religious connection with the Special Character of the School.

(b) In accordance with Section 7(6)(h) of the Private Schools Conditional Integration Act 1975, unless the Proprietor and the Secretary of Education otherwise agree, and subject to places being available, the number of pupils whose parents do not have preference of enrolment at the School in accordance with the provisions of Section 29(1) of the Private Schools Conditional Integration Act 1975 shall be limited at all times to five (5) per cent of the maximum roll as determined by Clause 8 hereof and the Board of Trustees shall not enrol more than that number PROVIDED THAT to maintain and preserve the Special Character of the School and the Controlling Authority in classifying such pupils so enrolled shall endeavour to reasonably distribute them through the range of classes offered by the School.

11 IT is agreed by and between the parties hereto that as Religious observances and Religious instruction form part of the Education with a Special Character provided by the School, Religious observances and Religious instruction in accordance with the determination made from time to time by the Roman Catholic Bishop of the Diocese of Auckland shall continue to

form part of the School programme in accordance with Sections 31 and 32 of the Private Schools Conditional Integration Act 1975,

12 **THE** Proprietor, together with his servants, agents and licensees shall, subject to the proviso to Section 40(2)(i) of the Private Schools Conditional Integration Act 1975, have at all reasonable times access to the School to ensure that the Special Character of the School is being maintained.

13 **THE** Proprietor, together with his servants, agents and licensees, shall have at all reasonable times access to the land and buildings of the School constituting the School premises sufficient to enable him to exercise the powers and carry out the responsibilities vested in him and imposed on him by the Private Schools Conditional Integration Act 1975 and by this Deed of Agreement.

14 **AN** advertisement for the position of Principal of the School shall in accordance with Section 65(1(a) of the Private Schools Conditional Integration Act 1975 state that a willingness and ability to take part in Religious instruction appropriate to the Special Character of the School shall be a condition of appointment. Any person so appointed to the position of Principal shall accept these requirements as a condition of appointment. The Principal so appointed shall accept and recognise a responsibility to maintain and preserve the Special Character of the School.

15 **THERE** shall be a position of responsibility at the School to be designated Director of Religious Studies in accordance with Section 65(1)(b) of the Private Schools Conditional Integration Act 1975, which position shall be part of the total staffing entitlement of the school as established pursuant to the Education Act 1989 and an advertisement for that position shall state that a willingness and ability to take part in Religious instruction appropriate to the Special Character of the School shall be a condition of appointment.

Any person so appointed to the position of Director of Religious Studies shall accept these requirements as a condition of appointment. The Director of Religious Studies shall give guidance and provide effective leadership in Religious instruction and observances throughout the School **PROVIDED HOWEVER** that in the event of the staffing entitlement of the School altering at any time during the currency of this Deed of Agreement then the position of Director of Religious Studies shall be determined in accordance with the then total staffing entitlement of the School as established pursuant to the Education Act 1989 and as is more particularly described in the Fourth Schedule hereto.

16 **A** person appointed as aforesaid to the position of Director of Religious Studies at the School shall undertake such teaching duties, if any, as may be required by the Principal of the School.

17 **Whenever** there is a position of deputy principal at the School, however described, it is agreed pursuant to Section 66(1) of the private Schools Conditional Integration Act 1975 that the position is to be a special position that requires particular capabilities in the teacher appointed, namely to maintain programmes and activities that reflect the Special Character of the School and an advertisement for the position of deputy principal shall state that possession of these capabilities shall be a condition of appointment. Any person so appointed to the position of deputy principal shall accept these requirements as a condition of appointment.

18 **THERE** shall be five (5) other teaching positions at the School which in accordance with Section 65(1)(c) of the Private Schools Conditional Integration Act 1975, shall be positions of importance carrying a responsibility for Religious instruction and an advertisement for those positions shall state that a willingness and ability to take part in Religious instruction appropriate to the Special Character of the School shall be a condition of appointment. Any person so



appointed to these positions shall accept these requirements as a condition of appointment PROVIDED HOWEVER that in the event of the staffing entitlement of the School altering at any time during the currency of this Deed of Agreement then the number of teaching positions designated under Section 65(1)(c) of the Private Schools Conditional Integration Act 1975 as positions of importance carrying a responsibility for Religious instruction shall be determined in accordance with the then total staffing entitlement and as is more particularly described in the Fourth Schedule hereto.

19 THE Proprietor may with the consent of the Controlling Authority in accordance with Section 69(1) of the Private Schools Conditional Integration Act 1975 arrange for any retired teacher to undertake voluntary tasks to assist in the School with the teaching of Religious observances and Religious instruction appropriate to the Special Character of the School.

20 IT is agreed by and between the parties hereto that as Religious observances and Religious instruction form part of the Education with a Special Character provided by the School the proprietor may employ any person as a Chaplain or otherwise, for the purposes of Religious observances or instruction and the provisions of Section 69(2) and (3) of the Private Schools Conditional Integration Act 1975 shall apply.

21 THE Proprietor of the School shall have the right to enter into an Agreement with the parents or other persons accepting responsibility for the education of a child providing that, as a condition of enrolment and attendance of that child at the School, the parents or other persons shall pay attendance dues established in respect of the School or group of Integrated Schools owned by the Proprietor or Proprietors of other Roman Catholic Integrated Schools at such rates and subject to such conditions as may be approved from time to time by the Minister, by notice in the New Zealand

Gazette in accordance with Section 36 of the Private Schools Conditional Integration Act 1975.

22 **THE** School is a Primary School for boys and girls from New Entrants to Standard 4 and shall remain so until such time as an agreement to a change in this organisation of the School is reached between the Proprietor and the Minister and the parties hereto enter into a supplementary Deed of Agreement to give effect thereto.

23 **WHERE** any of the costs associated with the conduct of the Proprietor's land and buildings that are not part of the School premises cannot be separated from the costs associated with the operation of the School premises, the Proprietor and the Controlling Authority shall contribute to such costs according to their respective use of the services and facilities.

24 **THE** Minister shall subject to **Clause 3(e)** of this Deed of Agreement after the effective date hereof maintain the School premises and the associated facilities in a state of repair order and condition as for a comparable State school and provide for the maintenance of the chattels as though the School were a State School. The School shall be entitled to such furniture and equipment as The Minister supplies from time to time to comparable State Schools.

25 **THE** effective date of this Deed of Agreement shall be the 1<sup>st</sup> day of *January 1995*

26 **ON** and after the effective date specified in this Deed of Agreement the School shall be an integrated school in terms of the Private Schools Conditional Integration Act 1975.

*CHJ* *[Signature]* *[Signature]*

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written.

SIGNED BY BISHOP PATRICK DUNN

THE ROMAN CATHOLIC BISHOP OF  
THE DIOCESE OF AUCKLAND

and sealed with his Seal of  
Office in the presence of:

+ P. J. Dunn

Neil Lauranson  
Apt. 9A  
37 - 39 Federal Str.  
Auckland 1  
N. Lauranson

SIGNED by KATHY PHILLIPS JOHN MATHER

Senior Manager, National Operations  
Ministry of Education pursuant to  
authority delegated by the  
Minister of Education acting on  
behalf of HER MAJESTY THE QUEEN  
in the presence of:

J. L. Mather

Charlotte Hughes-Johnson  
Adviser  
36 Hanover Street  
Wellington

**FIRST SCHEDULE**

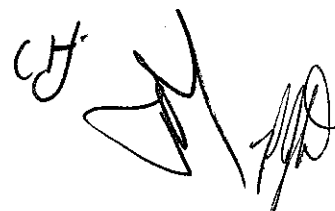
Description of total land buildings and other improvements comprising the Proprietor's land of which the School premises form part.

**THE PROPRIETOR'S LAND** All that Land, School buildings and other improvements owned by the Roman Catholic Bishop of the Diocese of Auckland, situated at Percy Street, Whangarei, New Zealand, being known as **St Francis Xavier School, Whangarei**, delineated in green on the annexed plan and being more particularly described as follows:

**FIRST** all that Freehold parcel of land containing 2.0730 hectares more or less situated in the Borough of Whangarei being part of Lot fifteen (15) on a plan lodged in the Deeds Register Office at Auckland as No 532 and being part of Allotment 2 of the Parish of Whangarei and being all the land in Certificate of Title Volume 527 folio 3 (North Auckland Registry). This title is limited as to parcels.

**SECONDLY** all that Freehold parcel of land containing 1.2140 hectares more or less situated in the Borough of Whangarei being part of Allotment 2 of the Parish of Whangarei and being all the land in Certificate of Title Volume 528 folio 15 (North Auckland Registry). This title is limited as to parcels.

There is a debt owing to the Diocesan Development Fund of the Roman Catholic Diocese of Auckland.

Handwritten signatures and initials in black ink, including a large stylized signature and several smaller initials.

**SECOND SCHEDULE**

Description of land buildings and other improvements comprising the School premises.

**THE SCHOOL PREMISES**

All that part of the Proprietor's land as described in the First Schedule hereto, delineated in red on the annexed plan of the Proprietor's land, which plan forms part of this Schedule **TOGETHER WITH** all the School buildings and other improvements thereon.

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