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# St Philip's Sydney York Street Property Leasing Ordinance 1966

(Reprinted under the Interpretation Ordinance 1985.)

The St Philip's Sydney York Street Property Leasing Ordinance 1966 as amended by St Philip's Sydney York Street Property Leasing Ordinance (No. 20) 1966, St Philip's Sydney York Street Property Leasing Ordinance Amendment Ordinance 1969, St Philip's Sydney York Street Property Leasing Further Amendment Ordinance 1969, St Philip's Sydney York Street Property Leasing Amendment Ordinance 1979, St Philip's Sydney York Street Property Leasing Amendment Ordinance 1980, St Philip's Sydney York Street Property Leasing Ordinance Amendment Ordinance 1983, the St Philip's Sydney York Street Property Leasing Ordinance 1988, the St Philip's Sydney York Street Property Leasing Ordinance 1992, the St Philip's York Street Property Leasing Ordinance 1966 Amendment Ordinance 1997, the St Philip's Sydney York Street Property Leasing Ordinance 1966 Amending Ordinance 2002, the St Philip's Sydney York Street Property Leasing Ordinance 1966 Amending Ordinance 2003 and the St Philip's Sydney York Street Property Leasing Ordinance 1966 Amendment Ordinance 2007.

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## Long Title

An Ordinance to vary the trusts of certain property in York Street Sydney to authorise the granting of an option to lease and the leasing of the same property and for other purposes incidental thereto.

## Preamble

Whereas by Crown Grant dated the 26th day of March 1850 registered in the Register of Grants of the United Church of England and Ireland No. 79, page 63 the lands described in the First Schedule hereto were granted to The Right Reverend William Grant Broughton the Lord Bishop of Sydney and his successors Bishops of Sydney forever John Campbell and Francis Mitchell upon trust for the erection thereon of a School House in connection with the United Church of England and Ireland and for no other purposes whatsoever And Whereas by Crown Grant dated the 11th day of February 1858 registered in the Register of Grants of the United Church of England and Ireland No. 1 page 58/2 the lands described in the Second Schedule hereto were granted to John Campbell George Kilgour Ingelow and John Alexander Matthews upon trust for the erection thereon of a Church of the United Church of England and Ireland and for no other purpose whatsoever And Whereas by Ordinance No. 16, of 1935 the said lands were vested in the Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") upon the aforesaid trusts And Whereas it is proposed to grant an option to Bambro (No. 11) Pty Limited (hereinafter called "the Optionee") or its nominee to lease from the Corporate Trustee that part of the said lands described in the Third Schedule hereto And Whereas by reason of circumstances which have arisen subsequent to the creation of the aforesaid trusts upon which the said lands are held it is inexpedient to carry out and observe the same to the extent to which the same are hereby varied and it is expedient to vary such trusts in manner hereinafter mentioned and to make the further provisions hereinafter contained Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains and Directs as follows -

## Declaration of Expediency

1. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the lands described in the said First and Second Schedules are held it is inexpedient to carry out and observe the same to the extent to which such trusts are hereby varied and it is expedient -

- (a) That an option be granted to lease from the Corporate Trustee the land described in the Third Schedule hereto, and
- (b) That the land described in the Third Schedule hereto be leased.

### **Authority to Lease**

2. The Corporate Trustee is hereby authorised to grant an option to the Optionee or its nominee approved by the Standing Committee of Synod either being hereinafter included in the term "Optionee" to lease from the Corporate Trustee the land described in the Third Schedule hereto substantially upon the terms and conditions contained in the draft Deed of Option produced to the Corporate Trustee and signed for identification by the Secretary thereof and by the Rector for the time being of the Parish of St Philip's Sydney including inter alia the following provisions -

- (a) Payment by the Optionee of Twelve thousand dollars (\$12,000) for an option of one year by two instalments of Six thousand dollars (\$6,000) each.
- (b) Option may be renewed for any consecutive period of periods not exceeding three (3) years in the aggregate.
- (c) Payment by the Optionee of Five thousand dollars (\$5,000) for the first renewal of one (1) year by two (2) instalments of Two thousand five hundred dollars (\$2,500) each.
- (d) Payment by the Optionee of Three thousand dollars (\$3,000) for each three (3) months of subsequent renewals.
- (e) A covenant by the Corporate Trustee to use its best endeavours to perfect its title and expeditiously to enter into an agreement for the exchange of lands upon the widening of York Street and the variation of the Clarence Street alignment.
- (f) A covenant by the Corporate Trustee to subdivide the area marked "B" on the plan produced to the Corporate Trustee and signed by the Secretary thereof for identification upon being requested so to do by the Optionee.
- (g) A covenant by the Optionee to pay stamp duty on the option real estate consultants' fee not exceeding Three thousand dollars (\$3,000) legal expenses of the preparation and stamping of the option not exceeding Two hundred and fifty dollars (\$250) and reasonable legal expenses in connection with the preparation registration and stamping of the Lease.
- (h) A guarantee of limited period by the Hammerson Property and Investment Trust Limited of the obligations of the Optionee.
- (i) A provision whereby in the event of the Corporate Trustee being divested of any of the land described in the Third Schedule hereto other than land contained in the areas marked X Y1 Y2 and Z1 on the plan referred to in the said Schedule for any reason whatsoever before the Optionee exercises its option the Optionee may at any time thereafter (but not later than six (6) months after the Corporate Trustee shall notify the Optionee in writing thereof) require the Corporate Trustee to refund to it all moneys paid by it to the Corporate Trustee pursuant to subclauses (a) (c) and (d) of this clause whereupon such moneys shall become payable forthwith and upon payment the option (if not otherwise terminated) shall be deemed to be at an end.

3. The Corporate Trustee is hereby authorised to lease to the Optionee or its nominee the land described in the Third Schedule hereto subject to its being at the date of exercise of the option vested in the Corporate Trustee and any part of that land not vested in the Corporate Trustee at such date and/or any land contiguous with such land other than to the land of the Corporate Trustee contiguous with the boundary of lots 1 and 2 on the said plan, which becomes vested in the Corporate Trustee substantially upon the terms and conditions contained in the draft Deed of Lease annexed to the said draft Deed of Option which shall include inter alia the following provisions -

- (a) The Lease will commence from the date the option is exercised and expire sixty (60) years after the date of completion of the building herein referred to.
- (b) (i) If the option is exercised within two (2) years from the date of the option payment by the Lessee of Eight thousand five hundred dollars (\$8,500) per annum until the demolition of the Existing Buildings or until the expiration of the period of two (2) years (whichever first occurs) and then at the rate of Twelve thousand dollars (\$12,000) per annum
- (ii) If the option is exercised after the period of two (2) years payment by the Lessee of Twelve thousand dollars (\$12,000) per annum until the date of completion but -  
in either event if the Existing Buildings are not demolished within four (4) months from the exercise of the option the rate to be Eight thousand five hundred dollars (\$8,500) from the expiration of the said period of four (4) months or until the date of completion of demolition.
- (c) Payment by the Lessee of a base annual rent of Fifty-five thousand dollars (\$55,000) and an additional rent of Sixteen thousand seven hundred and twelve dollars (\$16,712) during each of the five (5) years following the date of completion aforesaid and a profit rent after the fifth lease year.
- (d) A covenant by the Lessor to demolish the Existing Buildings at its expense within not less than four (4) months nor more than six (6) months after the exercise of the option and a provision that in default the Lessee may complete the demolition at the expense of the Lessor.

- (e) A covenant by the Lessee to erect a multi-storey tower building according to the plans and specifications approved by the Lessor within three (3) years of the completion of the demolition subject to extensions necessary due to such causes as the Lessor agrees.
- (f) A covenant by the Lessee to pay all the reasonable fees of the Lessor's Architects relating to the erection of the building.
- (g) A proviso for re-entry if the Lessee makes any default in the erection and completion of the building.
- (h) A covenant by the Lessee that should an auditorium be included in the building the Lessee will reserve or ensure there be reserved to the Lessor and the Rector and Churchwardens of St Philip's Sydney the right to use the same up to ten (10) days in each calendar year for not less than three hours subject to at least six months' notice of each day and the Lessor to pay the same for such use as any other person or organisation on a casual basis.
- (i) A covenant by the Lessee that should apartments for residential purposes be included in the building and offered for letting to the public Hammersons and/or the Lessee will make first offer of one such apartment to the Lessor at current open market value.
- (j) A covenant by the Lessor to use its best endeavours to enter into an agreement for the exchange of lands upon the widening of York Street and the variation of the Clarence Street alignment.
- (k) A covenant by the Lessor to make application for and prosecute all claims for compensation resulting from such exchange of lands.
- (l) A covenant by the Lessor to grant supplementary leases at no additional rent of any part not included in the lease which subsequently becomes vested in it of the land edged red on the said plan and/or the surface to a depth of R.L.81.00 from the standard datum of lots Y1 and Y2 on the said plan and/or any land contiguous to such lands other than to the land of the Lessor contiguous with Lot E on the said plan. Such leases are to be for the balance of the term of the lease and upon the same terms and conditions provided that such lease shall be supplementary with the lease and vice versa.
- (m) Payment by the Lessee of rates land tax insurance and other outgoings or charges on the land to be leased.
- (n) A covenant by the Lessee to keep in good repair and to yield up in the same condition at the expiration of the lease with a limit as to the amount of expenditure during the last ten years of the lease.
- (o) A covenant not to use or permit the use of the premises for illegal or immoral purposes or otherwise than for commercial retail residential and garaging purposes and such other purposes including public entertainment as the Lessor with the prior consent of the Standing Committee of Synod may from time to time agree to in writing. Provided that in the case of any auditorium such consent may be given by the Rector and Church Committee of St Philip's Sydney.
- (p) A covenant not to use or permit the use of the premises -
  - (i) for the sale by wholesale of tobacco in any form.
  - (ii) in any way connected with betting.
  - (iii) for the sale or distribution on the premises of
    - (aa) liquor (construed in this subclause (iii) as it is at present defined in the Liquor Act, 1912 but so as to exclude liquor produced and sold or distributed for medicinal purposes or for uses other than human consumption) in any of the following ways -
      - (1) in a restaurant;
      - (2) at social functions held in premises used commercially as reception rooms;
      - (3) on the premises of a club or any like association; or
      - (4) in or from any hotel, shop or other point of delivery.
    - (bb) Otherwise (to the extent to which it is not referred to in sub-paragraph (aa) of this subclause (iii) for the manufacture sale or distribution of any liquor except in the course of or incidental to a business of a lessee or other occupier not being carried on as the main or one of the main businesses of such lessee or other occupier for the manufacture sale or distribution of liquor.
  - (iv) in any way connected with narcotic drugs except the normal trading practices of a registered chemist or registered pharmacist.
  - (v) for Sunday trading except in so far as the law permits the sale of food and petrol or pharmacist's supplies or any other necessary or emergent services.
- (q) A covenant not to erect or permit the erection of any sign or advertisement in such a position as to be visible from the outside of the premises without the approval of the Lessor.
- (r) A covenant by the Lessee not during the last seven (7) years to assign underlet or part with possession of the premises without the consent of the Lessor.
- (s) A covenant by the Lessee not without the consent of the Lessor to name or permit any other person or body to name the building by any name in any way imputing a connection with the Lessor or the Parish of St Philip's Sydney.

- (t) A proviso for re-entry on non-payment of rent or non-performance of the covenants and conditions.
- (u) A covenant by the Lessor for quiet enjoyment.
- (v) A provision for extension of the lease by further terms of one year up to a maximum of five further terms with provision for re-appraisalment of the base rent.
- (w) A provision for determination of the lease after the forty ninth year of the term of sixty years if the Lessee elects to redevelop the lands.
- (x) A provision for renewal of the lease for a maximum of sixty years (if the Lessee elects to redevelop) or for the economic life of the building (if the Lessee elects to remodel) with provision for re-appraisalment of the base rent.
- (y) A guarantee of limited period by The Hammerson Property and Investment Trust Limited of the obligations of the Lessee.

#### **Authority to Borrow**

4. The Corporate Trustee is hereby authorised to enter into an agreement with Bambro (No 11) Pty. Limited under which -

- (a) That Company agrees to lend to the Corporate Trustee Seventy thousand dollars (\$70,000) on the completion of the demolition of the existing buildings referred to in the draft Deed of Lease referred to in Clause 3 of this Ordinance and the Corporate Trustee agrees to repay to that Company the principal sum together with interest at the rate of Seven dollars per centum (7%) per annum computed from the date of completion referred to in the said Deed of Lease by equal and consecutive quarterly instalments of principal and interest, the first of such instalments to be paid three months after the date of completion referred to in the said Deed of Lease; and
- (b) That Company shall accept payment of each of the said quarterly instalments of principal and interest at the option of the Corporate Trustee either by payment by the Corporate Trustee of such instalment or by the Corporate Trustee giving to the Lessee in the said Deed of Lease a set off of a like amount by way of reduction in the said quarterly instalment of rent then due and payable under the said Deed of Lease.

#### **Authority to Grant Supplementary Lease**

5. The Corporate Trustee is hereby authorised to grant the supplementary lease or leases referred to in clause 3 (1) of this Ordinance.

#### **Distribution of Income**

6. The income arising from such option shall be paid by the Corporate Trustee to the Churchwardens of the Parish of St Philip's Sydney to be applied by such Churchwardens for parochial purposes but principally for the restoration and maintenance of the Church of St Philip's Sydney.

#### **Application of Proceeds of Borrowing**

7. The proceeds of the borrowing referred to in clause 4 of this Ordinance and the income arising from such lease shall be paid by the Corporate Trustee as follows -

- (a) As to the sum of Seventy thousand dollars (\$70,000) referred to in clause 4 of this Ordinance to the Churchwardens of the Parish of St Philip's Sydney to be applied by such Churchwardens in the provision of accommodation to replace the accommodation lost as a result of the demolition of the Existing Buildings.
- (b) As to the additional rent payable by the Lessee and referred to in clause 3(c) of this Ordinance in repayment of the principal and interest pursuant to the loan agreement referred to in clause 4 of this Ordinance.
- (bb) As to the rent payable by the Lessee from the date of the lease until the completion of the new building or buildings less management and/or administration charges incurred in connection with the lease to the Churchwardens of the Parish of St Philip Sydney to be applied by such Churchwardens for parochial purposes but principally for restoration and maintenance of the Church of St Philip Sydney.
- (c) As to the rent payable by the Lessee after the completion of the new building or buildings during the first year of the lease less the additional rent referred to in clause 3(c) of this Ordinance and management and/or administration charges incurred in connection with the lease to the Churchwardens of the Parish of St Philip's Sydney to be allocated by such Churchwardens to the St Philip's Restoration Fund.
- (d) As to the rent payable by the Lessee during the second to tenth years inclusive of the Lease less the additional rent referred to in clause 3(c) of this Ordinance and management and/or administration charges incurred in connection with the lease -
  - (i) One half thereof to the Churchwardens of the Parish of St Philip's Sydney to be applied by them to the following purposes in the following proportions each year -

Stipends and Allowances	\$6,400
Diocesan Assessments	3,000
Secretarial and Office Equipment	3,000

Organists, Music - Maintenance of Organ, Choir and Robes	4,000
Verger and Cleaning	2,500
Maintenance of Church, Rectory, Parish Rooms, Offices and Church Grounds	4,000
Maintenance of Bells and payment of Bellringers	1,300
Insurances	400
Contingency Fund for Lecture Tour (overseas or local lecturer)	2,900
	\$27,500

Provided that if the total sum received by the Churchwardens shall be more or less than the sum of Twenty seven thousand five hundred dollars (\$27,500) each of the amounts allocated and set opposite each of the purposes referred to above shall be increased or reduced in the like proportion provided further however that at the end of each financial year the Churchwardens of the Parish of St Philip's Sydney shall pay to the Free Fund hereinafter referred to for the Diocese of Sydney a sum equal to the amount unexpended by such Churchwardens during the preceding financial year out of moneys received by them from the Corporate Trustee as aforesaid.

(ii) As to the remaining one half thereof to pay each year to each of the following the amount set opposite its name -

Church Missionary Society		\$1,000
Australian Board of Missions		1,000
Home Mission Society - General	1,000	
Family Service Centre	<u>1,000</u>	2,000
South American Missionary Society		500
Bush Church Aid Society		1,000
Moore Theological College for Library, Research Work and/or Post Graduate Studies		2,000
Historic Church - Holy Trinity Miller's Point Restoration Fund		1,000
Church of England Television Society		1,000
Sydney Church of England Aged Persons Homes Board		1,000
Youth Department for Inner City Work		1,000
St Andrew's Cathedral Chapter		1,000

As to the balance thereof to a Free Fund to be known as "St Philip's Sydney Diocesan Free Fund" to be used from time to time as decided by resolution of the Standing Committee.

(e) During the ninth year of the lease and every successive tenth year of the lease agreement shall be reached between the Churchwardens of the Parish of St Philip's Sydney and the Standing Committee of the Diocese of Sydney as to the allocation and distribution of income arising under the lease during the next succeeding ten years and the Standing Committee shall thereupon by Ordinance determine the allocation and distribution of such income in the manner agreed upon provided however that in the event of the said Churchwardens and the Standing Committee failing to reach agreement the income shall continue to be allocated and distributed until agreement is reached in the same manner as it was allocated and distributed during the preceding year in accordance with this Ordinance.

### **Certificates of Consents and Approvals**

8. When the consent or approval of the Standing Committee is required to any matter or thing herein specified a certificate by the Diocesan Secretary that such consent or approval was given to the matter or thing specified in such certificate shall in favour of any person corporation or lessee or anyone taking any estate or interest under the lease be conclusive evidence that such consent or approval was duly given.

9. When the consent or approval of the Corporate Trustee is required in accordance with the provisions of the Option referred to in clause 2 hereof or of the lease annexed to such Option referred to in clause 3 hereof a certificate by the Secretary of the Corporate Trustee that such consent or approval was given by the Corporate Trustee to the matter or thing specified in such certificate shall in favour of the Optionee or Lessee or anyone taking any estate or interest under the Lease be conclusive evidence that such consent or approval was duly given.

## Lease Agreements

10. The Corporate Trustee is hereby authorised to enter into an agreement with Bambro (No 11) Pty. Limited (hereinafter called "the Lessee") and Hammersons (or if the case requires, the execution of such agreement by the Corporate Trustee is hereby ratified and confirmed) under which the Corporate Trustee agrees to grant a lease to the Lessee and the Lessee agrees to take a lease from the Corporate Trustee of the land described in the Fourth Schedule hereto in or to the effect of the terms and conditions contained in the draft memorandum of agreement produced to the Corporate Trustee on the 16th day of May 1969 and signed for identification by the Secretary thereof and by the Locum Tenens for the time being of the Parish of St Philip Sydney including inter alia the following provisions -

- (a) The lease shall be in the form of the lease set forth in the Schedule thereto and shall bear the date which is the day following the date of the occurrence of the last to occur of the events mentioned in paragraph (c) following or bearing the date the First July, 1969 whichever is the later.
- (b) A covenant by the Corporate Trustee to subdivide the area marked "B" on the plan produced to the Corporate Trustee and signed by the Secretary thereof for identification.
- (c) A provision that if the Corporate Trustee fails to obtain the consent of the authorities to the subdivision and to lodge the plan of subdivision for registration as a deposited plan or if the execution of the agreement by the Corporate Trustee is not authorised by Ordinance in either event within three months from its date the Lessee may at its option terminate the Agreement.
- (d) A covenant by the Lessee to pay the legal expenses incurred by the Corporate Trustee in connection with the preparation and stamping of the Agreement.
- (e) A provision that the Agreement shall not affect the rights and obligations under the option granted pursuant to clause 2 hereof but such option shall terminate with effect from the end of that day upon which the last to occur of the events mentioned in paragraph (c) of this Clause occurs.
- (f) A provision that any part of the option fee payable under the option granted pursuant to clause 2 hereof which is paid in respect of a period in respect of which rent is payable under the lease shall be refunded by the Corporate Trustee.
- (g) A guarantee by the Hammerson Property and Investment Trust Limited of the obligations of the Lessee.

11. The Corporate Trustee is hereby authorised (subject to the determination, pursuant to clause 10 of the Agreement specified in clause 10 hereof, of the option granted pursuant to clause 2 hereof) to lease to Bambro (No. 11) Pty. Limited (hereinafter called "the Lessee") the land described in the Fourth Schedule hereto subject to its being at the date of such lease vested in the Corporate Trustee and any part of that land not vested in the Corporate Trustee at such date and/or any land contiguous with such land other than to the land of the Corporate Trustee contiguous with the boundary of Lots 1 and 2 on the said plan, which becomes vested in the Corporate Trustee in or to the effect of the terms and conditions contained in the draft Deed of Lease annexed to the said Agreement for Lease which shall include inter alia the following provisions -

- (a) The Lease will commence from the date thereof and expire one hundred and twenty (120) years after the date of completion of the building herein referred to.
- (b) Rent of Fifty-five thousand dollars (\$55,000) per annum from the date thereof to the date of completion of the building herein referred to but - if the existing buildings are not demolished within four (4) months from the date thereof the rate to be Eight thousand five hundred dollars (\$8,500) per annum from the expiration of the said period of four (4) months until the date of completion of demolition.
- (c) Payment by the Lessee of rent at the rate of Eighty thousand dollars (\$80,000) per annum for the period commencing on the date of completion of the building herein referred to until the Thirty-first day of December next following.
- (d) Payment by the Lessee of a base annual rent of Eighty thousand dollars (\$80,000) and an additional rent of Sixteen thousand seven hundred and twelve dollars (\$16,712) during each of the five (5) years commencing on the First day of January next following the date of completion of the building herein referred to and a profit rent after the fifth year.
- (e) A covenant by the Lessor to demolish the existing buildings at its expense within four (4) months after the date thereof and a provision that in default the Lessee may complete the demolition at the expense of the Lessor.
- (f) Covenants as specified in subclauses (e), (f), (g), (h), (i), (j), (k), (m), (n), (o), (p), (q), (r), (s), (t), (u), and (y) of clause 3 hereof.
- (g) A covenant by the Lessor to grant supplementary leases at no additional rent of any part not included in the lease which subsequently becomes vested in it of the land edged red on the said plan and/or any land contiguous to such lands other than to the land of the Lessor contiguous with Lot A on the said plan. Such leases are to be for the balance of the term of the lease and upon the same terms and conditions provided that such lease shall be supplementary with the lease and vice versa.
- (h) A provision for the ownership of certain plant by the Lessee.

- (i) A provision for the terms upon which the Lessee may re-develop including covenants as specified in subclauses (e), (f), (g), (h), (i), (m), (n), (o), (p), (q), (r), and (s) of clause 3 hereof, and a guarantee of limited period by a guarantor acceptable to the Corporate Trustee of the obligations of the Lessee.

**Authority to Borrow**

12. The Corporate Trustee is hereby authorised to enter into an agreement with Bambro (No 11) Pty. Limited (or if the case requires, the execution of such agreement by the Corporate Trustee is hereby ratified and confirmed) under which-

- (a) That Company agrees to lend to the Corporate Trustee Seventy thousand dollars (\$70,000) on the completion of the demolition of the existing buildings referred to in the draft Deed of Lease referred to in clause 11 of this Ordinance and the Corporate Trustee agrees to repay to that Company the principal sum together with interest at the rate of Seven dollars per centum (7%) per annum computed from the first January then next following the date of completion referred to in the said Deed of Lease by equal and consecutive quarterly instalments of principal and interest, the first of such instalments to be paid three months after the first January the next following the date of completion referred to in the said Deed of Lease.
- (b) That Company shall accept payment of each of the said quarterly instalments of principal and interest at the option of the Corporate Trustee either by payment by the Corporate Trustee of such instalment or by the Corporate Trustee giving to the Lessee in the said Deed of Lease a set off of a like amount by way of reduction in the said quarterly instalment of rent then due and payable under the said Deed of Lease, and
- (c) That if pursuant to clause 10 of the Agreement referred to in clause 10 of this Ordinance, the option granted pursuant to clause 2 of this Ordinance terminates, then the Agreement executed pursuant to clause 4 of this Ordinance shall cease to have any effect. It is acknowledged that the said sum of Seventy thousand dollars (\$70,000) is not payable in addition to the like amount referred to in clause 4 of this Ordinance.

**Authority to Grant Supplementary Lease**

13. The Corporate Trustee is hereby authorised to grant the supplementary lease or leases referred to in clause 11(g) of this Ordinance.

**Distribution of Income**

14. In the event that the option referred to in clause 2 of this Ordinance terminates, pursuant to clause 10 of the Agreement referred to in clause 10 of this Ordinance, the provisions of clause 7 of this Ordinance shall be thereupon inoperative and this clause 14 shall apply, namely -

The proceeds of the borrowing referred to in clause 12 of this Ordinance and the income arising from the lease granted pursuant to the Agreement referred to in clause 10 of this Ordinance shall be paid by the Corporate Trustee as follows -

- (a) As to the sum of Seventy thousand dollars (\$70,000) referred to in clause 12 of this Ordinance to the Churchwardens of the Parish of St Philip Sydney to be applied by such Churchwardens in the provision of accommodation to replace the accommodation lost as a result of the demolition of the existing buildings.
- (b) As to the additional rent payable by the Lessee and referred to in clauses 11(d) and (e) of this Ordinance in repayment of the principal and interest pursuant to the loan agreement referred to in clause 12 of this Ordinance.
- (c) As to the rent payable by the Lessee from the date of the lease until the completion of the new building or buildings less management and/or administration charges incurred in connection with the lease to the Churchwardens of the Parish of St Philip Sydney to be applied by such Churchwardens for parochial purposes but principally for restoration and maintenance of the Church of St Philip Sydney.
- (d) As to the rent payable by the Lessee during the twelve months immediately following the completion date of the new building or buildings less the additional rent referred to in clause 11(d) and (e) of this Ordinance payable in respect of that part of such twelve months period which commences on the First day of January next following and management and/or administration charges incurred in connection with the lease to the Churchwardens of the Parish of St Philip Sydney to be allocated by such Churchwardens to the St Philip's Restoration Fund.
- (e) As to the rent payable by the Lessee for the succeeding nine years inclusive of the lease less the additional rent referred to in clauses 11(d) and (e) of this Ordinance and management and/or administration charges incurred in connection with the lease -
  - (i) Seven-sixteenths thereof to the Churchwardens of the Parish of St Philip Sydney to be applied by them to the following purposes each year -

Stipends and Allowances	\$6,400
Diocesan Assessments	6,000
Secretarial and Office Equipment	3,000

Organists, Music -	4,000
Maintenance of Organ, Choir and Robes, Verger and Cleaning	2,500
Maintenance of Church, Rectory, Parish Rooms, Offices and Church Grounds	4,000
Maintenance of Bells and Payment of Bellringers	1,300
Insurances	400
Contingency Fund for Lecture Tour (overseas or local lecturer)	2,900
Restoration and Preservation of the Church Building except insofar as the same is provided for under clause 6 hereof	4,500
	\$35,000

Provided that if the total sum received by the Churchwardens shall be more or less than the sum of \$35,000 each of the amounts allocated and set opposite each of the purposes referred to above shall be increased or reduced in the like proportion or in such manner as may be approved by the Standing Committee of the Diocese provided further however, that at the end of each financial year the Churchwardens of the Parish of St Philip Sydney shall pay to the Free Fund hereinafter referred to for the Diocese of Sydney a sum equal to the amount unexpended by such Churchwardens during the preceding financial year out of moneys received by them from the Corporate Trustee as aforesaid.

- (ii) As to the remaining nine-sixteenths thereof to pay each year to each of the following the amount set opposite its name -

Church Missionary Society		\$1,000
Australian Board of Missions		1,000
Home Mission Society -		
General	1,000	
Counselling Service	<u>1,000</u>	2,000
South American Missionary Society		500
Bush Church Aid Society		1,000
Moore Theological College for Library Research Work and/or Post Graduate Studies		2,000
Historic Church - Holy Trinity Miller's Point Restoration Fund		1,000
Church of England Television Society		1,000
Sydney Church of England Retirement Villages Board		1,000
Youth Department for Inner City Work		1,000
St Andrew's Cathedral Chapter		1,000
		\$12,500

As to the balance thereof to a Free Fund to be known as "St Philip's Sydney Diocesan Free Fund" to be used from time to time as decided by resolution of the Standing Committee.

Provided that if the total sum received by the Corporate Trustee shall be more or less than \$45,000 each of the amounts allocated and set opposite each of the purposes referred to above including the Free Fund shall be increased or reduced in the like proportion.

- (f) During the calendar year of 2012 the Standing Committee after consultation with the Churchwardens of the Parish of St Philip, Sydney shall determine by Ordinance the allocation and distribution of such income after the expiration of that year for the succeeding 5 years, or such other period as the Standing Committee and the Churchwardens may agree upon.
- (g) Subject to paragraph (f) of this clause, as to the rent payable by the Lessee for the two years from the 1st of January 1981, less any management and/or administration charges incurred -
- (i) Seven-sixteenths thereof to the Churchwardens of the Parish of St Philip Sydney to be applied by them for general parochial purposes.
- (ii) Nine-sixteenths to such purposes as are designated from time to time by ordinance of the Synod Provided That the Standing Committee by resolution may act in the place of the Synod in relation to the allocation of income for 1981 Provided Further that the Parish Council of the said Parish may make recommendations to the Standing Committee in relation to the allocation of the income.



- (h) Subject to paragraph (f) of this clause as to the rent payable by the Lessee for a period of five years from 1 January 1983 less any management and/or administration charges incurred -
  - (i) Seven-sixteenths of such rent to the Churchwardens of St Philip's Sydney to be applied by them for general parochial purposes. Such proportion of the amount referred to in this subclause (as determined from time to time by the Churchwardens in their absolute discretion) to the Churchwardens of St Philip's Sydney to be applied by them for the establishment of a capital fund the capital and income of which is to be applied to the continuing restoration preservation renovation and maintenance of the church building rectory parish rooms offices and furnishings including the organ.
  - (ii) Nine-sixteenths of such rent to such purposes as are designated from time to time by Ordinance of the Synod Provided That the Standing Committee by resolution may act in the place of the Synod in relation to the allocation of income for 1983 Provided Further that the Parish Council may make recommendations to the Standing Committee in relation to the allocation of the income.
- (i) As to the rent payable by the Lessee for a period of 20 years from 1 January 1988 less any management and/or administration charges incurred -
  - (i) Seven-sixteenths of such rent to the Churchwardens of the Parish of St Philip, Sydney to be applied in their discretion for general parochial purposes. Such proportion of the amount referred to in this subclause (as determined from time to time by the Churchwardens in their absolute discretion) to the Churchwardens of the Parish of St Philip, Sydney to be applied by them for the establishment of a capital fund the capital and income of which is to be applied to the continuing restoration preservation renovation and maintenance of the church building rectory parish rooms offices and furnishings including the organ;
  - (ii) Nine-sixteenths to such purposes as are designated from time to time by Ordinance of the Synod Provided That the Standing Committee by resolution may act in the place of the Synod in relation to the allocation of income Provided Further that the Parish Council of the said Parish may make recommendations to the Standing Committee in relation to the allocation of the income.
- (j) As to the rent payable for the 5 years from 1 January 2008, less any management and/or administration charges incurred -
  - (i) firstly, in and towards payment of any legal and/or other professional fees incurred in relation to the lease granted pursuant to the agreement referred to in clause 10, and
  - (ii) secondly, an amount of 85% of the remaining balance in each year to the Churchwardens of the Parish of St Philip's Sydney to be applied in their discretion for general parochial purposes except the payment of the stipends, allowances and benefits paid or provided to the minister. The Churchwardens shall apply such proportion of this amount as they see fit from time to time for the maintenance of a capital fund, the capital and income of which is to be applied to the continuing restoration, preservation, renovation and maintenance of the church building, rectory, parish rooms, offices and furnishings including the organ and towards the acquisition of a property suitable for use as a residence for a minister of the parish, and
  - (iii) the balance for such purposes as are designated from time to time by Ordinance of the Synod provided that the Standing Committee by resolution may act in the place of the Synod in relation to the allocation of income and provided further that the Parish Council of the said Parish may make recommendations to the Standing Committee in relation to the allocation of the income.

### **Certificates of Consents and Approvals**

15. When the consent or approval of the Standing Committee is required to any matter or thing herein specified a certificate by the Diocesan Secretary that such consent or approval was given to the matter or thing specified in such certificate shall in favour of any person corporation or lessee or anyone taking any estate or interest under the lease referred to in clause 11 of this Ordinance be conclusive evidence that such consent or approval was duly given.

16. When the consent or approval of the Corporate Trustee is required in accordance with the provisions of the Agreement referred to in clause 10 hereof or of the lease annexed to such Agreement referred to in clause 11 hereof a certificate by the Secretary of the Corporate Trustee that such consent or approval was given by the Corporate Trustee to the matter or thing specified in such certificate shall in favour of Bambro (No. 11) Pty. Limited or the Lessee or anyone taking any estate or interest under the lease be conclusive evidence that such consent or approval was duly given.

### **Citation**

17. This Ordinance may be cited as the "St Philip's Sydney York Street Property Leasing Ordinance 1966".

### **The First Schedule Hereinbefore Referred To**

All that piece or parcel of land containing by admeasurement One rood and eighteen perches be the same more or less situated in the County of Cumberland Parish of St Philip and City of Sydney on Church Hill commencing in Clarence Street at the North West corner of the Church allotment and bounded on the West by that Street bearing North fifteen degrees West one chain thirty-nine links on the North by Charlotte Place bearing East fifteen degrees North two chains sixty-three links on the East by York Street bearing South fifteen degrees East one chain thirty-nine links to the North East corner of the Church allotment and on the South by that allotment bearing West fifteen degrees South two chains sixty-three links to the commencing corner.

### **The Second Schedule Hereinbefore Referred To**

All that piece or parcel of land containing by admeasurement Two roods thirty perches and three-quarters of a perch be the same more or less situated in the County of Cumberland and Parish of St Philip and City of Sydney commencing at the westerly intersection of York and Jamison Streets and bounded thence on the North by the south-west building line of York Street North westerly one hundred and seventy-four feet on the North West by a line South Westerly parallel to Jamison Street One hundred and seventy-three feet six inches to Clarence Street on the South West by North East building line of Clarence Street South Easterly one hundred and seventy-four feet to Jamison Street on the South East by the North West building line of that Street North Easterly one hundred and seventy-three feet six inches to the point of commencement.

### **The Third Schedule Hereinbefore Referred To**

All that piece or parcel of land being the unresumed portion of the land described in the First and Second Schedules as is shown as Lot 2 on a Plan of Subdivision dated 2nd December, 1965 and prepared by Mr Surveyor Kenneth John Morrow and as is vested in the Church of England Property Trust Diocese of Sydney at the date the said option is exercised together with certain adjacent land now forming parts of Grosvenor and Clarence Streets, Sydney, subject to them becoming vested in the said Trust and which are shown diagrammatically and not by surveyed definition as Z1 and X on a Plan which has been signed by the Secretary of the Corporate Trustee for the purpose of identification.

### **The Fourth Schedule Hereinbefore Referred To**

All that piece or parcel of land being the unresumed portion of the land described in the First and Second Schedules as is shown as Lot 2 on a Plan of Subdivision dated 2nd December, 1965 and prepared by Mr Surveyor Kenneth John Morrow and as is vested in the Church of England Property Trust Diocese of Sydney at the date of the lease referred to in clause 11 of this Ordinance together with certain adjacent land now forming parts of Grosvenor and Clarence Streets, Sydney subject to them becoming vested in the said Trust and which are shown diagrammatically and not by surveyed definition as Z1 and X on a Plan which has been signed by the Secretary of the Corporate Trustee for the purpose of identification.

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### **Table of Amendments**

Preamble	Amended by Ordinance No 20, 1966.
Clause 3	Amended by Ordinance No 20, 1966.
Clause 4	Amended by Ordinance No 20, 1966.
Clause 7	Amended by Ordinance No 15, 1976.
Clause 8	Amended by Ordinance No 20, 1966.
Clause 9	Amended by Ordinance No 20, 1966.
Clause 10	Amended by Ordinance No 16, 1969.
Clause 11	Amended by Ordinance No 15, 1969.
Clause 12	Amended by Ordinance No 15, 1969.
Clause 13	Amended by Ordinance No 15, 1969.
Clause 14	Amended by Ordinances Nos 15, 1969; 23, 1979; 39, 1980; 18, 1983; 1, 1988; 52, 1992; 45, 1997; 75, 2002, 9, 2003 and 27, 2007.
Clause 15	Amended by Ordinance No 15, 1969.
Clause 16	Amended by Ordinance No 15, 1969.
Clause 17	Amended by Ordinances Nos 39, 1980; 18, 1983 and 1, 1988.

STEVE LUCAS  
Manager, Legal Services

ROBERT WICKS  
Diocesan Secretary

16 October 2007