

CONFIDENTIALITY AGREEMENT

BETWEEN

Churches of Christ in NSW (ABN 73 068 989 953) of Level 3, Building 1B, 1 Homebush Bay Drive, Rhodes, Rhodes NSW 2138 (**CCNSW**)

_____ of _____, NSW, _____ (**Recipient**)

RECITALS

- A. CCNSW has agreed to disclose to the Recipient Confidential Information to assist in undertaking their role in a honorary capacity as a member of the Conference Executive Board , in accordance with any policies or meeting protocols relating to its operation, and on the terms of this Agreement.
- B. The Recipient agrees that Confidential Information is provided to them on the terms of this Agreement and that they will not use the Confidential Information other than as provided in this Agreement.

1. DEFINITIONS

1.1 Definitions

In this Agreement, unless otherwise indicated by the context:

Business Day means a day which is not a Saturday, Sunday or a public or bank holiday in Sydney, New South Wales.

Confidential Information means, regardless of the form of disclosure or the medium used to store it, all confidential information of the Discloser, or information treated by the Discloser as confidential and of which the **Recipient** first becomes aware, whether before or after the date of this Agreement, either:

- (a) through disclosure by the Discloser to the Recipient; or
- (b) otherwise through the Recipient's involvement with the Discloser, and includes without limitation:
 - (i) the identities and names of the parties, including trading names of the businesses operated by the parties;
 - (ii) the fact that the parties will have or are having the Discussions;
 - (iii) information regarding or the terms of the Discussions;
 - (iv) the existence of, subject matter and terms of this Agreement; and
 - (v) all information generated by the Recipient based on the Discloser's information for the purposes of the Discussions or the Express Purpose, but excludes information:
 - (A) the Recipient creates (whether alone or jointly with any person) independently of the Discloser's Confidential Information (if the

Recipient has evidence in writing that the information falls within this exception);

- (B) that is public knowledge (otherwise than as a result of a breach of confidentiality by the Recipient or any person to whom it has disclosed the information); or
- (C) obtained without restriction as to further disclosure from a source other than the Discloser through no breach of confidentiality by that source.

Discloser means Churches of Christ in NSW (ABN 73 068 989 953) through its Conference Executive Board or its Network Resource Team being the party(ies) that has disclosed Confidential Information under this Agreement.

Discussions includes the sharing of information, reflections, position statements, policy documents and discussions (whether they be verbal or in writing) between the parties in respect of the work referred to the Conference Executive Board for consideration and decision.

Express Purpose means the referral of any matters to the Conference Executive Board for its consideration and decision.

Recipient means (name)_____ being the party that has received or been provided access to Confidential Information under this Agreement.

1.2 Interpretation

In this document, unless otherwise indicated by the context:

- (a) words importing the singular include the plural and vice versa;
- (b) headings are for convenience only and do not affect interpretation of this document;
- (c) a reference to a clause, paragraph, schedule or annexure is a reference to a clause, paragraph or schedule of or annexure to this document;
- (d) an expression importing a natural person includes a body corporate, partnership, joint venture or association;
- (e) a reference to a statute or regulation includes all amendments, consolidations or replacements thereof;
- (f) a reference to a party to a document includes that party's successors and permitted assigns;
- (g) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document;
- (h) a covenant, Agreement, representation or warranty on the part of or in favour of two or more persons binds them or is for the benefit of jointly and severally;
- (i) if an event must occur on a stipulated day which is not a Business Day, then the stipulated day will be taken to be the next Business Day; and

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- (j) a reference to a body, whether statutory or not:
- (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,
- is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

2. CONSIDERATION

In consideration for the Discloser disclosing the Confidential Information, the Recipient agrees to be bound by the terms of this Agreement.

3. TERM

This Agreement will commence on the date of this Agreement and continue in force in accordance with CCNSW's policies relating to Confidentiality until all of the Confidential Material is readily available in the public domain or for such other time as may be agreed by the parties in writing.

4. VALUE AND OWNERSHIP

The Recipient acknowledges that the Confidential Information may involve access to, consideration of and decisions on highly confidential issues as part of their position on the Conference Executive Board. The Confidential Information is provided by the Discloser in good faith that it will not be used for any other purpose than the reason for which it was supplied.

Ownership of any material or intellectual property produced by the Conference Executive Board shall at all times be vested in CCNSW.

CCNSW agrees to acknowledge the contribution of the Recipient to any material produced by the Conference Executive Board during the period of their tenure on the Board, where appropriate.

5. CONFIDENTIALITY

5.1 Maintaining confidentiality

The Recipient must take all steps necessary to safeguard the confidentiality of the Confidential Information.

5.2 Obligations in relation to Confidential Information

- (a) The Recipient may use Confidential Information only for the Express Purpose subject to the terms of this Agreement.

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- (b) The Recipient must not profit from any use of the Confidential Information except in relation to the Express Purpose.
 - (c) The Recipient may make such copies of the Confidential Information as are strictly necessary for the Express Purpose.

5.3 Disclosure of Confidential Information

- (a) The Recipient may disclose Confidential Information only:
 - (i) to a person if:
 - (A) the Recipient has firstly advised the Discloser of their intention to do so and the reasons for such proposed disclosure.
 - (B) after receiving written consent from the Discloser that it is in order to do so, informed that person in writing of the confidential nature of the Confidential Information;
 - (C) it is necessary for the Recipient to disclose the Confidential Information for the Express Purpose; and
 - (D) that person has undertaken to the Discloser to keep the Confidential Information secret and confidential; or
 - (ii) to the extent, and for a purpose to which the Discloser has consented in writing prior to such disclosure; or
 - (iii) to the extent required by law.
- (b) If the Recipient is required to disclose any Confidential Information under **clause 5.3(a)(iii)**, then to the extent practicable it must, at its cost:
 - (i) provide the Discloser with written notification of its requirement to disclose the Confidential Information;
 - (ii) allow the Discloser to resist the disclosure of the Confidential Information and provide all reasonable assistance to the Discloser in doing so; and
 - (iii) only disclose the minimal amount of Confidential Information required to comply with its obligations under law.

5.4 Return of Confidential Information

On demand from the Discloser and in any event at the end of their term as a member of the Conference Executive Board, the Recipient must immediately:

- (a) deliver to the Discloser all Confidential Information, including any copies of the Confidential Information, that is in the Recipient's possession or control;
- (b) delete all the Confidential Information held electronically in any medium that is in the Recipient's possession or control; and

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- (c) destroy all documents (including analyses, compilations, reports, policy documents, requests for advice and memoranda) which were prepared by or for the Recipient and which were based wholly or partly on the Confidential Information, and delete all such documents held electronically in any medium in the Recipient's possession or control.

5.5 Unauthorised use of Confidential Information

- (a) The Recipient must immediately report to the Discloser any known or suspected unauthorised use, disclosure, copy or printing of the Confidential Information.
- (b) The Recipient must at its cost:
 - (i) use best efforts to obtain the return or destruction or deletion of any unauthorised copy or print-out of the Confidential Information; and
 - (ii) provide the Discloser with all the assistance that is required by the Discloser to prevent any further disclosure of the Confidential Information.

6. NO WARRANTIES BY DISCLOSER

- (a) The Recipient:
 - (i) acknowledges that the Discloser of Confidential Information has used its best endeavours to provide accurate, current or complete confidential information to allow them to perform their role on Conference Executive Board; and
 - (ii) warrants to the Discloser that they will use due diligence in considering and relying on such Confidential information for any purpose.
- (b) The Recipient will make its own independent enquiries and will seek professional advice in relation to the Express Purpose prior to entering into this agreement.

7. BREACH OF CONFIDENTIALITY

7.1 Indemnity by Recipient

The Recipient agrees to indemnify the Discloser against all claims and all losses, costs, liabilities and expenses incurred by the Discloser in relation to:

- (a) any breach of this Agreement by the Recipient; and
- (b) any act or omission by a person to whom the Recipient disclosed the Confidential Information, which, if done or omitted by the Recipient, would be a breach of this Agreement by the Recipient.

7.2 Injunctive relief

The Recipient acknowledges that damages may be inadequate compensation for breach of this Agreement and, subject to the court's discretion, the Discloser may restrain, by an injunction or similar remedy, any conduct, or threatened conduct which is a breach of the terms of this Agreement.

7.3 Disciplinary action

The Recipient agrees that any breach of this Agreement may lead to immediate disciplinary action being taken against them including removal from the Conference Executive Board if they have breached the duties of Responsible People under the Australian Charities and Not-for-profits Commission's Governance Standards.

8. GENERAL PROVISIONS

8.1 Waiver or Variation

- (a) A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- (b) The exercise of a power or right does not preclude:
 - (i) its future exercise; or
 - (ii) the exercise of any other power or right.
- (c) The variation or waiver of a provision of this document or a party's consent to a departure from a provision by another party will be ineffective unless in writing executed by the parties.

8.2 Severability

If any clause or part of a clause of this document is invalid, illegal, unlawful or otherwise being incapable of enforcement, that clause or part of a clause will be deemed to be severed from this document and of no force and effect but all other clauses and parts of clauses of this document will nevertheless prevail and remain in full force and effect and be valid and fully enforceable and no clause or part of a clause of this document will be construed to be dependent upon any other clause or part of a clause unless so expressed.

8.3 Jurisdiction

This Agreement is governed by the laws of New South Wales, Australia and each party submits to the non-exclusive jurisdiction of the New South Wales courts.

8.4 Counterparts

This Agreement may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the document will be the date on which it is executed by the last party.

8.5 Entire Agreement

This Agreement embodies the whole Agreement of the parties relating to the subject matter of this Agreement and supersedes any and all oral and written negotiations and communications by or on behalf of any of them.

8.6 Survivorship of obligations

This Agreement survives the completion of the Recipient's tenure on the Conference Executive Board, except as otherwise agreed to by CCNSW.

8.7 Assignment

No party may assign its rights or obligations under this Agreement without the prior written consent of all of the other parties.

EXECUTED as an Agreement.

Executed by Churches of Christ in NSW by their authorised representative in the presence of:

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Witness Signature (*does not need to be a JP*)

.....
Signature of Conference President or authorised representative

.....
Print Name

.....
Address

SIGNED by in the presence of:

.....
Witness Signature (*does not need to be a JP*)

.....
Signature of Recipient (Conference Executive Member)

.....
Print Name

.....
Address