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BEGIN TRANSCRIPTION

GEORGE THE FOURTH by the Grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith, etc., etc., etc. TO ALL TO WHOM these presents shall come Greeting WHEREAS by an Act passed in the fourth year of our Reign intituled " An Act to provide until the first day of July one thousand eight hundred and twenty seven and until the end of the next Session of Parliament for the better administration of Justice in New South Wales and Van Diemens Land and for the more effectual Government thereof and for other purposes relating thereto " It was enacted that it should be lawful for us our heirs or successors by Charters or Letters Patent under the Great Seal of our United Kingdom of Great Britain and Ireland to erect and establish Courts of Judicature in New South Wales and Van Diemens Land respectively which should be styled "The Supreme Court of New South Wales" and "The Supreme Court of Van Diemens Land" and that each of such Courts respectively should be holden by our Judge or Chief Justice and should have such Ministerial or other Officers as should be necessary for the administration of Justice in the said Courts respectively and for the execution of the Judgments Decrees Orders and Process thereof and it was enacted that the said Judges should from time to time be appointed by us our Heirs and Successors and that the said Ministerial and other Officers of the said Courts respectively should from time to time be appointed to and removed from their respective Offices in such manner as we our heirs and successors should by such Charters or Letters Patent as aforesaid direct and that the said Judges should be respectively entitled to receive such reasonable salaries as we our heirs and successors should approve and direct which Salaries should be in lieu of all fees or other emoluments whatsoever NOW KNOW YE that we upon full consideration of the premises and of our especial grace certain knowledge and mere motion have in pursuance of the said Act of Parliament thought fit to grant direct ordain and appoint and by these presents do accordingly for us our heirs and successors grant direct ordain and appoint that there shall be within that part of our Colony of New South Wales situate in the Island of New Holland a Court which shall be called a Supreme Court of New South Wales and we do hereby create direct and constitute the said Supreme Court of New South Wales to be a Court of Record. AND WE DO further will ordain and appoint that the said Supreme Court of New South Wales shall consist of and be holden by and before one Judge who shall be and be called the Supreme Justice of the Supreme Court of New South Wales which Chief Justice shall be a Barrister in England or Ireland of not less than five years standing to be named and appointed from time to time by us our heirs and successors by Letters Patent under our and their Great Seal of the United Kingdom of Great Britain and Ireland and such Chief Justice shall hold his Office during the pleasure of us our heirs and successors and not otherwise AND WE DO hereby give and grant to our said Chief Justice rank and precedence above and before all our Subjects whomsoever within the Colony of New South Wales aforesaid and the Islands Territories and Places dependant thereupon excepting the Governor or acting Governor for the time being of the said Colony and excepting all such persons as by Law or usage take place in England before our Chief Justice of our court of Kings Bench. AND WE DO further grant ordain and appoint that the said Supreme Court of New South Wales shall have and use as occasion may require a Seal bearing a device and impression of our Royal Arms within an exergue or label surrounding the same with this inscription " The Seal of the Supreme Court of New South Wales " AND WE DO hereby grant ordain and appoint that the said Seal shall be delivered to and kept in the custody of the said Chief Justice AND WE DO further grant ordain and declare that the said Chief Justice so long as

he shall hold his Office shall be entitled to have and receive a Salary of Two thousand pounds sterling by the year and our Governor or acting Governor for the time being of the said Colony is hereby directed and required to cause such Salary to be paid to the said Chief Justice by four quarterly payments at the four most usual days of payment in the year in Bills of Exchange to be drawn by such Governor or acting Governor as aforesaid on the Lords Commissioners of our Treasury in England payable to or to the order of such Chief Justice and which bills shall by our said Governor or Acting Governor be accordingly delivered to the said Chief Justice AND WE DO further grant ordain and declare that the said Salary shall commence and take place in respect to any person who shall be resident in Great Britain or Ireland at the time of his appointment upon and from the day on which any such person shall thereupon embark or depart from Great Britain or Ireland for New South Wales to take upon him the execution of the said Office and that the Salary of any such Chief Justice who shall at the time of his appointment be resident in New South Wales aforesaid shall commence and take place from and after his taking upon him the execution of such his Office and that such Salary shall be in lieu of all fees of office perquisites emoluments and advantages whatsoever and that no fee of office perquisite emolument or advantage whatsoever other than and except the said Salary shall be accepted received or taken by such Chief Justice in any manner or on any account or pretence whatsoever

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Provided nevertheless that it shall be lawful for the said Chief Justice to occupy and inhabit any Official House or residence within the said Colony of New South Wales which hath been or may hereafter be provided for his residence and occupation without paying to us our heirs and successors any rent for the same and without being obliged to repair uphold or maintain any such house or Official Residence at his own costs and charges AND WE DO further grant appoint and declare that no Chief Justice of the said Supreme Court of New South Wales shall be capable of accepting taking or performing any other office or place of profit or emolument on pain that the acceptance of any such other office or place as aforesaid shall be and be deemed in Law defacto an avoidance of his Office of Chief Justice and the Salary thereof shall cease and be deemed to have ceased accordingly from the time of such acceptance of any such other office or place AND WE DO hereby constitute and appoint our Trusty and wellbeloved Francis Forbes Esquire to be the first Chief Justice of the said Supreme Court of New South Wales the said Francis Forbes being a Barrister in England of five years standing and upwards AND WE DO hereby ordain appoint and declare that there shall be and belong to the said Court the following Officers that is to say a Registrar a Prothonotary a Master and a Keeper of Records and such and so many other Officers as to the Chief Justice of the said Court for the time being shall from time to time appear to be necessary for the administration of Justice and the due execution of all the Powers and Authorities which are granted and committed to the said Court by these our Letters Patent PROVIDED nevertheless that no new Office shall be created in the said Court unless the Governor or acting Governor for the time being of our said Colony shall first signify his approbation thereof to our said Chief Justice for the time being in writing under the hand of such Governor or acting Governor as aforesaid AND WE DO further ordain and direct that all persons who shall and may be appointed to the several Offices of Master Registrar Prothonotary or Keeper of Records of the said Supreme Court of New South Wales or to any Offices in the said Court whereof the duties shall correspond to those performed by the Master Registrar Prothonotary or Keeper of Records of any or either of our Courts of Record at Westminster shall be so appointed by us our heirs and successors by warrant under our or

their royal sign manual and that all persons who shall and may be appointed to any other Office within the said Supreme Court of New South Wales shall be so appointed by the Chief Justice for the time being of the said Court AND WE DO further direct and appoint that the several officers of the said Court so to be appointed as aforesaid by us our heirs and successors shall hold their respective Offices during our and their pleasure and that the several Officers of the said Court so to be appointed as aforesaid by the Chief Justice thereof be subjected to be removed by the said Court from their Offices therein upon reasonable cause AND WE DO hereby authorize and empower the said Supreme Court of New South Wales to approve admit and enrol such and so many persons having been admitted Barristers at Law or Advocates in Great Britain or Ireland or having been admitted Writers Attornies or Solicitors in one of our Courts at Westminster Dublin or Edinburgh or having been admitted as Proctors in any Ecclesiastical Court in England to act as well in the Character of Barristers and Advocates as of Proctors Attornies and Solicitors in the said Court and which persons so approved admitted and enrolled as aforesaid shall be and are hereby authorized to appear and plead and act for the Suitors of the said Court Subject always to be removed by the said Court from their station therein upon reasonable cause AND WE DO declare that no other person or persons whatsoever shall be allowed to appear and plead or act in the Supreme Court of New South Wales for and on behalf of such Suitors or any of them PROVIDED ALWAYS and we do ordain and declare that in case there shall not be a sufficient number of such Barristers at Law Advocates Writers Attornies Solicitors and Proctors within the said Colony competent and willing to appear and act for the Suitors of the said Court then and in that case the said Supreme Court of New South Wales shall and is hereby authorized to admit as many other fit and proper persons to appear and act as Barristers Advocates Proctors Attornies and Solicitors as may be necessary according to such general rules and qualifications as the said Court shall for that purpose make and establish provided that the said Court shall not admit any person to act in any or either of the characters aforesaid who hath been by due course of Law convicted of any crime which according to any law now in force in England would disqualify him from appearing and acting in any of our Courts of Record at Westminster AND WE DO hereby ordain and declare that the Governor or acting Governor for the time being of the said Colony of New South Wales shall yearly on the first Monday in the month of January in each year by Warrant under his Hand and Seal nominate and appoint some fit and proper person to act as and be the Sheriff for our said Colony of New South Wales and its dependencies other than and except the Island of Van Diemen's Land for the year ensuing which Sheriff when appointed shall as soon as conveniently may be and before he shall enter upon his said office take an Oath

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FAITHFULLY to execute his Office and the Oath of Allegiance before the Governor or acting Governor who are hereby authorized to administer the same and such Sheriff shall continue in such his Office during the space of one whole year to be computed from the said first Monday in the month of January and until another shall be appointed and sworn into the said Office and in case such Sheriff shall die in his Office or depart from our said Colony of New South Wales then another person shall as soon as conveniently may be after the death or departure of such Sheriff be in like manner appointed and sworn in as aforesaid and shall continue in his Office for the remainder of the year and until another Sheriff shall be duly appointed and sworn into the said Office AND WE DO further order direct and appoint that the said Sheriff and his Successors shall by themselves or their sufficient Deputies to be by them appointed and duly authorized under their respective Hands and Seals and for whom he

and they shall be responsible during his or their continuance in such Office execute and the said Sheriff and his said Deputies are hereby authorized to execute all the Writs Summonses Rules Orders Warrants Commands and Process of the said Supreme Court of New South Wales and make return of the same together with the manner of the execution thereof to the Supreme Court of New South Wales and to receive and detain in prison all such persons as shall be committed to the custody of such Sheriff by the said Supreme Court of New South Wales or by the Chief Justice of the said Court AND WE DO further authorize our Governor or acting Governor for the time being of the said Colony of New South Wales to reappoint the same person to fill the Office of Sheriff from year to year if it shall appear to our said Governor or acting Governor expedient so to do So nevertheless as that such appointment shall be annually renewed and be not ever made for more than one year PROVIDED nevertheless and we do hereby require our said Governor or acting Governor of our said Colony in the Selection of any person or persons to fill the said Office of Sheriff of New South Wales to conform himself to such directions as may from time to time be given in that behalf by us our heirs and successors through one of our or their Principal Secretaries of State AND WE DO further direct ordain and appoint that whenever the said Supreme Court of New South Wales shall direct or award any process against the said Sheriff or award any process in any cause matter or thing wherein the said Sheriff on account of his being related to the Parties or any of them or by reason of any good cause of challenge which would be allowed against any Sheriff in England cannot or ought not by law to execute the same in every such case the said Supreme Court of New South Wales shall name and appoint some other fit person to execute and return the same and the said process shall he directed to the person so to be named for that purpose and the cause of such Special Proceedings shall be suggested and entered on the Records of the said, Court PROVIDED ALWAYS and we do hereby ordain and declare that the said Supreme Court of New South Wales shall fix certain limits beyond which the said Sheriff shall not be compelled or compellable to go in person or by his Officers or Deputies for the execution of any process of the said Court and when the process of the said Court shall be to be executed in any place or places beyond the limits so to be fixed WE grant ordain and direct that the said Supreme Court of New South Wales shall upon motion direct by what person or persons and in what manner such process shall be executed and the terms and conditions which the party at whose instance the same shall be issued shall enter into in order to prevent any improper use or abuse of the process of the said Court and the said Sheriff shall and he is hereby required to grant his Special Warrant or Deputation to such person or persons as the said Court shall direct for the execution of such process and in that case we direct and declare that the said Sheriff his executors or administrators shall not be responsible or liable for any act to be done in or in any way respecting the execution of such process under and by virtue of such Special Warrant and that any person or persons being aggrieved under or by pretence of such Special Warrant shall and may seek their remedy under any security which may have been directed to be taken upon the occasion and which the said Court is hereby authorized to direct to be taken AND WHEREAS in the said Act of Parliament it is enacted “that the said Courts shall have cognizance of all Pleas civil criminal or mixed and the jurisdiction of the said Courts in all such cases is thereby settled and ascertained and it is thereby enacted that the said Courts shall be Courts of Ecclesiastical Jurisdiction and shall have full power and authority to administer and execute within New South Wales and Van Diemen's Land and the Dependencies thereof such Ecclesiastical Jurisdiction and Authority as shall be committed to the

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SAID Supreme Courts by our Charters or Letters Patent NOW WE DO hereby for us our heirs and successors grant ordain establish and appoint that the said Supreme Court of New South Wales shall be a Court of Ecclesiastical Jurisdiction with full power to grant Probates under the Seal of the said Court of the last Wills and Testaments of all or any of the Inhabitants of that part of the said Colony and its Dependencies situate in the Island of New Holland and of all other Persons who shall die and leave Personal Effects within that part of the said Colony and to commit Letters of Administration under the Seal of the said Court of the Goods Chattels Credits and all other Effects whatsoever of the Persons aforesaid who shall die intestate or who shall not have named an Executor resident within that part of the said Colony and its dependencies or where the Executor being duly cited shall not appear and sue forth such Probate annexing the Will to the said Letters of Administration when such persons shall have left a Will without naming any Executor or any person for Executor who shall then be alive and resident within that part of the said Colony and its Dependencies and who being duly cited thereunto will approve and sue forth a Probate thereof and to sequester the Goods and Chattels Credits and other Effects whatsoever of such persons so dying in cases allowed by Law as the same is and may be now used in the Diocese of London and to demand require take hear examine and allow and if occasion require to disallow and reject the accounts of them in such manner and form as is now used or may be used in the said Diocese of London and to do all other things whatsoever needful and necessary in that behalf PROVIDED ALWAYS and we do hereby authorize and require the said Court in such cases as aforesaid where Letters of Administration shall be committed with the Will annexed for want of an Executor appearing in due time to sue forth the Probate to reserve in such Letters of Administration full power and authority to revoke the same and to grant Probate of the said Will to such Executor whenever he shall duly appear and sue forth the same AND WE DO hereby further authorize and require the said Supreme Court of New South Wales to grant and commit such Letters of Administration to any one or more of the lawful next of kin of such Person so dying as aforesaid and being then resident within the Jurisdiction of the said Court and being of the age of twenty one years and in case no such person shall then be residing within the Jurisdiction of the said Court or being duly cited shall not appear and pray the same to the Registrar of the said Court or to such person or persons whether creditor or creditors or not of the deceased person as the Court shall see fit PROVIDED ALWAYS that Probates of Wills and Letters of Administration to be granted by the said Court shall be limited to such money goods chattels and effects as the deceased Person shall be entitled to within that part of the said Colony situate within the Island of New Holland AND WE DO hereby further enjoin and require that every person to whom such Letters of Administration shall be committed shall before the granting thereof give sufficient Security by Bond to be entered into to us our heirs and successors for the payment of a competent sum of money with one two or more Able Sureties respect being had in the sum therein to be contained and in the ability of the Sureties to the value of the Estates Credits and Effects of the deceased which Bond shall be deposited in the said Court among the Records thereof and there safely kept and a copy thereof shall be also recorded among the Proceedings of the said Court and the Condition of the said Bond shall be to the following effect " That if the above bounden Administrator of the Goods Chattels and Effects of the deceased do make or cause to be made a true and perfect Inventory of all and singular the goods credits and effects of the said deceased which have or shall come to the hands possession or knowledge of him the said Administrator or to the hands or possession of any other person or persons for him and the same so made do exhibit or cause to be exhibited into the said Supreme Court of New South Wales at or before a day therein to be specified and the same goods chattels credits and effects and all other the goods Chattels credits and effects of the deceased at the time of his

death or which at any time afterwards shall come to the hands or possession of such Administrator or to the hands or possession of any other person or persons for him shall well and truly administer according to law and further shall make or cause to be made a true and just account of his said Administration at or before a time therein to be specified and afterwards from time to time as he she or they shall be lawfully required and all the rest and residue of the said goods chattels credits and effects which shall be found from time to time remaining upon the said Administration accounts the same being first examined and allowed of by the said Supreme Court of New South Wales shall and do pay and dispose of

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IN a due course of administration or in such manner as the said Court shall direct then this Obligation to be void and of none effect or else to be and remain in full. force and virtue" And in case it shall be necessary to put the said Bond in Suit for the sake of obtaining the effect thereof for the benefit of such person or persons as shall appear to the said Court to be interested therein such person or persons from time to time giving satisfactory security for paying all such costs as shall arise from the said Suit or any part thereof such person or persons shall by Order of the said Court be allowed to sue the same in the name of the Attorney General for the time being of the said Colony and the said Bond shall not be sued in any other manner AND WE DO hereby authorize and empower the said Court to order that the said Bond shall be put in Suit in the name of the said Attorney General AND WE DO further will order and require that the said Court shall fix certain periods when all Persons to whom Probates of wills and Letters of Administration shall be granted by the said Court shall from time to time until the effects of the deceased person shall be fully administered pass their accounts relating thereto before the said Court and in case the Effects of the deceased shall not be fully administered within the time for that purpose to be fixed by the said Court then or at any earlier time if the said Court shall see fit so to direct the person or persons to whom such Probate or Administration shall be granted shall pay deposit and dispose of the balance of money belonging to the Estate of the deceased then in his her or their hands and all money which shall afterwards come into his her or their hands and also all Precious Stones Jewels Bonds Bills and Securities belonging to the Estate of the deceased in such manner and unto such persons as the said Court shall direct for safe custody And we require that the said Court shall from time to time make such order as shall be just for the due Administration of such assets and for the payment or remittance thereof or any part thereof as occasion shall require to or for the use of any person or persons whether resident or not resident in the said Colony and its Dependencies who may be entitled thereto or any part thereof as Creditors Legatees or next of kin or by any other right or title whatsoever AND WE further order and direct that it shall be lawful for the said Court to allow to any Executor or Administrator of the Effects of any deceased person (except as herein mentioned) such Commission or Percentage out of their assets as shall be just and reasonable for their pains and trouble therein PROVIDED ALWAYS that no allowance whatever shall be made for the pains and troubles of any Executor or Administrator who shall neglect to pass his Accounts at such time or to dispose of any money goods chattels or securities with which he shall be chargeable in such manner as in pursuance of any general or special rule or order of the said Court shall be requisite AND MOREOVER every such Executor or Administrator so neglecting to pass his accounts or to dispose of any such money goods chattels or securities with which he shall be chargeable shall be charged with Interest at the rate then current within the said Colony and its Dependencies for such sum and sums of money as from time to time shall have been in his hands whether he shall or shall not make interest thereof AND WE DO hereby authorize the

said Supreme Court of New South Wales to appoint Guardians and Keepers of Infants and their estates according to the order and course observed in that part of our United Kingdom called England and also Guardians and Keepers of the persons and estates of natural fools and of such as are or shall be deprived of their understanding or reason by the act of God so as to be unable to govern themselves and their Estates which we hereby authorize and empower the said Court to enquire hear and determine by inspection of the person or by such other ways and means by which the truth may be best discovered and known AND WHEREAS it is by the said Act enacted "That it shall and may be lawful for us by our said Charters or Letters Patent respectively to allow any person or persons feeling aggrieved by of any Judgment Decree Order or Sentence of the Court of Appeals of the Colony of New South Wales to appeal therefrom to us in our Privy Council in such manner within such time and under and subject to such rules regulations and limitations as we by any such Charters or Letters Patent respectively should appoint and prescribe NOW WE DO hereby direct establish and ordain that any person. or persons may Appeal to us our heirs and successors in our or their Privy Council in such manner within such time and under and subject to such Rules Regulations and Limitations as are hereinafter mentioned (that is to say) in case any such Judgement Decree Order or Sentence shall be given or Pronounced for or in respect of any sum or matter at Issue above the amount or value of two thousand pounds sterling or in case such Judgment Decree order or Sentence shall involve directly or indirectly any Claim Demand or Question to or respecting property or any Civil right amounting to or of the value of Two thousand Pounds Sterling or in case the said

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COURT OF APPEALS should by any such Judgment Decree Order or Sentence reverse alter or vary any Judgment Decree Order or Sentence of the said Supreme Court of New South Wales the person or persons feeling aggrieved by any such Judgment Decree Order or Sentence of the said Court of Appeals may within fourteen days next after the same shall have been pronounced made or given apply to the said Court of Appeals by Petition for leave to appeal therefrom to us our heirs and successors in our or their Privy Council and in case such leave to appeal shall be prayed by the party or parties who is or are directed to pay any sum of money or perform any duty the said Court of Appeals shall and is hereby empowered either to direct that the Judgment Decree Order or Sentence appealed from shall be carried into execution or that the execution thereof shall be suspended pending the said appeal as to the said Court may appear to be most consistent with real and substantial justice and in case the said Court of Appeal shall direct such Judgment Decree Order or Sentence to be carried into execution the person or persons in whose favor the same shall be given shall before the Execution thereof enter into good and sufficient security to be approved by the said Court of Appeals for the due performance of such Judgement or Order as we our heirs or successors shall think fit to make thereupon or in case the said Court of Appeals shall direct the execution of any such Judgment Decree Order or Sentence to be suspended pending the appeal the person or persons against whom the same shall have been given shall in like manner and before any Order for the suspension of any such execution is made enter into good and sufficient security to the said Court of Appeals for the due performance of such Judgement or Order as we or heirs or successors shall think fit to make thereupon and in all cases we will and require that security shall also be given by the party or parties appellants to the satisfaction of the said Court of Appeals for the prosecution of the appeal and for the payment of all such costs as may be awarded by us our heirs and successors to the party or parties Respondent and if such last mentioned Security shall be entered into within three

months from the date of such Petition for leave to appeal then and not otherwise the said Court of Appeals shall allow the Appeal and the party or parties Appellant shall be at liberty to prefer and prosecute his her or their Appeal to us our heirs or successors in our or their Privy Council in such manner and under such rules as are observed in Appeals made to us from our Plantations or Colonies AND WE DO hereby reserve to yourself our heirs and successors in our or their Privy Council full power and authority upon the humble petition at any time of any person or persons aggrieved by any Judgement or determination of the said Court of Appeals to refuse or admit his her or their Appeal therefrom upon such terms and upon such limitations restrictions and regulations as we or they shall think fit and to reverse correct or vary such Judgement or determination as to us or them shall seem meet. AND IT IS our further will and pleasure that in all cases of Appeal allowed by the said Court of Appeals or by us our heirs or successors the said Court of Appeals shall certify and transmit to us our heirs or successors in our or their Privy Council a true and exact Copy of all Evidence Proceedings Judgments Decrees and Orders had or made in such causes appealed so far as the same have relation to the matter of appeal such Copies to be certified under the seal of the said Court. AND WE DO further direct and ordain that the said Supreme Court of New South Wales shall in all cases of Appeal to us our heirs or successors conform to and execute or cause to be executed such Judgements and orders as we shall think fit to make in the premises in such manner as any Original Judgement Decree or Decretal Order or other Order or Rule by the said Supreme Court of New South Wales should or might have been executed AND WE DO hereby strictly charge and command all Governors Commanders Magistrates Ministers Civil and Military and all our Liege Subjects within and belonging to the said Colony that in the execution of the several Powers Jurisdictions and Authorities hereby granted made given or created they be aiding and assisting and obedient in all things as they will answer the contrary at their Peril PROVIDED ALWAYS that nothing in these presents contained or any act which shall be done under the authority shall extend or be construed to extend to prevent us our heirs and successors to repeal these presents or any part thereof or to make such further or other provision by letters Patent for the Administration of Justice Civil and Criminal within the said Colony and the places now or at any time hereafter to be annexed thereto as to us our heirs and successors shall seem fit in as full and ample a manner as if these presents had not been made these presents or any thing herein contained to the contrary thereof in anywise notwithstanding IN WITNESS whereof we have caused these our Letters to be made Patent WITNESS Ourselves at Westminster the thirteenth day of October in the fourth year of our Reign

BY WRIT OF PRIVY SEAL

BATHURST

END TRANSCRIPTION