

DATED

16th June 2008

GREGG ERIC BUTTFIELD

- and -

PRUDENCE ANN BUTTFIELD

SUPERANNUATION FUND TRUST DEED

THE BUTTFIELD SUPERANNUATION FUND

TRUST DEED

THE BUTTFIELD SUPERANNUATION FUND

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THIS DEED OF AMENDMENT is made on the Date of Execution specified in the Appendix **BY** the person or persons named in the Appendix as the Trustees (hereinafter called the "Trustees").

WHEREAS

- A By a Trust Deed made on the Date of Original Deed specified in the Appendix (which Deed as the same may have been amended from time to time is hereinafter called the "Trust Deed") an indefinitely continuing superannuation fund which is now known by the name set forth in the Appendix was established with effect from the Commencing Date set forth in the Appendix for the purpose of providing benefits for those Eligible Persons as shall become Members of the Fund.
- B The Trustees are the present Trustees of the Fund.
- C The Trustees desire to amend the Trust Deed in accordance with the provisions of clause 1.19 the Trust Deed in the manner hereinafter appearing.

NOW THIS DEED WITNESSETH THAT the Fund shall be and is hereby amended with effect from the Date of Execution specified in the Appendix by the removal of clauses 1.1 to 2.21 both inclusive and the appendix in its entirety and their replacement by the Clauses set forth in Parts 1 and 2 hereof.

IN WITNESS WHEREOF this Deed has been duly executed on the said Date of Execution.

PART 1: TRUST AND ADMINISTRATIVE PROVISIONS

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PART 1 - TRUST AND ADMINISTRATIVE PROVISIONS

DEFINITIONS AND INTERPRETATION

Definitions

1.1 IN the Deed the following words and expressions shall unless the context requires otherwise or the contrary intention appears have the following meanings:

"Account" means in relation to a Member an account established and maintained in the Fund for that Member pursuant to Clause 2.3.

"Act" means the Income Tax Assessment Act 1936, the Superannuation Industry (Supervision) Act 1993 and Regulations and any other law of the Commonwealth of Australia (including where applicable any standard, determination, ruling or guideline made or laid down by any Responsible Authority pursuant to any powers vested in it thereunder) with which the Fund and / or Trustees must comply in order to maintain exemption from income tax in respect of the income of the Fund or in order to obtain what the Trustees consider to be any other relevant concession or to avoid what the Trustees consider to be a relevant penalty or imposition.

"Actuary" means a person who is a Fellow of the Institute of Actuaries of Australia or of any body formed in reconstruction of or in succession to that Institute.

"Appendix" means the Appendix contained at the end of the Deed.

"Approved Deposit Fund" means an Approved Deposit Fund as defined in the Act.

"Auditor" means a person who is an approved auditor with the meaning of the Act and "the Auditor" means the person appointed from time to time by the Trustees as Auditor to the Fund pursuant to Clause 1.8 of the Deed.

"Balance Date" means the Balance Date referred to in the Appendix or such other date as the Trustees shall determine to be the Balance Date in any particular year.

"Benefit Account" means, in relation to a Member, the Account of that name maintained in respect of the Member as provided in Clause 2.3.

"Benefit Account Balance" means, in relation to a Member, the amount standing to the credit of the Member's Benefit Account, after all appropriate debits and credits have been made as provided in the Deed.

"Commencing Date" means the Commencing Date referred to in the Appendix.

"Constitutional Corporation" has the meaning given in the Act.

"Contributor" means a person admitted or approved as a Contributor as provided in Clause 1.13.

"Deed" means this Trust Deed (howsoever divided or partitioned) as amended from time to time.

"Dependant" means in relation to a Member any one or more of the following:

- (a) the spouse widow or widower of the Member, such person being or having been the legal spouse or recognised by the Trustees as the defacto spouse of the Member;
- (b) any child of the Member including any step-child, any child recognised by the Trustees as an adopted child and any child of the Member born after the death of the Member; and
- (c) any other person who in the opinion of the Trustees is at the relevant date (or in the case of a deceased Member was at the time of his death) wholly or partially dependent on the Member or who has or had at the relevant date a legal right to look to the Member for support.

"Early Retirement Date" means, in relation to an Employee Member and an Employer Contributor of that Member, the 55th anniversary of the birth of the Member or such later date (not being later than the applicable Normal Retirement Date) as that Employer Contributor may notify to the Trustees either generally or in respect of that particular Member.

"Eligible Person" means a natural person who is approved for the time being by the Trustees (either generally or in any particular case) for membership of the Fund.

"Employee Member" means a Member employed by a Contributor and, for the purposes of the Governing Rules, a Member shall be deemed to be employed by a Contributor if and for so long as he is an employee of or (in the case of a company) a director of that Contributor.

"Employer Contributor" means a Contributor, an employee of which or (in the case of a company) a director of which is a Member of the Fund and, in respect of an Employee Member, means the Employer Contributor or Contributor by which the Employee Member is for the time being employed or in respect of a former Employee Member, the Employer Contributor or Contributors by which the former Employee Member was last employed.

"Founder" means the person first named in the Deed as the Founder or any person who subsequently assumes the office of Founder under the Deed.

"Gainful Employment" means engagement in any employment, occupation, vocation, profession, trade or business for remuneration or other reward in money or moneys worth.

"Governing Rules" means the Deed and any other document or legislation or combination of them that govern the establishment and operation of the Fund.

"Group Term Policy" means an insurance policy under which term or temporary insurance (but no other type of insurance) is secured in respect of more than one Member of the Fund.

"Individual Policy" means an insurance policy under which insurance is secured solely in respect of one Member and "Member's Individual Policy" shall have a corresponding meaning.

"Insurer" means any insurer or assurer with whom the Trustees effect a policy or policies of insurance or assurance in accordance with paragraph (i) of sub-clause (3) of Clause 1.12 of the Deed.

"Member" means a person who has been admitted to membership of the Fund in accordance with the Governing Rules **PROVIDED THAT** such a person shall cease to be a Member in the event of his death or when all benefits to which he could become entitled under the Governing Rules have been paid or forfeited in accordance with the Governing Rules.

"Non-Employee Member" means a Member other than an Employee Member and, for the purposes of the Governing Rules, a Member shall be a Non-Employee Member notwithstanding that he is employed by a person other than a person who is a Contributor under the Governing Rules.

"Non-Vested Account" means, in relation to an Employee Member and an Employer Contributor of that Member, the Account of that name maintained as provided in this Clause 2.3.

"Non-Vested Account Balance" means, in relation to an Employee Member, the amount standing to the credit of the Member's Non-Vested Account, after all appropriate debits and credits have been made as provided in the Deed.

"Non-Vested Contributions" means, in relation to an Employee Member, such portion of the contributions paid to the Fund in respect of the Member (while he is an Employee Member) by an Employer Contributor as that Employer Contributor specifically designates as Non-Vested Contributions.

"Non-Vested Insurance" means, in relation to an Employee Member and an Employer Contributor of that Member, an Individual Policy or that portion of such Policy or of the proceeds thereof (including any benefit payable thereunder and, where applicable, the proceeds of cancellation thereof) secured or deemed to be secured by Non-Vested Contributions paid by that Employer Contributor in respect of that Member, and "Non-Vested Policy" shall have a corresponding meaning.

"Normal Retirement Date" means, in relation to an Employee Member and an Employer Contributor of that Member, the 65th anniversary of the date of birth of the Member or such earlier date (not earlier than the 55th anniversary of the birth of the Member) as that Employer Contributor may notify to the Trustees either generally or in respect of that particular Member.

"Perpetuity Period" means the period ending on the earlier of -

- (a) the day which is 79 years after the Date of Execution; and
- (b) the day which is 20 years after the death of the last survivor of the lineal descendants of his late Majesty King George VI living at the Date of Execution;

or such longer period (if any) as may be allowed under the law applicable to the Deed.

"person" and words importing a natural person also include a body corporate and any other person recognised at law, a partnership and any other group or association of persons, but the words "natural person" shall be given their normal meaning.

"Quorum of Trustees" means for the purposes of the relevant provisions of Clause 1.4 of the Deed, the greater of:-

- (a) two Trustees; and
- (b) not less than two thirds of the Trustees in office for the time being;

PROVIDED THAT a Quorum of Trustees shall only be properly formed if the composition thereof is such that would not cause the Fund to be in breach of any relevant requirement of the Act.

"Reserve Account" means the Account established and maintained in the Fund pursuant to sub-clauses (1), (2) and (3) of Clause 2.4 of the Deed.

"Responsible Authority" means any governmental authority responsible for administering laws, regulations or any other rules applying to or governing the operation of superannuation and similar funds.

"Special Reserve Account" means any Account established and maintained in the Fund pursuant to sub-clause (4) of Clause 2.4 of the Deed.

"Total and Permanent Disablement" means in relation to a Member having been absent from Gainful Employment through injury or illness for an uninterrupted period of six months or for such shorter period as in the circumstances the Trustees consider appropriate and in the opinion of the Trustees after consideration of medical evidence having become incapacitated to such an extent as to render the Member unlikely ever to engage in or work for reward in any occupation or work for which he is reasonably qualified by education training or experience **PROVIDED THAT** if the Trustees pursuant to paragraph (i) of sub-clause (3) of Clause 1.12 of the Deed have effected a policy or policies of insurance or assurance under which insurance is payable in the event of the disablement of any Member and -

- (a) disablement insurance is in force for the time being under any such policy in respect of the Member or is not in force by reason only of the refusal of the Insurer to grant disablement insurance on terms acceptable to the Trustees; and
- (b) the circumstances in which the disablement insurance in respect of the Member is or would have been payable under such policy are in the opinion of the Trustees similar to Total and Permanent Disablement defined as aforesaid;

then the Trustees may determine that the aforesaid meaning of Total and Permanent Disablement shall in respect of the Member be modified so as to be identical to the circumstances in which the disablement insurance is or would have been payable under such policy.

"Trustees" means the Trustees named in the Appendix or other Trustee or Trustees for the time being of the Fund.

"Vested Contributions" means, in relation to a Member, the contributions paid to the Fund by the Member and the contributions (other than Non-Vested Contributions) paid to the Fund in respect of a Member by a Contributor.

"Vested Insurance" means, in relation to a Member, an Individual Policy or that portion of such Policy or of the proceeds thereof (including any benefit payable thereunder and, where applicable, the proceeds of cancellation thereof) secured or deemed to be secured by Vested Contributions (including a policy or the portion of the policy or of the proceeds thereof which may be deemed to be Vested Insurance pursuant to Clause 2.11), and "Vested Policy" shall have a corresponding meaning.

Interpretation

- 1.2
- (1) **EXCEPT** where a subsequent Part of the Deed expressly provides otherwise, if there is a conflict between a provision of Part 1 of the Deed and a provision of any other Part of the Deed, the relevant provision of Part 1 of the Deed shall prevail.
 - (2) The headings and indices in the Deed are for convenience only and shall not affect the interpretation thereof.
 - (3) In the Deed words importing the singular number include the plural and vice versa and words importing one gender include the other genders unless the context requires otherwise or the contrary intention appears.
 - (4) References to any legislation, regulation or provision thereof include that legislation, regulation or provision as amended or re-enacted from time to time and any legislation, regulation or provision intended to replace the same in whole or in part whether or not passed or approved by the same legislative body or other authority and whether or not incorporating or adopting any legislation, regulation or provision approved by another such authority.
 - (5) If any dispute arises as to the interpretation of any of the provisions of the Governing Rules or as to the rights or obligations of a Member or any other person hereunder, then (except to the extent otherwise expressly provided in the Governing Rules) the decision of the Trustees shall be final and binding on all interested persons.
 - (6) Whilst for convenience a particular word or group of words defined in the Deed may commence with capital or lower case letters, failure to use capital or lower case letters in that word or group of words elsewhere in the Deed does not of itself mean that that word or group of words has a meaning different from the meaning assigned thereto in the relevant definition.

- (7) This Deed shall be read and construed on the basis that any provisions of the Act are incorporated in the Governing Rules to the extent that they impose obligations that the Fund must meet in order to maintain any concessions (including any concessions that relate to payment of income tax) provided by the Act or to avoid any relevant penalty and if there is a conflict between any such provision of the Act and any other provision of the Governing Rules the relevant provision of the Act shall prevail.
- (8) If any provision of the Governing Rules is or becomes void or otherwise unenforceable it shall be ineffective only to the extent that it is or becomes unenforceable and it and all other provisions shall otherwise remain valid and enforceable to the fullest extent allowed under the Act.
- (9) The Fund shall have as its primary purpose the provision of old-age pensions which shall not be commuted other than at the written request of the Member in circumstances in which the Act permits the Trustees to comply with that request and may provide other benefits only in such circumstances as are approved under the Act.
- (10) Notwithstanding any provision of the Governing Rules no provision of the Governing Rules shall be construed as permitting the Trustees to be subject in the exercise of any of the Trustees powers under the Governing Rules, to direction by any other person to the extent that, in the opinion of the Trustees, such provision will or may be in breach of the Act. Furthermore to the extent that any provision of the Governing Rules provides for the Trustees to be subject to direction in circumstances which will or may, in the opinion of the Trustees, be in breach of the Act, the Trustees may (but shall not be obliged to) comply with the direction.
- (11) Notwithstanding any provision of the Governing Rules no provision of the Governing Rules shall be construed as permitting a discretion under the Governing Rules that is exercisable by a person other than the Trustees to be exercised without the consent of the Trustees to the extent that, in the opinion of the Trustees, such provision will or may be in breach of the Act.

TRUSTEES

Appointment of Trustees

1.3 (1) **SUBJECT** to the other provisions of this Clause, the Trustees of the Fund may be-

- (a) natural persons; or
- (b) a Constitutional Corporation

PROVIDED THAT the number and identity of the Trustees conform with the relevant requirements of the Act.

(2) Any person may only be appointed or hold office as Trustee of the Fund so long as that person's -

- (a) appointment to or holding of that office would not have the effect of permitting any combination of persons other than a single Constitutional Corporation acting as the sole Trustee to be Trustees of the Fund at any time at which the sole or primary purpose of the Fund is other than the provision of old-age pensions;
- (b) appointment to and removal from office is effected in accordance with the Act in so far as the Act relates to and governs the appointment and removal of Trustees; and
- (c) holding of such office will not prejudice the granting or continuance of any concession for or in respect of the Fund under the Act and will not cause the Fund to be in breach of a relevant requirement of the Act.

(3) Without in any way limiting the generality of sub-clause (2) of this Clause and subject to the Act, the office of Trustee shall become vacant upon -

- (a) the retirement of a Trustee from office by notice in writing given to the Founder and where the Trustee is a natural person to the other Trustees;
- (b) in the case of a natural person who is a Trustee, his death;
- (c) in the case of a natural person who is a Trustee, the date on which his appointment to the office of Trustee ceases for any reason not otherwise herein provided;

- (d) the disqualification of the Trustee from the office of Trustee by operation of the law;
 - (e) in the case of a Constitutional Corporation being the sole Trustee, the day which is thirty days after the date on which the Founder receives written notice signed by at least 75% of the Members for the time being requesting its removal from office; or
 - (f) in the case of a Constitutional Corporation being the sole Trustee, the appointment of a receiver, receiver and manager or liquidator in respect of it or the whole or any part of its property or the approval by a court of a scheme of arrangement providing for its dissolution.
- (4) Subject to sub-clause (2) of this Clause, if for any period there are no Trustees the duties and powers of the Trustees shall be performed by the Founder or by such other persons as the Founder nominates for such purpose in accordance with the Act.

Proceedings of Trustees

- 1.4
- (1) **SUBJECT** to sub-clause (2) of Clause 1.3, where the Trustees of the Fund are natural persons, then the provisions of sub-clauses (2), (3), (4), (5) and (6) of this Clause shall in particular have specific application thereto.
 - (2)
 - (a) Except as otherwise provided herein, the Trustees may meet adjourn and regulate their meetings as they see fit and a meeting of the Trustees for the time being at which a Quorum of Trustees is present shall be competent to exercise any or all of the powers exercisable by the Trustees generally.
 - (b) Except as otherwise expressly provided for in the Governing Rules, all questions arising at a meeting of Trustees, shall be determined by resolution and no such resolution shall be effective unless carried by a majority comprising at least a Quorum of Trustees.
 - (c) A written resolution signed by a Quorum of Trustees shall be as effective as an effective resolution passed at a meeting of Trustees duly convened and held and a copy of any such written resolution shall be given to each Trustee who was not a signatory thereto as soon as reasonably practicable after it is made.

- (d) A Trustee may participate in a meeting of Trustees by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in such a meeting in this manner shall be deemed to constitute presence in person at such meeting.
- (3) (a) The Trustees may by resolution appoint a Trustee to be Chairman of Trustees. A Trustee so appointed as Chairman of Trustees shall hold office as Chairman until -
 - (i) he retires as Chairman by written notice given to the other Trustees;
 - (ii) he ceases to be a Trustee; or
 - (iii) he is removed as Chairman by a written notice given to him pursuant to or in the form of a resolution passed by the Trustees.
- (b) The Chairman of Trustees (if any) shall act as Chairman of each meeting of Trustees attended by him. If the Chairman of Trustees is not present in person at a meeting of Trustees or if at the time of a meeting there is no Chairman of Trustees, a Trustee shall be appointed by a resolution of those present to act as Chairman of that meeting.
- (4) Each Trustee present in person at a meeting of Trustees shall have one deliberative vote on any question.
- (5) The Trustees shall keep or cause to be kept proper minutes which shall be kept and entered in a book provided for that purpose and the minutes of any meeting if signed by the chairman of such meeting or by the chairman of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated therein.
- (6) A Trustee who is absent or is about to be absent from Australia or who is temporarily unable due to illness or any other reason to attend to his duties as Trustee may subject to the Act appoint any person to be his Alternate for the purposes of the Fund during any absence from Australia or during any temporary inability as aforesaid and such Alternate during such absence or temporary inability or until such appointment is revoked by the said Trustee may exercise all or any of the powers of the Trustee by whom such Alternate was appointed **PROVIDED THAT** if a Trustee in respect of whom an Alternate is appointed pursuant to this sub-clause shall cease to be a Trustee for any reason during any absence or temporary inability then that Alternate's appointment shall be deemed to have been automatically revoked.

General Powers of Trustees

- 1.5 (1) **EXCEPT** to the extent otherwise expressly provided in the Governing Rules, the Trustees have in the exercise or non-exercise or partial exercise of each and every power exercisable by the Trustees an absolute and uncontrolled discretion and are not bound to give to any person any reason for or explanation of their exercise, non-exercise or partial exercise of any such power. The powers conferred on or exercisable by the Trustees under the Governing Rules are additional to and not in substitution for the powers conferred on or exercisable by them at law.
- (2) (a) The Trustees shall have the complete management and control of all proceedings, matters and things in connection with the Fund and, without derogating from any other provision of the Governing Rules, may do all acts and things which they consider necessary, desirable or expedient for the proper administration, maintenance and preservation of the Fund or any part thereof and in the exercise and performance of their powers and obligations under the Governing Rules.
- (b) Without limiting the generality of paragraph (a) hereof or any other provisions of the Governing Rules, the Trustees shall have the following powers, that is to say power -
- (i) to appoint remove or suspend custodians and managers (including custodians and investment managers in respect of all or any of the investments of the Fund), administrators, clerks, agents, representatives, nominees and other servants and delegates; appoint them for permanent, temporary or special services; determine their powers and duties and fix and pay from the Fund their salaries, emoluments and charges, and require security from any such person in such instances and to such amount as the Trustees may think fit;
 - (ii) to institute, conduct, defend, compound, settle or abandon any legal proceedings by or against the Fund or otherwise concerning the Fund or the Governing Rules generally and also to compound and allow time for payment or satisfaction of any debt due to the Fund and of any claim or demand by or against the Fund;
 - (iii) to refer any claim or demand by or against the Trustees of the Fund to arbitration and observe and perform the award of the arbitrator;

- (iv) to make and give receipts, releases and other discharges for money payable to the Fund and for the claims and demands of the Fund;
- (v) to determine who shall be entitled to give and sign in respect of the Fund or any part thereof receipts, acceptances, endorsements, releases, contracts and other documents (and the receipt of the Trustees or a duly authorised delegate of the Trustees is a sufficient discharge to the person to whom it is given);
- (vi) to open bank accounts and to make regulations for the operation of such bank accounts including the signing and endorsing of cheques in connection therewith;
- (vii) to act in relation to any matter or question on the advice or opinion of any accountant, auditor, barrister, solicitor, actuary, medical practitioner or other professional person that the Trustees in good faith believe to be capable of giving such advice or opinion whether by virtue of formal qualifications or otherwise and whether or not such advice or opinion was obtained by the Trustees without being liable to any person in respect of anything done or omitted to be done by the Trustees in good faith based on such advice or opinion;
- (viii) to give such undertakings and indemnities, enter into such contracts and incur all such obligations relating to the Fund or any part thereof as they think fit, including without limitation giving a guarantee or indemnity in respect of any obligation assumed or undertaken by the Trustees or a delegate thereof in connection with the Fund and to secure the same by charge or mortgage of all or part of the Fund; and
- (ix) to make rules and adopt procedures in relation to the calculation and rounding-off of contributions, benefits, interest and other relevant amounts, including where applicable determining the basis upon which interest will be compounded.

Delegation by Trustees

- 1.6 **THE** Trustees may delegate any power exercisable by the Trustees (including a power which they have a duty to exercise or perform and the power of delegation) to any person in such manner and upon such terms and conditions as they think fit. The Trustees may vary or revoke any such delegation as they think fit and may exercise any power in conjunction with or to the temporary or permanent exclusion of a delegate.

Protection and Indemnity of Trustees

- 1.7 (1) **NO** Trustee shall be liable for or in respect of (and a Trustee shall be indemnified out of the Fund against) any claim, liability, cost, loss, damage or expense whatsoever incurred or arising in connection with any act, omission or mistake in connection with the Governing Rules or the Fund or the exercise or performance of that person's powers and duties generally (including without limitation any matter falling within sub-clause (2) of this Clause) **EXCEPT** to the extent that such claim, liability, cost, loss, damage or expense is a -
- (a) liability for breach of trust if the Trustee
 - (i) fails to act honestly in a matter concerning the Fund; or
 - (ii) intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee was required to exercise; or
 - (b) liability for a monetary penalty under a civil order made in accordance with the Act.
- (2) Subject to sub-clause (1) of this Clause, the Trustees shall not be liable or responsible for and shall be indemnified out of the Fund in respect of any claim, liability, cost, loss, damage or expense arising in connection with -
- (a) the insufficiency of or deficiency in any manner or form of investment in which moneys of the Fund may be invested pursuant hereto;
 - (b) the bankruptcy or insolvency of or fraudulent or tortious act by any servant or delegate of the Trustees or any person with whom any investment may be deposited;
 - (c) the payment of an amount or benefit to a person reasonably believed to be entitled thereto but who is in fact not so entitled; or

- (d) any action taken or thing suffered in reliance upon any document, record, authority, representation, statement or evidence reasonably believed by the Trustees or their servant or delegate in good faith to be valid and effective.
- (3) Subject to the Act the Trustees shall have power to effect or take out at the expense of the Fund from time to time one or more policies or contracts with one or more insurance companies to protect:
- (a) the Fund: and
 - (b) the Trustees or if the Trustee is a Constitutional Corporation each of the directors and other officers of the Trustee in respect of liabilities incurred by them or any of them in the execution or attempted execution or arising from the non-execution of the trusts, authorities, powers and discretions conferred upon them by the Governing Rules

and to continue or renew or arrange for the continuance or renewal of all or any such policies or contracts for such period or periods as the Trustees may think fit. The Trustees may also agree from time to time with the insurance company concerned for any policy or contract to be varied or modified.

Accounts and Audit

- 1.8 **THE** Trustees shall maintain or cause to be maintained such records and accounts and in such form as shall be necessary to satisfy the requirements of the Governing Rules and any relevant requirement of the Act and such other records and accounts as the Trustees consider to be necessary or desirable. The records and accounts of the Fund shall be audited by an Auditor duly appointed by the Trustees and the Auditor shall have access to such papers accounts and documents connected with the Fund as the Trustees consider should be accessible to him. The appointment of the Auditor shall be on such terms as the Trustees may think fit and the Trustees may remove any Auditor and appoint another in his stead **PROVIDED THAT** no appointment shall be made hereunder which would result in the Fund being in breach of any requirement of the Act.

Appointment of Secretary

- 1.9 **THE** Trustees may appoint a secretary to the Fund. Any such appointment shall be on such terms as the Trustees may think fit and the Trustees may remove any such secretary and may appoint another in his stead. Any such secretary shall perform such duties and have such powers as are provided by the Governing Rules together with such other duties and powers as the Trustees may from time to time determine.

Expenses

- 1.10** ALL of the expenses of and incidental to the establishment, operation, management, administration and investment of the Fund which are not paid by the Founder or a Contributor shall, subject to the Governing Rules, be paid out of the Fund **PROVIDED THAT** nothing in this Clause 1.10 shall vest in the Founder or a Contributor any obligation to pay any part of such expenses in addition to its normal contributions to the Fund.

THE FUND

Composition of the Fund

- 1.11** THE Fund shall comprise -
- (a) contributions made by Members, Employers or any other persons pursuant to the Governing Rules and subject to the Act;
 - (b) any other moneys or assets paid or transferred to the Trustees pursuant to the Governing Rules and subject to the Act;
 - (c) the income arising from investments;
 - (d) any accretions to or profits on realisation of investments; and
 - (e) any other moneys assets policies of insurance or assurance or investments which become subject to the trusts of the Deed.

Investment of Fund

- 1.12** (1) THE Trustees may from time to time and in the name of or under the control of the Trustees or in the name of any nominee or by or through a trustee (whether or not such nominee or trustee shall be a nominee or trustee for the Trustees alone or for the Trustees and other persons) selected by the Trustees invest the whole or any part or parts of the moneys or assets of the Fund not required for any other purpose in any investment or manner of investment (whether in Australia or elsewhere or whether involving liability or not) which the Trustees consider to be a suitable investment or manner of investment for the Fund including but without limiting the generality of the foregoing in any one or more of the following -

- (a) any investment from time to time authorised by the laws of the Commonwealth of Australia or any of its States or Territories for the investment of trust moneys;
- (b) on deposit with any trading or savings bank in Australia or with any dealer authorised or approved by the Reserve Bank of Australia to operate in the official short term money market, or with any firm or company (including any one or more of the Employers) either with or without security;
- (c) in the acquisition by original subscription or by purchase or otherwise of fully or partly paid shares, stock, stock options, debenture stock, bonds, notes (secured or unsecured) or other securities or obligations howsoever called in or of any company (including any one or more of the Employers);
- (d) in the acquisition or purchase of units, sub-units or other fractional interests howsoever called whether divided or undivided in or of any unit trust (whether fixed or flexible) or other scheme in the nature of a unit trust;
- (e) in the acquisition or purchase of any property (whether real or personal) or any interest in property whether or not such property or interest in property is subject to any mortgage or charge and notwithstanding that such property or interest in property may be acquired or purchased for the profit which may be expected whether from resale or otherwise and that such property or interest in property is not producing income at the date it is acquired or purchased;
- (f) in mortgages over freehold or leasehold property either by direct loan or by purchase at a discount or otherwise of existing mortgages;

and the Trustees may vary or transpose or convert any such investments into or for another or others of the investments hereby authorised.

- (2) The Trustees may underwrite or sub-underwrite or join with others in underwriting or sub-underwriting the subscription of any of the investments authorised by sub-clause (1) of this Clause and may in the exercise of their powers of delegation under Clause 1.6 give to any investment manager appointed pursuant to sub-clause (2)(b)(i) of Clause 1.5 general authority to enter into and carry out underwriting or sub-underwriting agreements and the like whether for the Fund alone or for the Fund in conjunction with other funds and institutions.

- (3) Without in any way limiting the generality of the powers vested in the Trustees hereby and in particular under Clause 1.5 the Trustees shall have the following additional powers and may exercise all or any of such additional powers at any time and from time to time and to such extent as may seem to the Trustees to be desirable -
- (a) to acquire any of the investments referred to in sub-clause (1) of this Clause alone or in partnership or association with any other person;
 - (b) to institute prosecute and execute legal proceedings of any kind in any court including but not limited to proceedings to recover possession of any property or to sue for and recover rent or damages or to enforce any contract with power to abandon settle compromise and release any such proceedings when deemed expedient;
 - (c) to pay and discharge out of the Fund such money as the Trustees may think proper to expend in repairing painting altering rebuilding improving and generally maintaining any property (whether freehold or leasehold) or premises for the time being comprising part of the Fund and all rates taxes costs charges insurance premiums expenses and outgoings of whatever nature payable in connection with the maintenance upkeep and management of such property or premises;
 - (d) to lease or sub-lease any property (whether real or personal) comprising the Fund or any part or parts thereof for such period or periods at such rent or rents and with such powers rights and privileges and subject to such terms and conditions and stipulations as the Trustees may consider expedient and to accept surrenders of or otherwise determine such leases or sub-leases;
 - (e) to sell or otherwise dispose of any property comprising the Fund or any part or parts thereof at such price or prices and upon such terms and conditions and stipulations and subject to such restrictions or rights and in such manner and by such means as the Trustees may consider expedient and upon any such sale or apart therefrom to grant easements and other rights;

- (f) to guarantee and to give indemnities in respect of any obligation assumed or undertaken or to be assumed or undertaken by a nominee or trustee selected by the Trustees pursuant to sub-clause (1) of this Clause in connection with any investment hereby authorised made or to be made by the Trustees in the name of such nominee or by or through such trustee **PROVIDED THAT** where such nominee or trustee holds or will hold such investment for the Trustees and other persons the guarantee or indemnity given or granted by the Trustees pursuant to this paragraph (f) shall not exceed the liability attaching to the Trustees' proportionate interest in the investment held or to be held by the nominee or trustee as aforesaid;
 - (g) to give all such undertakings and enter into such contracts and incur all such obligations relating to the Fund or any part or parts thereof as the Trustees think fit;
 - (h) to employ such managers staff and servants and engage such contractors and professional services as may be considered necessary or desirable;
 - (i) to effect policies of insurance or assurance to provide for all or any part of the benefits which may become payable from the Fund and to pay out of the Fund all premiums under such policies and to surrender vary or assign or otherwise deal with any such policy as the Trustees think fit; or
 - (j) to give proxies and powers of attorney (with or without powers of substitution) and appoint representatives for voting or acting on behalf of the Trustees in relation to any property comprising part of the Fund.
- (4) Notwithstanding anything expressed or implied to the contrary in this Clause or elsewhere in the Governing Rules:-
- (a) the moneys and assets of the Fund shall be invested in such manner and form as, in the opinion of the Trustees will not prejudice the granting or continuance of any concession in respect of the Fund under the Act or cause the Fund to be in breach of any relevant requirement under the Act;
 - (b) the Trustees shall not borrow or raise money secured against any part of the Fund except for temporary purposes by means which are approved under the Act; and
 - (c) no loans shall be made out of the Fund to any Member of the Fund other than in the manner and circumstances permitted within the terms and conditions of the Act.

ADMISSION AND RELEASE OF CONTRIBUTORS

Admission and Release of Contributors

- 1.13
- (1) **THE** Founder or any person approved by the Founder may apply to the Trustees in a form reasonably acceptable to the Trustees to be authorised to make contributions to the Fund as a Contributor.
 - (2) A person may be admitted as a Contributor or make contributions as a Contributor if approved by the Trustees and if such admission or approval would not cause the Fund to be in breach of any relevant requirement of the Act. The Trustees may -
 - (a) reject any application to become a Contributor or delay consideration thereof for any period without giving any reason for or being liable in any way in respect of such refusal or delay; and
 - (b) impose (and subsequently vary or remove) such special conditions in relation to a person's participation as a Contributor as the Trustees consider appropriate; and
 - (c) deem a person to have ceased to be a Contributor (either at the request of the Founder or the Contributor or if for any reason the Trustees determine that his or its continued participation in the Fund as a Contributor would be prejudicial to the Fund).
 - (3) Every Contributor shall ipso facto be deemed to have approved of and shall be deemed to be bound by the Deed.

TERMINATION OF FUND

Termination of Fund

- 1.14
- (1) **THE** Fund shall terminate on the last day of the Perpetuity Period and no further Members shall be admitted and no further contributions accepted after that date. Any part of the Fund which has not vested in interest as at the last day of the Perpetuity Period shall with effect on that date vest in such person or persons and in such shares as the Trustees determine. The Trustees shall have power to realise the investments of the Fund and make distributions therefrom as they see fit to give effect thereto and the Trustees shall entirely distribute and wind up the Fund within fifty weeks after the end of the Perpetuity Period.

- (2) The Founder or, subject to the approval of the Founder, the Trustees may determine to close the Fund from a certain date (being a date not later than the last day of the Perpetuity Period), and in such event no further Members shall be admitted after that date and no further contributions or other amounts shall be accepted from any Member or other person after that date but otherwise the Trustees shall (subject to sub-clause (1) of this Clause continue to administer the Fund in accordance with the provisions of the Governing Rules until all benefits which could become payable to or in respect of Members and Beneficiaries have been paid and all monies remaining in the Reserve Account have been applied in accordance with the Governing Rules, and the Fund shall then be deemed to be terminated and the Trustees shall be discharged.

REPLACEMENT OF FOUNDER

Replacement of Founder

- 1.15**
- (1) **THE** person holding the office of Founder may at any time nominate another person to become Founder and, by the execution of an appropriate written instrument, such nominee may become the Founder.
 - (2) Without limiting sub-clause (1) hereof, if at any time there is no Founder or the Founder ceases to be willing to act as Founder or, being a natural person, is in the opinion of the Trustees (whose determination shall be binding) incapacitated to such an extent as to render him unable to properly discharge the functions of the Founder
 - (a) the Employer Contributors may appoint one of their number to be Founder; or
 - (b) if within such time as the Trustees consider reasonable an Employer Contributor is not so appointed as Founder, the Members may by simple majority appoint a person (not necessarily being a Member) as Founder.

MISCELLANEOUS PROVISIONS

Powers of Contributors not Affected

- 1.16 (1) **NOTHING** in the Governing Rules shall be deemed to affect prejudice or alter in any way the powers of a Contributor with regard to the dismissal or remuneration of or any dealings whatsoever with any of its officers or employees who may be Members. Any benefits to which any Member or other person may be or may claim to be entitled under the Governing Rules shall not be used or alleged or claimed as damages or grounds for increasing damages in any action or claim by him or by anyone claiming through or under him against a Contributor in respect of any such dismissal or dealing or otherwise.
- (2) When acting in its capacity as a Contributor under the Governing Rules, a Contributor is in no sense under a fiduciary or other duty and has in relation to the exercise of any power vested in it an absolute and uncontrolled discretion and is not required to give to any person any reason for or explanation of its exercise, non-exercise or partial exercise of such a power.

Appointment of Receiver

- 1.17 **IF** at any time a receiver, a receiver and manager, liquidator or trustee in bankruptcy is appointed in respect of a Contributor or the Founder or the whole of the property thereof or if a Contributor or the Founder is placed under the official management of a person or a committee of management (such receiver, receiver and manager, liquidator, trustee or person or committee appointed as official manager being hereinafter in this Clause called the "Receiver") then notwithstanding anything expressed or implied to the contrary in the Governing Rules all the authorities powers and discretions by the Governing Rules vested in or exercisable by that Contributor or the Founder in any capacity shall be deemed to be vested in or exercisable by the Receiver until the Receiver is discharged from or otherwise ceases to hold office and references in the Governing Rules to that Contributor or the Founder shall be deemed to be references to the Receiver until the Receiver is discharged from or otherwise ceases to hold office.

Availability of Deed

- 1.18 A copy of the Deed and of all amendments and additions thereto shall be available for inspection by any Member at any reasonable time on application to the Trustees.

AMENDMENT

Amendments

- 1.19** (1) **THE** Trustees may at any time by deed or other written instrument alter add to or delete from the provisions of the Governing Rules (including this Clause) and any such alterations additions and deletions shall be effective from the date on which the deed or other written instrument is executed as aforesaid or from such earlier or later date as is specified for that purpose in such deed or other written instrument **PROVIDED THAT** no such alterations additions and deletions shall subject to sub-clause (2) of this Clause be made unless-
- (a) such alterations additions and deletions will not impose any further liability on any Eligible Person or prejudice the value of the benefits secured for or in respect of any Member by the contributions paid to the Fund prior to the date on which the deed or other written instrument is executed as aforesaid; or
 - (b) all of the Members on the date the deed or other written instrument is executed as aforesaid give their consent in writing thereto and the alterations additions and deletions do not without the written consent of the Member or the person entitled thereto reduce the amount or value of any benefit payable from the Fund to or in respect of a Member who died or otherwise became entitled to the benefit prior to the date on which the deed or other written instrument is executed as aforesaid.
- (2) Notwithstanding the provisions of sub-clause (1) of this Clause, the Trustees may at any time by deed or other written instrument alter add to or delete from the provisions of the Governing Rules (including this Clause) in order to -
- (a) secure or better secure exemption relief or concessions from or in respect of taxation or any other governmental imposition for or in relation to the Fund, the income of the Fund, any benefit which is or may become payable from the Fund or the payment of such a benefit; and/or
 - (b) enable or better enable the Fund or the Governing Rules to comply with any present or future law, requirement or practice of or within the Commonwealth of Australia or any State or Territory thereof in relation to superannuation or like funds or benefits or otherwise;

and any such alterations, additions and deletions shall be deemed not to substantially prejudice the value of the benefits secured for or in respect of any Member by the contributions paid to the Fund prior to the date on which the deed or other written instrument is executed as aforesaid.

- (3) Notwithstanding the forgoing provisions of this Clause no alteration addition or deletion shall be made that would have the effect of permitting any person other than one Constitutional Corporation to be a Trustee of the Fund unless, after the alteration addition or deletion is made, the Governing Rules provide that the Fund has as its sole or primary purpose the provision of old-age pensions.

**PART 2: GENERAL PROVISIONS RELATING TO MEMBERSHIP
CONTRIBUTIONS AND BENEFITS**

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**PART 2 - GENERAL PROVISIONS RELATING TO MEMBERSHIP
CONTRIBUTIONS AND BENEFITS**

MEMBERSHIP - GENERAL PROVISIONS

Admission of Members

- 2.1
- (1) ANY Eligible Person may be admitted as a Member of the Fund provided the admission of that person does not cause the Fund to be in breach of any relevant requirement of the Act.
 - (2) Subject always to the provisions of sub-clause (7) of this Clause an Eligible Person may make written application to become a Member in such form as the Trustees may from time to time require to become a Member of the Fund from the date on which he first becomes an Eligible Person as aforesaid or from such other date as is approved by the Trustees and upon acceptance by the Trustees of the said application shall become a Member from that date.
 - (3) The Trustees may admit to the Fund subject to such special conditions as the Trustees consider appropriate any Eligible Person who has applied to become a Member and who is unable to submit evidence of health of such standard or to pass such medical tests as the Trustees may prescribe or to submit proof to the satisfaction of the Trustees of any statement in his application for admission and if after an application by an Eligible Person to become a Member has been accepted any statement made or evidence submitted to the Trustees pursuant to this Clause in respect of that application is found to contain any misstatement error mistake or suppression the Trustees may subject to the provisions of Clause 2.14 and any relevant requirements of the Act make such adjustments as the Trustees in their absolute discretion consider appropriate to the benefits to be provided by the Fund for that Member and/or the contributions (if any) to be paid to the Fund by that Member.
 - (4) Without limiting the generality of sub-clause (3) above, each applicant for membership and each Member shall -
 - (a) undergo such medical examinations and tests as the Trustees or an Insurer may require;
 - (b) provide prompt and detailed information as to any benefit which has been, is being or may be provided or secured for in respect of him from or under any other superannuation fund or any Approved Deposit Fund or annuity contract and any contributions or other payments which have been or are being made to or towards such a fund or contract by or in respect of him;

- (c) confirm and promptly update a full postal address to which notices must be sent.
- (5) Every person being or becoming a Member shall ipso facto be deemed to have approved of and to be bound by the Deed.
- (6) The Trustees shall ensure that each person who becomes a Member is notified in writing of his right and the right of his dependants and legal personal representatives to receive benefits from the Fund and of such further matters and/or information and in such form and at such times as may be necessary to satisfy any relevant requirements of the Act.
- (7) The Trustees shall at any time and from time to time for the purposes of the Fund classify the Members into different categories of membership the number and the designation of which shall be as determined from time to time by the Trustees. A Member shall advise the Trustees of the category in which he desires to be placed and shall likewise advise the Trustees of any subsequent change in the category. In no event shall a Member at any time be classified in more than one category of membership.
- (8) Notwithstanding anything expressed or implied to the contrary in the Deed, a Member shall immediately advise the Trustees if he ceases to be an Eligible Person.

CONTRIBUTIONS - GENERAL PROVISIONS

Contributions

- 2.2 (1) **CONTRIBUTIONS** (if any) payable by a Member and contributions (if any) payable by a Contributor in respect of a Member shall be paid to the Fund in the manner and at the times determined or approved by the Trustees and may include money securities or other property.
- (2) An Employee Member shall be deemed to have expressly authorised his Employer Contributor to deduct any contributions payable by the Member from the Member's remuneration from that Employer Contributor whenever that remuneration is paid. Any amounts so deducted by an Employer Contributor shall be held by that Contributor upon trust for the Fund to be paid to the Fund in the manner and at the direction and times determined by the Trustees.
- (3) A Member shall cease to contribute if he ceases to be an Eligible Person but, if he again becomes an Eligible Person, the Member may resume contributions.

- (4) Contributions by and in respect of a Member shall not exceed any contribution limits applicable from time to time under and for the purposes of the Act and the Trustees shall refuse to accept any money or property into the Fund in respect of a Member if they consider that the acceptance thereof would prejudice the approval or acceptance of the Fund under the Act or cause the Fund to be in breach of what the Trustees believe to be a relevant requirement of the Act.
- (5) Without limiting the generality of the foregoing, if the Trustees become aware that money or property has been received into the Fund in contravention of sub-clauses (3) or (4) above, the Trustees shall as soon as practicable after becoming aware of that fact return such money or property (or money representing the value thereof) to the person from whom it was received, taking account as the Trustees think fit of any expense, loss of earnings which the Trustees consider to be attributable thereto (including any portion thereof which has been applied in acquiring any investment and which is not recovered on the disposal of such investment).

BENEFIT ACCOUNTS

Member Accounts

- 2.3 (1) **THE** Trustees shall maintain in respect of each Member -
- (a) an account to be known as the Member's Benefit Account; and
 - (b) in the case of an Employee Member, in respect of each Employer Contributor which makes Non-Vested Contributions in respect of the Member an account to be known as a Non-Vested Account (each such account to be separately identified by reference to the Member and the applicable Employer Contributor).
- (2) There shall be credited to a Member's Benefit Account -
- (a) subject to Clause 2.11, the Vested Contributions in respect of the Member;
 - (b) subject to Clause 2.15, amounts paid or transferred to the Fund in respect of the Member and credited to such Account pursuant to that Clause;
 - (c) any Surplus allocated to such Account pursuant to Clause 2.5;
 - (d) any amount to be credited to such Account pursuant to Clause 2.11(3) on account of Vested Insurance (including what was formerly Non-Vested Insurance) or on account of a Group Term Policy pursuant to Clause 2.11(4);

- (e) any amount allocated to such Account from the Reserve Account pursuant to Clause 2.4; and
- (f) any other amounts which the Governing Rules may require to be credited thereto or which the Trustees may consider it appropriate and equitable to credit thereto;

and there shall be debited to such Account -

- (i) any Deficiency allocated to such Account pursuant to Clause 2.5;
 - (ii) any amount which pursuant to Clause 2.11(1) is applied from such Account in payment of such premiums in respect of an Individual or a Group Term Policy;
 - (iii) any amount to be debited thereto pursuant to Clause 2.6 in respect of expenses of the Fund; and
 - (iv) any other amounts which the Governing Rules may require to be debited thereto or which the Trustees may consider it appropriate and equitable to debit thereto.
- (3) (a) There shall be credited to a Non-Vested Account maintained in respect of a Member and an Employer Contributor -
- (i) subject to Clause 2.11(1), the Non-Vested Contributions paid by the Employer Contributor in respect of the Member;
 - (ii) subject to Clause 2.15, any amount paid or transferred to the Fund in respect of the Member and credited to such Account pursuant to that Clause;
 - (iii) any Surplus allocated to such Account pursuant to Clause 2.5;
 - (iv) any amount to be credited to such Account pursuant to Clause 2.11(3) in respect of Non-Vested Insurance;
 - (v) any amount allocated to such Account pursuant to Clause 2.4; and
 - (vi) any other amount which the Governing Rules may require to be credited thereto or which the Trustees may consider it appropriate and equitable to credit thereto;

and there shall be debited to such Account -

- (A) any Deficiency allocated to such Account pursuant to Clause 2.5;
- (B) any amount which pursuant to Clause 2.11(1) is applied from such Account in payment of premiums in respect of an Individual or a Group Term Policy;
- (C) any amount to be debited to such Account pursuant to Clause 2.6 in respect of expenses of the Fund;
- (D) any other amounts which the Governing Rules may require to be debited thereto or which the Trustees may consider it appropriate and equitable to debit thereto.

(b) If an Employee Member -

- (i) dies or becomes Totally and Permanently Disabled while in the employ of an Employer Contributor before attaining the Normal Retirement Date; or
- (ii) retires from the employ of an Employer Contributor -
 - (A) on or after the Normal Retirement Date; or
 - (B) with the approval of the Employer Contributor, on or after the Early Retirement Date but before the Normal Retirement Date,

the Member's Non-Vested Account Balance shall be credited to the Member's Benefit Account.

(c) If an Employee Member leaves the employ of an Employer Contributor in circumstances other than those provided for in paragraph (b) above, the Member's Non-Vested Account Balance shall be applied by the Trustees in such one or more of the following ways as the relevant Employer Contributor shall direct, namely

- (i) paid to the Employer Contributor;
- (ii) credited to the Member's Benefit Account;
- (iii) credited to the Accounts of other Members and in such proportions as the Employer Contributor directs;
- (iv) credited to the Reserve Account,

PROVIDED THAT, if an Employer Contributor fails to direct the Trustees as contemplated in this paragraph within 90 days

(or such longer period as the Trustees may allow) after the date the Member leaves the employ of that Employer Contributor, the whole of the applicable Non-Vested Account Balance shall be credited to the Member's Benefit Account.

Reserve Accounts

- 2.4** (1) **THE** Trustees may establish and maintain in respect of the Fund an account to be called the Reserve Account and in circumstances and for purposes that they deem appropriate or necessary any number of Special Reserve Accounts. In the case of the Reserve Account there shall be credited to the Reserve Account -
- (a) any amount which is forfeited or deducted from a benefit or from a Member's interest in the Fund in accordance with the Governing Rules and which is not otherwise applied as provided in the Governing Rules;
 - (b) any Surplus allocated to such Account pursuant to Clause 2.5;
 - (c) any amount to be credited thereto pursuant to Clause 2.11(3), or sub-clause 3 hereof;
 - (d) any other amount which the Governing Rules may require to be credited thereto or which the Trustees may consider it appropriate and equitable to credit thereto;
- and there shall be debited to the Reserve Account -
- (a) amount applied therefrom pursuant to sub-clause 2 hereof;
 - (b) any Deficiency allocated thereto pursuant to Clause 2.5;
 - (c) any other amounts which the Governing Rules may require to be debited thereto or which the Trustees may consider it appropriate and equitable to debit thereto.
- (2) Subject to such conditions as the Trustees think fit, the Trustees may apply amount standing to the credit of the Reserve Account in such ways as will not prejudice the acceptance or approval of the Fund under the Act, including in any one or more of the following ways -
- (a) in augmenting any benefit actually or prospectively payable to or in respect of a Member or a former Member or any Dependant of a Member pursuant to the Governing Rules;
 - (b) in paying any costs or expenses of or incidental to the management and administration of the Fund; and

- (c) in stabilising the investment earnings of the Fund and in offsetting the effect on Members' Accounts of fluctuations in the value of the investments of the Fund.
- (3) If at any Balance Date or other date determined by the Trustees there is a debit balance in the Reserve Account, the Trustees may equitably reduce the Members' Accounts by the amount of such debit balance **PROVIDED THAT** the aggregate reduction in the Members' Accounts shall not exceed that required to eliminate the debit balance in the Reserve Account **PROVIDED FURTHER THAT** nothing in the Governing Rules shall preclude the Trustees from allowing the Reserve Account or any Member's Account to remain in debit for any period which the Trustees consider reasonable.
- (4) The Trustees may establish and maintain Special Reserve Accounts in respect of the Fund or any Member or Members of the Fund in circumstances and for purposes which they deem appropriate or necessary **PROVIDED THAT** the establishment and operation of any such Special Reserve Accounts shall not cause the Fund to be in breach of what the Trustees believe to be a relevant requirement of the Act.

Determination and Allocation of Surplus and Deficiency

- 2.5
- (1) AS at each Balance Date and at any other date at which the Trustees consider it appropriate to do so, the Trustees shall cause to be made a valuation of all of the assets of the Fund (not including any Individual Policy or Group Term Policy or any other policy insofar as it represents insurance solely against a contingency) as at that date and shall determine the Surplus or Deficiency which in the opinion of the Trustees it is appropriate and equitable to allocate among the Members' Accounts and the Reserve Account and such Surplus and Deficiency shall be allocated among such amounts and in such manner and in such proportions as the Trustees consider to be appropriate and equitable.
 - (2) When a benefit is required to be determined for or in respect of a Member and at such other times as the Trustees consider appropriate, the Trustees may determine or estimate the Surplus or Deficiency since the last valuation was made as aforesaid and shall allocate such of the estimated Surplus or Deficiency to that Member's Accounts and in such manner and proportions as the Trustees may consider appropriate and equitable. An estimate may be made and applied for this purpose by way of a rate of interest (which may be positive or negative) determined by the Trustees as at the preceding Balance Date or any date thereafter.
 - (3) A Surplus or Deficiency shall be determined having regard to income received, expenses incurred, interest credited or other amount payable under any policy effected or acquired by the Trustees under the Deed (not including any benefit or other amount payable under or

in respect of an Individual Policy or any benefit payable under a Group Term Policy); profits and losses on the realisation of assets of the Fund; appreciation or depreciation in the value of the assets of the Fund; and such other matters as the Trustees consider relevant, with the value of any asset being determined on such basis and in such manner as the Trustees consider appropriate.

Fund Expenses

- 2.6** IN respect of any expenses paid out of the Fund pursuant to Clause 1.10 and not paid from the Reserve Account pursuant to Clause 2.4, the Trustees shall determine the share which it is appropriate and equitable to be borne by a Member's Accounts and shall debit that share to that Member's Accounts in such proportions as the Trustees determine.

BENEFITS - GENERAL PROVISIONS

Normal Benefits

- 2.7** (1) A benefit shall become payable to or in respect of the Member as at the earliest to occur of -
- (a) the death of the Member;
 - (b) the date on which the Member satisfies the Trustees that he has retired from Gainful Employment as the result of his permanent incapacity or permanent invalidity as defined in the Act;
 - (c) the granting of approval for the payment by a Responsible Authority; and
 - (d) subject to the receipt of an appropriate request for payment by or in respect of the Member, the occurrence of another event or the existence of other circumstances upon which in the opinion of the Trustees a benefit may be paid under the Governing Rules to or in respect of a Member without prejudice to the concessions granted or available to or in respect of the Fund under the Act and without causing the Fund to be in breach of what the Trustees believe to be a relevant requirement of the Act.
- (2) Subject to the Governing Rules, the amount of such benefit shall be the Member's Benefit Account Balance.

Special Benefits

- 2.8 Any benefit that the Act allows to be paid to or in respect of a Member from time to time that is not otherwise provided for in the Governing Rules shall be payable to or in respect of that Member in accordance with the relevant provisions of the Act.

Alternative Forms of Benefits

- 2.9 (1) **SUBJECT** to the agreement of the Trustees and to Clause 2.14 and to such terms and conditions as the Trustees may impose, any person entitled to receive payment of any benefit from the Fund may elect that in lieu of the normal or specified terms and conditions of payment all or part of that benefit shall be replaced by a benefit payable in other circumstances or in another manner and form or shall be paid upon other terms and conditions. Subject as aforesaid any such election shall be final and binding on all interested persons (including without limitation all persons who may be or become contingently entitled to receive a benefit in respect of the Member making such election) and, in giving effect to and taking account of such an election, the Trustees may adjust the benefits which are or would or might otherwise become payable to or in respect of that Member or any other person then or thereafter claiming under or in respect of that Member in such manner and to such extent as the Trustees think fit.
- (2) Any benefit which pursuant to an election made under sub-clause (1) of this Clause is due and payable after the death of the Member shall be payable by the Trustees in the manner provided in Clause 2.12 of the Deed unless the terms and conditions on which that benefit was granted provide otherwise.
- (3) Notwithstanding anything expressed or implied to the contrary in sub-clause (1) of this Clause, if a Member is unable to follow Gainful Employment by reason of illness or injury the Trustees may elect to pay an income benefit to that Member during such period of illness or injury the amount of which and the terms and conditions of payment of which shall be determined by the Trustees and agreed with the Member.

Individual Portfolios

- 2.10 (1) **WITHOUT** prejudice to the Trustees' obligations under Clause 1.12(1) or their powers under Clause 2.11 -
- (a) at the request of or with the approval of the Member, the Trustees may apply all or part of the amounts credited to a Member's Benefit Account while he is a Non-Employee Member in acquiring or effecting investments in respect of the Member; and

- (b) at the request of or with the approval of the Member and his Employer Contributor, the Trustees may apply all or part of the amounts credited to a Member's Benefit Account while he is an Employee Member in acquiring or effecting particular investments of the Member; and
 - (c) any particular investments so acquired or effected in respect of a Member shall be separately identified in the Fund as being solely attributable to the Member and shall constitute a separate sub-fund to be called the "Member's Benefit Account Sub-Fund"; and
 - (d) at the request of or with the approval of the Member (and, while he is an Employee Member, his Employer Contributor), the Trustees may disband all or part of such Sub-Fund or vary or transpose any investment comprising such Sub-Fund into or for another investment which shall also form part of that Sub-Fund.
- (2) Without prejudice to the Trustees' obligations under the proviso to Clause 1.12(1) or their powers under Clause 2.11 -
- (a) at the request of or with the approval of the Employer Contributor, the Trustees may apply all or part of the amount credited to a Member's Non-Vested Account in respect of the Member;
 - (b) any particular investments so acquired in effect of a Member shall be separately identified in the Fund as being solely attributable to the Member and shall constitute a separate sub-fund to be called the "Member's Non-Vested Account Sub-Fund"; and
 - (c) at the request of or with the approval of the Employer Contributor of a Member, the Trustees may disband all or part of such Sub-Fund or vary or transpose any investment comprising such Sub-Fund into or for another investment which shall also form part of that Sub-Fund.
- (3) A Sub-Fund maintained pursuant to sub-clause (1) or (2) hereof in respect of a Member shall be applied solely in determining the balance in the Account to which that Sub-Fund relates (as aforesaid) and in providing funds for any amount payable from or to be debited against such Account. For example, that part of the Surplus or Deficiency determined pursuant to Clause 2.5 which the Trustees consider to be attributable to a particular Sub-Fund maintained in respect of a Member shall be allocated solely to the particular Account to which that Sub-Fund relates.

- (4) Notwithstanding anything expressed or implied to the contrary in this Clause, the Trustees shall disband a particular Sub-Fund otherwise established under this Clause if the Trustees believe that continued maintenance thereof will prejudice the approval of the Fund under the Act, and the Trustees may vary such a Sub-Fund as they think fit in ensuring continued compliance with the Act.

Individual and Group Term Policies

- 2.11 (1) **THE** Trustees shall pay or cause to be paid premiums in respect of a Member's Individual Policy, or the Member's equitable share (as determined by the Trustees) of the cost of insurance secured under a Group Term Policy, as follows
- (a) if and for so long as the Member is a Non-Employee Member -
 - (i) by applying for such purpose such part of the contributions paid to the Fund by and in respect of a Member while he is a Non-Employee Member as may be agreed between the Member and the Trustees from time to time; or
 - (ii) by applying for such purpose such of the other moneys of the Fund (to the extent of the credit balance in the Member's Benefit Account) as may be agreed between the Member and the Trustees from time to time;
- or
- (b) if and for so long as the Member is an Employee Member -
 - (i) by applying for such purpose such part of the contributions paid to the Fund by the Member while he is an Employee Member as may be agreed between the Member, his Employer Contributor and the Trustees from time to time;
 - (ii) by applying for such purpose such part of the Vested Contributions by an Employer Contributor in respect of the Member and, where applicable, the Non-Vested Contributions by the Employer Contributor in respect of the Member as the Employer Contributor shall direct;
 - (iii) by applying for such purpose such of the other moneys of the Fund (to the extent of the credit balance in the Member's Benefit Account) as may be agreed between the Member, his Employer Contributor and the Trustees from time to time;

- (iv) by applying for such purpose such of the other moneys of the Fund (to the extent of the credit balance in the Member's Non-Vested Account) as the Member's Employer Contributor shall direct.
- (2) Subject to sub-clause (1) hereof, payment by a Member or a Contributor of an amount direct to an Insurer in respect of premiums due under an Individual or Group Term Policy shall be deemed to constitute payment of an equivalent contribution to the Fund thereby and the application of such contribution as premiums pursuant to sub-clause (1). Notwithstanding Clause 2.3 any contributions by or in respect of a Member which are applied as premiums in respect of the Member pursuant to sub-clause (1) need not be credited to the applicable Account of the Member but any amount paid from the other moneys of the Fund pursuant to sub-clause (1) hereof shall be debited to the appropriate Account of the Member.
- (3) (a) (i) If an Employee Member -
- (A) attains the Normal Retirement Date while in the employ of an Employer Contributor; or
 - (B) dies or becomes Totally and Permanently Disabled; or
 - (C) retires from the employ of an Employer Contributor with the approval of the Employer Contributor, on or after the Early Retirement Date but before the Normal Retirement Date,
- the applicable Non-Vested Insurance (if any) shall after due account is taken of any debit balance in the Member's Non-Vested Account to be deemed to be Vested Insurance in respect of the Member and, where applicable, credited to the Member's Benefit Account.
- (ii) If an Employee Member leaves the employ of an Employer Contributor in circumstances other than those provided for in sub-paragraph (a)(i) above, the Non-Vested Insurance shall be applied by the Trustees in such one or more of the following ways as the Employer Contributor shall direct, namely -
- (A) paid or transferred (as applicable) to the Employer Contributor;
 - (B) deemed to be Vested Insurance in respect of a Member and, where applicable, credited to the Member's Benefit Account;

(C) deemed to be Vested Insurance or Non-Vested Insurance in respect of other Members in such proportions as the Employer Contributor directs and, where applicable, credited to the Accounts of such other Members;

(D) credited to the Reserve Account,

PROVIDED THAT, if an Employer Contributor fails to direct the Trustees as contemplated herein within 90 days (or such longer period as the Trustees may allow) after the Member leaves the employ of that Employer Contributor, the whole of the applicable Non-Vested Insurance shall be deemed to be Vested Insurance in respect of the Member and, where applicable, shall be credited to the Member's Benefit Account.

(b) Money which comprises a Member's Vested Insurance (including any benefit payable under a Vested Policy and the proceeds of cancellation of a Vested Policy) shall be credited to the Member's Benefit Account.

(c) If a benefit becomes payable under the Governing Rules to or in respect of a Member in respect of whom the Trustees hold a Vested Policy but no benefit is then payable under the terms of the Vested Policy, the Trustees shall not pay any further premiums in respect of that Policy and, where in the event of the cancellation of that Policy an amount would be payable by the Insurer, the Trustees shall -

(i) in the case of a benefit payable from the Fund on the death of the Member, cancel the Policy and credit the proceeds of cancellation to the Member's Benefit Account; or

(ii) in the case of any other benefit and after taking due account of any debit balance in the Member's Benefit Account, do whichever of the following as the Member shall direct (or, in the absence of a direction by the Member within such period as the Trustees consider reasonable, as the Trustees determine), namely -

(A) assign the Policy to the Member in his own right;
or

(B) cancel the Policy and credit the proceeds of cancellation to the Member's Benefit Account.

- (d) Without prejudice to the foregoing, the Trustees may cancel, vary or replace in whole or in part any Individual Policy to such extent and in such circumstances as the Trustees consider necessary, desirable or expedient in giving effect to this sub-clause. If any doubt or dispute arises as to whether or what portion of an Individual Policy or the proceeds thereof constitutes Vested or Non-Vested Insurance, the decision of the Trustees shall be final and binding.
- (4) Any benefit payable in respect of a Member under a Group Term Policy effected or acquired by the Trustees shall be credited to the Member's Benefit Account.

Payment of Benefits on Death

- 2.12 (1) **UNLESS** the conditions upon which a benefit is payable specify otherwise benefits payable upon the death of a Member shall be payable by the Trustees to or for the benefit of such one or more Dependants of the Member or to the legal personal representatives of the Member to the exclusion of the other or others of them in such shares and proportions as the Trustees shall in their absolute discretion decide **PROVIDED THAT** if after reasonable enquiry the Trustees determine that the deceased Member left no Dependants or that there are no Dependants of the deceased Member then surviving whose existence identity and whereabouts are sufficiently and satisfactorily known to the Trustees and the Trustees are unable to locate any legal personal representative of the Member or are of the opinion that no legal personal representative has been appointed and that it is unlikely that one will be appointed then at the expiration of such period of time as the Trustees shall determine the benefit or any part thereof which would otherwise have been payable to the Dependants or legal personal representatives of the Member pursuant to this sub-clause shall cease to be payable and shall be retained in the Fund for the general purposes thereof but notwithstanding anything expressed or implied to the contrary in this sub-clause the Trustees shall have power in their discretion to pay the relevant benefit in whole or in part at a later date to the Dependants or legal personal representatives of the Member and **PROVIDED FURTHER THAT** where in consequence of the exercise of the Trustees' discretion any sum is payable to or for the benefit of or in respect of a minor the Trustees may pay the same to the person appearing to the Trustees to be the parent or guardian or the person having the actual custody or control of such minor or with whom such minor is residing on behalf of such minor and the receipt of such person for any moneys so paid shall be a good discharge to the Trustees therefor and the Trustees shall not be bound to see to the application thereof.

- (2) The Trustees may by resolution agree in respect of any or all Members of the Fund that they will accept direction from the relevant Member as to payment of the benefits due from the Fund upon the Member's death. Following the making of such a resolution the Trustees shall ensure that the Fund meets all relevant requirements of the Act.

Payment of Benefits by Transfer of Investments

- 2.13 **THE** Trustees may with the agreement of the person to whom a benefit is payable pursuant to the Governing Rules transfer any of the investments of the Fund of equivalent value to such person in lieu of paying all or any part of the amount of the benefit otherwise payable **PROVIDED THAT** such transfer will not cause the Fund to be in breach of any relevant requirement of the Act. For the purposes of this Clause the value placed on any investments to be so transferred shall (unless the Trustees otherwise determine) be the same as the value placed on those investments when the Trustees last valued the assets of the Fund for the purposes of the relevant provisions of Clause 2.3.

Restrictions on Benefits

- 2.14 (1) **NOTWITHSTANDING** anything expressed or implied to the contrary in the Governing Rules -
- (a) no benefit or other amount shall be paid or provided from the Fund to or in respect of any person in any circumstances, of any amount or in any manner or form which in the opinion of the Trustees will prejudice the granting or continuance of any concession for or in respect of the Fund under the Act or cause the Fund to be in breach of what the Trustees believe to be a relevant requirement of the Act; and
 - (b) no amount shall be deducted from any benefit and no part of any benefit shall be forfeited for any reason where, in the opinion of the Trustees, to do so would prejudice the granting or continuance of such a concession or cause any such breach.
- (2) In order to ensure compliance with sub-clause (1) of this Clause -
- (a) where a benefit must be preserved the Trustees shall preserve that benefit either within or (where applicable with the consent of the Member) without the Fund, in such manner and form, by way of such arrangements and subject to such conditions as will ensure such compliance; and

- (b) in any case the Trustees may take such actions as they see fit in ensuring such compliance or preserving a benefit as aforesaid, including without limitation adjusting the amount or terms of payment of benefits in such manner, to such extent and by way of such arrangements as they consider appropriate;

and any decision by the Trustees for the purposes of this Clause shall be final and binding on all interested persons.

Transfers from Other Funds

2.15 **SUBJECT** to such terms and conditions as the Trustees think fit (including without limitation such conditions as are necessary to secure or protect concessions granted or available to or in respect of the Fund under the Act or in order to comply with what the Trustees believe to be a relevant requirement of the Act) the Trustees may make or carry into effect an arrangement with the trustees of another superannuation fund or benefit arrangement (which for the purposes of this Clause shall be deemed to include an Approved Deposit Fund) and/or any person who is a participant or former participant in such other superannuation fund or benefit arrangement whereby an agreed sum or agreed assets shall be paid into or transferred to the Fund and such person shall if he is not already a Member and notwithstanding the other provisions of the Governing Rules be admitted as a Member. Any amount so paid or the value of any assets so transferred (as determined by the Trustees) shall be applied by the Trustees to provide benefits for and in respect of the Member -

- (a) in the case of a Member who is an Employee Member as at the date of such transfer, as shall be determined by the Trustees and approved by the Employer Contributor of the Member; or
- (b) in any other case, as shall be determined by the Trustees.

Transfers to Other Funds

2.16 (1) **IF** a Member is or becomes a participant in another fund or benefit arrangement to or towards which a payment or transfer may be made hereunder without prejudice to the continued approval of the Fund under the Act, the Trustees with consent of the Member may pay or transfer to or towards that other fund or benefit arrangement money or property representing -

- (a) in the case of a Member who is presently beneficially entitled to receive a benefit from the Fund under the Governing Rules, the whole or part of that benefit; or
- (b) in any other case, the whole or part of -
 - (i) the Member's Benefit Account Balance and his Vested Insurance; and

- (ii) in the case of an Employee Member, with the approval of the Employer Contributor and subject to such conditions as the Employer Contributor may impose, the Member's Non-Vested Account Balance and his Non-Vested Insurance.
- (2) The Trustees may impose such conditions as they think fit in relation to such payment or transfer (including without limitation such conditions as are necessary to ensure that the Fund continues to be approved under the Act) and may effect the same by way of payment of money and/or transfer of assets. The receipt of the trustees of, or any person responsible for, another fund or benefit arrangement (including, in the case of an annuity effected in respect of the Member, the body providing that annuity) shall be a sufficient discharge to the Trustees and the Trustees shall not be in any way responsible for the application or disposal by such other trustees or other responsible person of money or assets so paid or transferred. Upon the completion of such a payment or transfer in respect of a Member, all of the rights and interests of the Member under the Deed (and all of the rights and interests of any other person otherwise entitled to claim under or in respect of that Member) shall be entirely extinguished or (in the case of a partial transfer as aforesaid or in other special circumstances determined by the Trustees) shall be adjusted in such manner and to such extent (if any) as may be determined by the Trustees.
- (3) Notwithstanding anything expressed or implied to the contrary in sub-clauses (1) and (2) of this Clause, the Trustees shall not permit a transfer to be made under the provisions thereof unless they are satisfied that the other fund or benefit arrangement contains suitable provisions which limit the payment of the amount so transferred to circumstances identical (or as similar thereto as practicable) to those specified under the relevant provisions of the Deed.

Deductions from Benefits

- 2.17 (1) **NOTWITHSTANDING** anything expressed or implied to the contrary in the Governing Rules but subject always to the provisions of Clause 2.14 of the Deed, the Trustees may deduct from any benefit which but for this Clause would be or could become payable to or in respect of a Member or from that Member's interest in the Fund (as the case may require) and may retain in the Fund any amount which the Trustees determine is owing to the Trustees or the Fund by that Member either solely or in conjunction with any other person on any account whatsoever (including interest at a rate which the Trustees consider appropriate).

- (2) In giving effect to and taking account of this Clause, the Trustees may adjust the rights and interests of such a Member (and of any person otherwise entitled to claim under or in respect of the Member) in such manner and to such extent as the Trustees consider appropriate and equitable.

Taxation

- 2.18** IF any tax or other government imposition shall be payable in respect of any benefit due to any person from the Fund or otherwise in relation to any matter affecting the operation of the Fund then the Trustees shall deduct or arrange to have deducted the amount of any such tax or other imposition (including any interest payable thereon) and account for the same to the proper authorities.

Postponement of Benefit Payments

- 2.19** **NOTWITHSTANDING** anything expressed or implied to the contrary in the Governing Rules but subject always to the provisions of Clause 2.14 of the Deed, the Trustees -

- (a) for the purpose of facilitating the administration of the Fund postpone the commencement of the payment of any benefit under the Fund for any period not exceeding six months after the happening of the event upon which the benefit becomes payable and may either make such payment themselves or cause or arrange for the same to be made for and on their behalf; or
- (b) may at the request in writing of any person entitled to receive the payment of a lump sum benefit from the Fund withhold payment of that benefit for such period of time as shall be agreed between the Trustees and the person so entitled as aforesaid;

PROVIDED THAT the Trustees may add interest at such rate or rates and at such intervals as the Trustees in their absolute discretion shall determine to any benefit the payment of which is postponed or withheld pursuant to paragraph (a) or (b) of this Clause **PROVIDED FURTHER THAT** in any case where the Trustees decide to add interest the Trustees shall not be obliged to add interest to any such benefit the payment of which is postponed or withheld as aforesaid for a period of less than 30 days after the date on which it first became due for payment.

Proofs

- 2.20** (1) ANY person appearing purporting or claiming to be qualified or entitled to any benefit from the Fund shall on request produce to the Trustees such evidence do such acts and execute such documents as the Trustees may reasonably require.

- (2) Whenever it shall be necessary for the Trustees to decide questions of fact they may act upon such proofs and presumptions as they may deem satisfactory whether the same be strictly legal proofs or legal presumptions or not.

No Personal Claim

- 2.21 **NO** Member or person claiming through or under a Member or on behalf of a Member or as a Dependant of a Member shall be entitled to require any payment from the Fund except as may be expressly provided in the Governing Rules.

THE APPENDIX

Name of Fund: THE BUTTFIELD
SUPERANNUATION FUND

Founder: GREGG ERIC BUTTFIELD
PRUDENCE ANN BUTTFIELD

Commencing Date: 12 April 1996

Balance Date: 30th June, Each Year

Date of Original Deed: 12 April 1996

Date of Execution: 16 June 2008

Normal Retirement Date: The date of attainment of age 65 years

Trustees: GREGG ERIC BUTTFIELD
PRUDENCE ANN BUTTFIELD

IN WITNESS WHEREOF these presents were duly executed the
day of 16th June, 2008

SIGNED SEALED and DELIVERED

by the said GREGG ERIC BUTTFIELD

in the presence of


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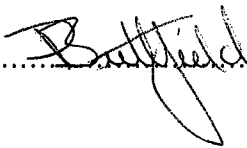
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R.W. Galm
WITNESS

SIGNED SEALED and DELIVERED

by the said PRUDENCE ANN BUTTFIELD

in the presence of


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R.W. Galm
WITNESS