

C B SERVICES PTY LTD
Level 9 Toowong Tower
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TOOWONG QLD 4066

**Zaris
Superannuation Fund No 2**

**TRUST DEED
AND
RULES
OF**

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NOT FOR PUBLICATION
10.11.93
Dr. J. D. D. K.

TRUST DEED made 15th May 1993

PARTIES The Principal Employer and the associated employers referred to in Items 1 and 2 of the First Schedule
AND The Trustee or Trustees referred to in Item 3 of the First Schedule

INTRODUCTION

A. The Principal Employer has agreed to establish an indefinitely continuing fund to be known by the name referred to in Item 4 of the First Schedule to provide individual personal retirement and other benefits for such of the Employees of the Principal Employer and of any Associated Employer as shall become members of the Fund and for the Dependents of those Employees.

B. The Trustee has agreed to act as the first Trustee of the Fund.

IT IS COVENANTED AND AGREED:

SECTION 1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed unless the context otherwise indicates:

(1) "Actuary" means the actuary for the time being of the Fund appointed by the Trustee being a person who is ordinarily resident in Australia and is a Fellow of the Institute of Actuaries of Australia or some other qualified person approved by a Relevant Authority.

(2) "Approved Auditor" means an independent registered auditor, or any other person acceptable to a Relevant Authority not being a person or firm acting as or for the Trustee.

(3) "Approved Deposit Fund" means a fund which is a complying approved deposit fund pursuant to the *Tax Act*.

(4) "Associated Employer" means any company or other employer which is a subsidiary of or is associated in business with the Principal Employer, or which is permitted by any regulations issued by a Relevant Authority, or was previously permitted by the *Tax Act* to be a contributor to the Fund and is declared by the Principal Employer to be an Associated Employer.

(5) "Category A Member" means an Employee who has become a Member of the Fund in accordance with clause 3.5 of this Deed and who is deemed to be a Category A Member by reason of that Employee being a salaried director of the Employer or who is designated to be such a Member by the Employer.

(6) "Category B Member" means an Employee who has become a Member of the Fund in accordance with clause 3.5 of this Deed and who has been classified as a Category B Member by the Employer.

- (a) a savings bank or trading bank as defined by subsection 5(1) of the *Savings Bank Act 1959*, or
- (b) a public authority constituted by a law of a State or Territory being a public authority that carries on banking businesses.
- (18) "Employee" means an Employee in Australia who is in the regular employment of the Employer and includes a person who is a full-time or part-time salaried director of the Employer.
- (19) "Employer" means the Principal Employer and any Participating Employer which shall have agreed to adopt this Fund for those of its Employees eligible to join the Fund under the terms of the said agreement and the provisions of the Deed. Except where the context requires otherwise, reference to the Employer shall mean reference to the Employer of the Member.
- (20) "Employer Representative" means in relation to a board of trustees of a superannuation fund, the board of a body corporate acting as the sole trustee of a superannuation fund or a management board that exercises actual control over the policies of a superannuation fund, a member of that board or body nominated by the Employer or Employers of the Members of the Fund or by an organisation nominated by that Employer or those Employers as representing the interests of that Employer or those Employers.
- (21) "Final Average Salary" means the highest average Salary of a Member in respect of any consecutive period of 3 financial years during the last 10 years of that person's term of employment with the Employer and where the term of employment is less than 36 calendar months it shall be the average monthly salary in respect of the period of employment multiplied by 12.
- (22) "Fund" means the fund established by this Deed.
- (23) "Fund Service" means the sum in completed years and months of the following –
- (a) The continuous period of Service between –
- (i) the date specified by the Trustee as the date from which membership of the Fund commenced, and
- (ii) the Normal Retirement Date.
- (b) Subject to the provisions of clause 6.18 of this Deed such other periods as are arranged between the Member and the Employer and agreed to by the Trustee provided that should Fund Service exceed Service the Trustee will request the approval of a Relevant Authority.
- (24) "Fund Year" means a period that is a year of income in relation to the Fund for the purposes of the *Tax Act*. Unless the Trustee otherwise determines this will be a period of 12 calendar months ending on 30 June

to the Fund and is declared by the Principal Employer to be a Participating Employer.

(35) "Policy" means any policy of assurance including a policy on the life of a Member for endowment term disablement accident or sickness insurance affected either as an individual policy or as a group policy and includes any policy covering any two or more of the foregoing risks.

(36) "Preserved Payment" means a payment made to the Fund by an Employer or a Member or by transfer from any Other Fund which is to be preserved as provided for in this Deed in order for the Fund to obtain the maximum income tax concessions as a result of -

(a) it being required by any Relevant Authority or government legislation to be preserved, or

(b) an agreement between an Employee and a Member with respect to the provision of superannuation benefits.

(37) "Preserved Payment Benefit" means a benefit arising from a Preserved Payment.

(38) "Principal Employer" means the Principal Employer named in Item 1 of the First Schedule until such date (if ever) as another employer assumes the office and functions of Principal Employer pursuant to the provisions contained in this Deed and thereafter Principal Employer shall mean that employer which for the time being is successor to the Principal Employer named in Item 1 of the First Schedule with the office and functions of Principal Employer.

(39) "Relevant Authority" means the Commissioner of Taxation, the Insurance and Superannuation Commissioner or such other government authority empowered to act or set guidelines in the area of superannuation.

(40) "Reserve Account" means the account established under clause 7.9 of this Deed.

(41) "Roll-over Payment" means any payment made by or received by the Trustee at the request of a Member or former Member or in any other circumstances acceptable to a Relevant Authority to or from any one or more of the following -

(a) an Approved Deposit Fund,

(b) any Other Fund, or

(c) an authorised organisation for the purchase of an Annuity.

(42) "Salary" means the ordinary annual rate of salary of a Member for services rendered or work done in the employment of the Employer including fees payable as a director of the Employer, bonuses, commissions and other emoluments of a like nature but not including payments for overtime. In special circumstances a Member's salary shall be determined by the Employer.

2.3 In the event that the Principal Employer's business is acquired by another Employer (or in the event that another Employer employs more than one half of the persons who are members of the Fund) then the Trustee may elect to accept the performance by that other Employer of the obligations of the Principal Employer in this Deed in lieu of performance by the Principal Employer. Such acceptance by the Trustee shall discharge the Principal Employer from any further obligations under this Deed to the extent that the Deed shall then be read and construed as if such assignee or other Employer were substituted for the Principal Employer.

(2) The Trustee hereby declares that it will hold the Fund upon the covenants and conditions and subject to the trusts, powers, authorities and discretions set out in this Deed.

2.2 (1) The Fund shall be vested in and controlled and administered by the Trustee of the Fund from time to time.

2.1 The Fund shall be deemed to come into operation as from the Commencement Date.

SECTION 2. ESTABLISHMENT

1.8 This Deed shall be governed by the law of Queensland.

1.7 Headings are inserted for guidance only and do not affect the content of any clauses. References to clauses schedules and annexures shall be construed as references to clauses of and schedules and annexures to this Deed.

1.6 Words importing the singular include the plural and vice versa.

1.5 Words importing any gender include all other genders.

1.4 References to any statute or statutory provision include all consolidations re-enactments and substitutions thereof all as amended from time to time and the regulations by-laws and orders for the time being in force thereunder.

1.3 References to a corporation have the same meaning as in the *Corporations Law*.

1.2 References to a person include a corporation partnership incorporated association body corporate unincorporated body instrumentality of the Crown and any statutory public or local authority.

(48) "Trustee" means the first Trustee or Trustees or such other Trustee or Trustees for the time being of the Fund.

(b) if the Trustee so determines total and permanent disablement as defined in any Policy effected in respect of that Member.

(a) physical or mental incapacity of such degree that two registered medical practitioners have certified that in their opinion the Member is incapable of continuing to engage in that Member's current employment with an Employer, or

(47) "Total and Permanent Disablement" means either -

3.8 A Member who has ceased employment with the Employer may subject to agreement with the Trustee and the Employer retain membership within the Fund.

Admission of Members

3.9 The Trustee may make such arrangements about any matter as it thinks proper with an Employee or any previous employer of the Employee or the trustee of any superannuation or pension fund or Approved Deposit Fund of which the Employee was a member or the approved trustee of an Eligible Annuity or any of them which in the opinion of the Trustee is incidental to or consequent upon the membership of such Employee in the Fund and the Trustee will confirm in writing with the Employee the arrangements made.

Transfers from Any Other Fund

3.10 Where a Member is or was a member of any other superannuation arrangement including an Approved Deposit Fund or Eligible Annuity and the Trustee accepts an amount or asset from such previous fund paid for the credit of this Fund the Trustee shall provide the Member with additional or accrued benefits in such manner as it shall determine. If the transfer occurs from a fund which cannot pay benefits prior to the Member's attainment of age 55 that portion of the benefit payable under this Deed arising from the aforesaid transfer as determined by the Trustee shall not be payable to or in respect of the Member until his attainment of age 55 and/or his retirement from the workforce depending on the rules applicable to that amount transferred from the fund except in the event of death or total and permanent disablement or such other circumstances as permitted by a Relevant Authority. Any amount in respect of a Member transferred to this Fund that is required to be preserved shall be dealt with in accordance with the relevant legislation or guidelines as issued by a Relevant Authority.

3.11 If the Trustee so determines the Member shall be deemed to have become a Member of the Fund on the date that Member became a member of the other superannuation arrangement from which the transfer was made.

Arrangements with Members

3.12 The Trustee may with the agreement of a Member and the Employer make such arrangements with the Member as it thinks proper to vary the benefits and/or contributions otherwise payable in respect of him under this Deed, and may make arrangements about any other matters incidental thereto or consequent thereon as it thinks fit and will confirm in writing to the Member the arrangements made.

Retention of Benefits and Transfers to Other Funds

3.13 Should a Member either:

- (1) (a) leave the Service and request all or part of his benefit to be retained in the Fund; or
- (b) subject to clauses 3.8 and 3.12 a Member may request the transfer of benefits from Other Funds including a Roll-over Payment to this Fund;

3.15 In other circumstances where the Trustee is satisfied that a Member withdrawing from the Service is likely to return to the service within a reasonable period, it may make such arrangements in regard to the Member's Service and accrual of benefits as it considers appropriate.

Preservation of Benefits

3.16 Subject to the operation and effect of clause 13.23 the entire amount standing in a Member's Industrial Award Contribution Account except to the extent to which those benefits become payable on the retirement of the Member from the workforce before attaining the age of 55 years shall be preserved until the Member has attained the age of 55 years and retired from the workforce except in the event of death or total and permanent disablement or permanent departure of the Member from Australia or in such circumstances as are permitted by legislation or any Relevant Authority.

3.17 Subject to the operation and effect of clause 13.23 but otherwise notwithstanding the provisions of this Deced providing for the payment of benefits no Preserved Payment Benefit shall be paid until the Member has attained the age of 55 years and retired from the workforce except in the event of death or Total and Permanent Disablement or permanent departure of the Member from Australia or in such other circumstances as are permitted by legislation or any Relevant Authority. This provision shall not operate to the extent to which those benefits become payable on the retirement of the Member from the workforce before attaining the age of 55 years in the form of a non-commutable pension payable for life.

3.18 Subject to the operation and effect of clause 13.23 any Preserved Payment Benefit shall be dealt with in accordance with the relevant legislation or guidelines as issued by a Relevant Authority. Any such benefit shall only be transferred to any Other Fund (which under the OSSA would be eligible to accept such a transfer) if it is a condition of such transfer that the benefit required to be preserved when transferred shall except to the extent to which those benefits become payable on the retirement of the Member from the workforce before attaining the age of 55 years in the form of a non-commutable pension payable for life be preserved until the Member has attained the age of 55 years and retired from the workforce except in the event of death or total and permanent disablement or permanent departure of the member from Australia or in such other circumstances as are permitted by legislation or any Relevant Authority and if it is a condition of such transfer that the benefit will not be transferred from the transferee fund except on the aforesaid terms and conditions.

SECTION 4. BENEFIT ENTITLEMENT

Normal Retirement

4.1 A Member who retires from Service at his Normal Retirement Date shall be entitled to receive a Normal Retirement Benefit.

Postponed Retirement

4.2 A Member who retires from Service after his Normal Retirement Date shall be entitled to receive a Postponed Retirement Benefit.

SECTION 5. DETERMINATION OF BENEFITS

Abbreviations

5.1 For the purpose of determining benefits in clauses 5.2 to 5.30 of this Deed the following abbreviations have been used:

(1) "NRRPF" is the Normal Retirement Pension Factor and shall be -

(a) in respect of a Category A Member 3.75% multiplied by his period of Fund Service,

(b) in respect of a Category B Member 1.00% multiplied by his period of Fund Service,

(c) in respect of a Category C Member 1.50% multiplied by his period of Fund Service, and

(d) in respect of a Category D Member .50% multiplied by his period of Fund Service.

(e) in respect of a Category E Member 2.00% multiplied by his period of Fund Service.

Subject to a maximum of 75% or any greater or lesser amount approved by the Trustee and a Relevant Authority from time to time.

For a Category J Member NRRPF is the Normal Retirement Pension Factor determined according to this clause assuming the Member had remained in the Category to which he belonged immediately prior to his request to transfer to Category J;

(2) "FAS" is current Final Average Salary;

(3) "SAL" is projected Final Average Salary at Normal Retirement Date assuming current salary remains unaltered;

(4) "t" is completed Fund Service at date of termination of Service;

(5) "n" is prospective Fund Service as at the date of entry to the Fund;

(6) "v" is 0.0 for Category A Members and 0.02 for Category B, C, D and E Members;

(7) "R" is the resignation factor in the Vesting Schedule to this Deed against the appropriate entry for complete years of Fund Service;

(8) "K" is the credit in the Member's Contribution Account at date of termination;

(9) "I" is the credit in the Member's Industrial Award Contribution Account at date of termination;

5.9 In other circumstances if a Member continues in the Service past his Normal Retirement Date both Member and Employer contributions shall cease and his benefit shall be an annual pension or lump sum depending on the Member's Category. This benefit shall be an amount determined by the Trustee as being of equivalent value to the value of his benefit at Normal Retirement Date increased with interest to his actual date of retirement.

Early Retirement Benefit

5.10 Subject always to the provisions of clauses 6.5, 6.18 and 11.7 of this Deed a Category A, B, C, D or E Member's Early Retirement Benefit shall be an annual pension equal to:

$$\text{NRPF} \times \text{FAS} \times t/n \times [1 - (n - t) \times V] + k + i$$

5.11 Subject always to the provisions of clause 6.18 of this Deed a Category I Member's Early Retirement Benefit shall be a lump sum equal to:

$$K + I$$

5.12 Subject always to the provisions of clauses 6.2, 6.18 and 11.7 of this Deed a Category J Member's Early Retirement Benefit shall be a lump sum equal to:

$$10 \times \text{NRPF} \times \text{FAS} \times t/n [1 - (n - t) \times V] + K + I$$

5.13 The Trustee may increase the lump sum payable to a Category J Member by such amount as it considers fair and equitable.

Spouse's Benefit

5.14 The Spouse's benefit payable in respect of a Member who dies whilst in receipt of a pension from the Fund, shall be a lump sum determined by the Trustee pursuant to this Deed.

Total and Permanent Disablement Benefit

5.15 Subject always to the provisions of clauses 6.17 and 6.18 of this Deed the Total and Permanent Disablement Benefit in respect of a Category A Member or a Category J Member who was formerly a Category A Member shall be a lump sum being equal to either:

(1) $(\text{NRPF} \times \text{SAL} \times 14/1.5) + K + I$; or

(2) such other amount as advised by the Employer + K + I.

5.16 Subject always to the provisions of clauses 6.17 and 6.18 of this Deed the Total and Permanent Disablement Benefit in respect of Category B, C, D or E Member or a Category J Member who was formerly a Category B, C, D or E Member shall be a lump sum being equal to either:

(1) $10 \times \text{NRPF} \times \text{SAL} + K + I$; or

(2) such other amount as advised by the Employer + K + I.

equal to the sum of those remaining instalments of pension the Member would have received had the Member survived that minimum period.

5.24 On the death of a Category A Member or former Category A Member an additional death benefit equal to an amount (if any) as determined by the Trustee representing the Member's share of assets of the Fund will be paid.

Withdrawal Benefit

5.25 Subject always to the provisions of clauses 6.2, 6.18 and 11.7 of this Deed the Withdrawal Benefit of a Category A Member or a Category J Member who was formerly a Category A Member shall be a lump sum equal to the product of:

(1) the value of the Early Retirement Benefit determined according to clause 4.3 of this Deed; and

(2) a factor not greater than 1.0 as determined by the Trustee taking into account the Fund Service still to be completed and the value of the pension at the Normal Retirement Date.

5.26 Subject always to the provisions of clauses 6.2, 6.18 and 11.7 of this Deed the Withdrawal Benefit of a Category B, C, D or E Member or a Category J Member who was formerly a Category B, C, D or E Member shall be a lump sum equal to:

$$\text{NRPF} \times 10 \times \text{FAS} \times \frac{1}{n} \times [1 - (n - t) \times V] \times R + K + I$$

5.27 Subject always to the provisions of clauses 6.2, 6.18 and 11.7 of this Deed the Withdrawal Benefit of a Category A, B, C, D or E Member or a Category J Member can be increased at the discretion of the Trustee with the approval of the Employer to an amount as determined by the Trustee with the maximum total amount payable being equal in value to the Member's share of the assets of the Fund.

5.28 Subject always to the provisions of clause 6.18 of this Deed the Withdrawal Benefit of a Category I Member shall be lump sum equal to:

$$K + I$$

Temporary Disablement Benefit

5.29 Subject always to the provisions of clauses 6.5, 6.17 and 6.18 of this Deed the Temporary Disablement Benefit of a Member shall be a monthly income of such amount as shall be determined by the Trustee in its absolute discretion, but shall not exceed unless the Employer and Trustee agree 75% of the Salary of the Member (expressed as a monthly amount) at the date of commencement of his Temporary Disablement and shall cease when one of the following occurs:

- (1) the Member dies;
- (2) the Member is classified as being Totally and Permanently Disabled;
- (3) the Member retires;
- (4) the Member is classified as no longer being Temporarily Disabled;

Spouse may be entitled or such other amount which may be approved by the Trustee and a Relevant Authority. The commuted value of part or all of a pension shall be determined by the Trustee.

6:8 If part of a pension is commuted a member may elect:

- (1) to have the pension payments reduced proportionately; or
- (2) to have the pension deferred for such times as agreed between the Member and the Trustee and during such period the Trustee shall increase the value of the benefit with interest; or
- (3) to have some combination of reduced and deferred pension.

Death Benefit

6:9 Notwithstanding any other provision of this Deed where a Member dies whilst in receipt of a pension from the Fund the Spouse, Dependants or Beneficiaries of the Member shall only be entitled to a lump sum benefit of an amount determined by the Trustee pursuant to this Deed.

Alternative Forms of Benefit

6:10 A person entitled to a pension from the Fund may with the agreement of the Trustee arrange to vary the amount of the pension and the contingencies on which payment of the pension depends provided that the value of the entitlement is unaltered and either:

- (1) the annual amount of the pension is not increased; or
- (2) such variation is approved by a Relevant Authority.

6:11 A person entitled to a lump sum may with the agreement of the Trustee arrange to receive in lieu a pension of equivalent value.

Variations

6:12 Subject to the approval of the Employer the Trustee may increase the amounts of the pensions being paid from the Fund by an amount equal to any percentage increase in the Consumer Price Index (All States) or such other Index the Trustee considers appropriate which has occurred since the later of the date of any previous increase made under this clause or the date at which each such pension first commenced to be paid.

Payment of Death Benefit

6:13 The death benefit shall be paid by the Trustee to any one or more of the following persons and in such proportions as it shall in its absolute discretion think fit:

- (1) the Designated Beneficiary; and
- (2) all or any of the Dependants of the Member.

not exceed the maximum reasonable benefits as set out in guidelines or regulations issued by a Relevant Authority. If the Trustee considers that the benefit or Fund assets in respect of any one or more Members is or will at some future time become excessive the Trustee may take such of the following actions which in its absolute discretion it determines:

- (1) limit or decline any further contributions for the benefit of the Member to this Fund;
 - (2) transfer the excess portion of the Member's Benefits or assets from this Fund to an excessive benefits fund established for this purpose; or
 - (3) repay all or part of the excessive benefits to an Employer and where required give notification of the repayment to a Relevant Authority.
- The Trustee shall inform a Member of any reduction, limitation or modification of his entitlement under this Deed arising from the operation of this clause.

Discharge

6.19 Payment or transfer to the Member or his Dependents of the benefit to which the Member or his Dependents are entitled under the terms of this Deed shall discharge the Trustee and neither the Trustee nor the Employer shall be in any way responsible for the payment, transfer or disposal by the Member or his Dependents of such portion of the assets of the Fund so paid or transferred.

Income Tax

6.20 The Trustee may deduct from any benefit contribution or payment under this Deed any form of taxation payable from or in respect of the payment and shall remit any amount so deducted to the Commissioner of Taxation.

Payment in Specie

6.21 The Trustee may with the agreement of the Member or person to whom a benefit is payable transfer investments of the Fund of equivalent value to such Member or person in lieu of paying the whole or part of the amount otherwise payable under the provisions of this Deed provided that the Trustee receives from a Relevant Authority an acknowledgment that such transfer will not cause the Fund to fail to satisfy the complying superannuation fund conditions of the OSSA.

Payment of Benefit to Minors

6.22 When any beneficiary is under the age of 18 years the Trustee may pay all or part of a benefit to any other person for application on behalf of the beneficiary and or to his Dependents and the receipt of the person to whom the benefit is paid shall be a complete discharge to the Trustee for the payment in respect of the beneficiary. The Trustee shall not be bound or concerned to see to the application of the benefit.

Suspension and Forfeiture of Benefits

6.23 Benefits payable out of the Fund shall be suspended if the person otherwise entitled hereto:

Forfeited Benefits

6.28 Where any benefit paid to a Member on termination of employment is less than the full value of that Member's interest in the Fund the amount of the excess shall be applied within 2 months of the end of each Fund Year in one or more of the following ways which the Trustee in its discretion determines:

- (1) as an allocation between the Members' Contribution Accounts or Industrial Award Contribution Accounts as the Trustee determines to be appropriate and equitable between the Members;

- (2) to reduce the amount of the Employer's contributions to the Fund;

- (3) to meet the administrative expenses of the Fund;

- (4) to provide assistance to Members in the case of financial hardship, sickness, accident or other misfortune causing hardship; or

- (5) in such other manner that is approved by a Relevant Authority.

Entitlement

6.29 All questions as to whether any person is entitled to a payment out of the Fund and if so the amount of such payment shall be determined by the Trustee whose decision shall be final.

Commencement of Benefit

6.30 Subject to the operation and effect of clause 13.23 but otherwise notwithstanding any provision of this Deed to the contrary any pension that a Member or the Dependants of a Member have a right to receive from the Fund must commence to be paid and any other benefits that a Member or the Dependants of a Member have a right to receive from the Fund are to be paid not later than the 65th birthday of the Member or at any other time that is acceptable to any Relevant Authority.

SECTION 7. CONTRIBUTIONS

Member Contributions

7.1 Subject to any arrangements made in respect of a Category A, B, C, D, E, I or J Member in accordance with the provisions of this Deed a Category A, B, C, D, E, I or J Member at his complete and unfettered discretion may from the date of joining the Fund or such other date contribute to the Fund during his Service before his Normal Retirement Date an amount as determined by him from time to time and agreed to by the Trustee.

7.2 Unless the Employer otherwise determines or the law does not allow a Member's contributions shall be deducted from his Salary. If the Employer otherwise determines or the law does not allow the deductions the Member shall pay his contributions to the Employer when he receives each payment in respect of his Salary. The Employer shall pass on Members' contributions to the Trustee in such manner and at such times as is agreed upon between the Employer and the Trustee.

- (8) any death or disability insurance premiums in respect of the Member as the Trustee determines at his discretion should be debited to the account provided that the Member has approved the provision of such death or disability cover; and
- (9) any other amounts payable out of the Fund in respect of the membership of a Member which at the discretion of the Trustee should be debited to his Member's Contribution Account.

Industrial Award Contribution Account

7.8 There shall be established an Industrial Award Contribution Account for each Member in respect of whom contributions are made pursuant to an Industrial Award to which shall be credited:

- (1) the contributions made by his Employer under clause 7.4 of this Deed;
- (2) the share of income to be credited to the account determined at the Net Earning Rate of the Fund;
- (3) the proceeds of any Policy to the extent that premiums for such Policy have been deducted from this account;
- (4) any amount transferred from another superannuation fund where the amount so transferred represents the Member's Industrial Award Contribution Account within that fund or any other benefit which is required to be preserved under similar terms and conditions; and
- (5) any other amounts determined by the Trustee

and to which shall be debited:

- (6) any benefits or amounts payable to or in respect of the Member under this Deed which the Trustee determines should be debited to his Industrial Award Contribution Account;
- (7) a proportion of any negative earnings of the Fund determined by the Trustee and attributable to the Member's Industrial Award Account;

- (8) any insurance premiums for any Policy or a portion thereof in respect of the Member as the Trustee determines at his discretion should be debited to this account; and
- (9) any other amounts payable out of the Fund in respect of the membership of a Member which at the discretion of the Trustee and permitted by a Relevant Authority should be debited to his Industrial Award Contribution Account.

Reserve Account

7.9 There shall be established a Reserve Account to which shall be credited:

- (1) such amount of the net earnings of the Fund as the Trustee determines and on a basis acceptable to any Relevant Authority to allow for the averaging

9.1 The Trustee with the agreement of the Principal Employer may admit to the Fund any Participating Employer which has agreed in writing to be bound by this Deed. On such admission the Trustee may make such arrangements as it shall think fit with the Participating Employer so admitted regarding the terms on which the Employees of the Participating Employer are to be admitted to membership of the Fund.

Admission of Participating Employer

SECTION 9. PARTICIPATING EMPLOYER

8.8 A reduction of benefits to which Members would otherwise be entitled may be made in an equitable manner as determined by the Trustees following advice from the Actuary and having regard to the provisions of the regulations issued by a Relevant Authority.

8.7 Notwithstanding the preceding paragraphs of Section 8 and if the Trustees are of the opinion that it would be in the best interest of Members to do so the Trustees may instead of closing the Fund make arrangements for its continuation after contributions have ceased.

8.6 If after providing benefits pursuant to clauses 8.3 and 8.5 of this Deed a surplus remains such surplus shall revert to the Employer subject to compliance with the requirements of any Relevant Authority.

8.5 If after providing benefits for Members under the provisions of clause 8.3 of this Deed a surplus remains such surplus or part thereof may be applied at the discretion of the Trustee for payment of benefits to persons who have been employed by the Employer prior to the Closure Date or their Dependants. Where any part of such benefit is required to be preserved the Trustee should obtain assurances that the benefit will be dealt with in accordance with the provisions of clause 3.18 of this Deed.

8.4 The benefits to be provided under clause 8.3 of this Deed shall be in cash, life assurance policies, participation in any other superannuation fund or Approved Deposit Fund as determined by the Trustee otherwise as determined by the Trustee and agreed to by a Relevant Authority but shall not be payable to a Member unless and until he ceases to be in the Service.

(4) where any part of such benefit is required to be preserved the Trustee should obtain assurances that the benefit will be dealt with in accordance with the provisions of clause 3.18 of this Deed.

(3) benefits to each Member who is still in the Service and his Dependants of such amounts as the Trustee considers fair and equitable after taking into account benefits determined under clause 8.3(2) of this Deed; and

(2) benefits to each Member who is still in the Service and his Dependants which at the Closure Date shall have a value equal to the benefit the Member would have received had he left the Service with the consent of the Employer immediately prior to the Closure Date;

(1) benefits which on or before the Closure Date have become payable to Members and former Members or their Dependants;

- 10.4 The Trustee may invest the whole or any part of the moneys or assets of the Fund not presently required for other purposes in any investment of any kind which the Trustee in exercising its absolute discretion thinks fit and without limiting the generality of the foregoing either directly or indirectly in:
- (1) any investments for the time being authorised by the laws of the Commonwealth of Australia or any State or Territory thereof for the investment of trust funds;
 - (2) any mortgage of or charge on freehold property;
 - (3) on deposit or loan with any Eligible Bank, building society, company or other organisation whatsoever;
 - (4) the purchase or acquisition of shares, fixed interest investments and options of any company or organisation;
 - (5) any mortgage of or charge on any personal or other property including assets of a wasting or depreciable nature;
 - (6) any Policy or annuity contract and any choses in action, interest for life or any lesser terms or in reversion;
 - (7) the purchase or acquisition of any real or personal property and the improvement or extension thereof;
 - (8) the purchase or acquisition of any interests either jointly or in partnership or in any unit of interest including units or sub-units of any unit trust or mutual fund wheresoever situated;
 - (9) the discounting of loans, mortgages, contracts, hire purchase agreements or leases, or by direct lending in any of the same investments;
 - (10) any other investment which the Trustee could make if it was acting as an individual person and not as Trustee
- Investments**
- 10.3 All the expenses of the establishment, amendment and operation of the Fund incurred from time to time which are not paid or payable by the Principal Employer or a Participating Employer shall be paid out of the Fund. Where death and disability benefits are covered by insurance the insurance premiums for the reinsured portion of the benefits may be paid by the Employer or out of the Fund and at the discretion of the Trustee the insurance premiums in relation to a particular Member may be in part or total debited to that Member's Contribution Account or Industrial Award Account.
- Expenses of the Fund**
- 10.2 The assets of the Fund shall be held by the Trustee upon Trust to be applied in accordance with the provisions of this Deed.
- (3) any other moneys or assets received by the Trustee for the purposes of the Fund.

Members of the Fund and of the income and expenditure of the Fund and all other matters essential for the working of the Fund.

Trustee's Return

11.2 Subject to the operation and effect of clause 13.23 the Trustee shall at the conclusion of each Fund Year complete a return on the operational standards of the Fund. The aforementioned return shall be in the form required by a Relevant Authority. A copy of the Trustee's Return and when issued a copy of the notice as to satisfaction of the superannuation fund conditions from the Insurance and Superannuation Commissioner shall be sent by the Trustee to the Employer and every Member shall be entitled to inspect a copy of these documents.

Annual Accounts

11.3 The Trustee shall at the conclusion of each Fund Year cause to be prepared a Statement of Accounts and Balance Sheet of the Fund. The Trustee will arrange for the Statement of Accounts and Balance Sheet to be audited by an Approved Auditor appointed by the Trustee. The Approved Auditor shall have access to all papers, accounts and documents connected with the Fund as are necessary for the proper conduct of the audit. The Approved Auditor shall report to the Trustee the result of such audit in writing and sign the Certificate included in the Trustee's Return in clause 11.2 of this Deed.

11.4 A copy of the Statement of Accounts, Balance Sheet and Approved Auditor's report shall be sent by the Trustee to the Employer. Every Member shall be entitled to inspect a copy of the Statement of Accounts, Balance Sheet and Approved Auditor's report.

Valuation by Actuary

11.5 Subject to the operation and effect of clause 13.23 at least once in every 3 years or at any time at which in the opinion of the Trustee any major changes may have occurred in the position of the Fund the Actuary shall make an investigation of the Fund. The Actuary shall provide a report of each investigation to the Trustee within 12 months from the date at which such investigation is made or within such extended period as allowed by a Relevant Authority. The report shall contain in addition to any other matter;

(1) a statement of the value of the assets of the Fund;

(2) a statement of the Actuary's opinion on whether the value of the assets of the Fund is adequate to meet the liabilities of the Fund in respect of vested benefits in the Fund;

(3) a statement recommending in respect of the 3 year period immediately following the period to which the report relates the rate at which the Actuary considers Employer contributions should be made or where the Actuary considers Employer contributions should be made at different rates in respect of 2 or more periods within that first mentioned period such different rates; and

(4) a statement that Employer contributions made at the recommended rate or rates referred to in clause 11.5(3) of this Deed together with the assets of

additional member to the management board or the appointment of an additional member to the board of the body corporate respectively.

12.4

Any person including an Employer, any director of an Employer and any Member shall be eligible for appointment as a Trustee or as a member of a board or of a board of a body corporate acting as Trustee provided that a Member who is a Trustee or is a member of a board or of a board of a body corporate acting as Trustee shall not be eligible to participate in the determination of any claim in which the person is personally involved.

12.5

On admission to the Fund each Member shall in writing consent to the selection and appointment of the Trustee made in accordance with clauses 12.1 to 12.4 of this Deed. Where the Principal Employer has elected to appoint the Trustee in accordance with clauses 12.2(1) to 12.2(3) of this Deed on a change of the Trustee or on a change in the composition of the Trustee each Member shall in writing consent to the selection and appointment of the Trustee made in accordance with clauses 12.1 to 12.4 of this Deed.

12.6

The office of Trustee or the position of a member of a board or of a board of a body corporate acting as Trustee shall become vacant if the person holding the office or position:

- (1) resigns;
- (2) dies;
- (3) becomes bankrupt or makes assignment to or composition with creditors;
- (4) is declared mentally ill or becomes liable to have his affairs dealt with under the laws relating to mental health;
- (5) being a company has a resolution passed, has a summons issued or a petition presented for its winding up or liquidation or has a receiver of its assets appointed;

(6) where appointed by the Principal Employer as an Employer Representative is removed by notice in writing from the office or position by the Principal Employer at any time that the Principal Employer may determine;

(7) where appointed by the Principal Employer as a Member Representative is removed by notice in writing by the Principal Employer with the written instruction and consent of all Members at any time so determined by the Members;

(8)

where appointed by the Principal Employer as Trustee in accordance with clause 12.2(5) or clause 12.3 of this Deed or where appointed by the Principal Employer as Trustee in accordance with clause 12.2(4) of this Deed excluding that referred to in clause 12.6(6) of this Deed is removed by notice in writing by the Principal Employer with the written consent of all Members at any time determined by both the Principal Employer and the Members.

12.7

A vacancy in the office of Trustee or the position of a member of a board or of a board of a body corporate acting as Trustee shall be filled within 60 days after the

12.17 A decision of the Trustee appointed in accordance with the provisions of clause 12.2(4) of this Deed shall require a majority vote determined as required by guidelines or regulations issued by a Relevant Authority.

12.18 An independent additional Trustee or Member appointed in accordance with clause 12.3 of this Deed shall not be entitled to a casting vote in any proceedings of the board or body to which he is appointed.

12.19 A resolution of the Trustee in writing shall be valid and binding if passed in accordance with the provisions of clauses 12.15 to 12.18 of this Deed.

12.20 A resolution in writing shall be effective as a resolution passed at a meeting of the Trustee duly convened and held where the resolution is signed by:

(1) two-thirds of the total number of trustees or members of a board or of a board of a body corporate acting as Trustee where the Trustee has been appointed in accordance with clauses 12.2(1), 12.2(2) or 12.2(3) of this Deed;

(2) all the trustees or members of a board or of a board of a body corporate acting as Trustee where the Trustee has been appointed in accordance with clause 12.2(5) of this Deed;

(3) the trustees or members of a board or of a board of a body corporate acting as Trustee as required by any guidelines or regulations issued by a Relevant Authority where the Trustee has been appointed in accordance with clause 12.2(4) of this Deed.

12.21 The Trustee may continue to act notwithstanding a vacancy in its number however all decisions made and resolution passed in accordance with the provisions of clauses 12.15 to 12.20 of this Deed shall be required to be passed by or signed by the same number of Trustees or Members had the vacancy not existed.

Discretions

12.22 The Trustee in the exercise of the powers, authorities and discretions hereby vested in it shall have a sole and absolute discretion and may exercise or enforce all or any of such powers, authorities and discretions from time to time and at any time or may refrain from exercising all or any of such powers, authorities and discretions from time to time or at all and its decisions as to the interpretation and effect of this Deed shall be final.

Powers of Trustee

12.23 Without prejudice to the powers vested in the Trustee by this Deed or otherwise the Trustee shall have the following powers:

(1) to purchase or otherwise acquire and to sell or otherwise dispose of property, rights or privileges which the Trustee is authorised to acquire or dispose of on such terms and conditions as it shall think fit;

(2) to appoint and at its discretion remove or suspend any of the Approved Auditor, managers, secretaries, clerks, agents and other servants, appoint them for permanent, temporary or special services as it from time to time

(1) contributions made to the Fund;

The Trustee shall be entitled to charge professional fees and recover costs and disbursements incurred in respect of the provision of its services as Trustee. These fees may be charged for new or existing Members in respect of the following:

12.31

Remuneration of the Trustee

No Trustee shall be liable for the neglect or default of any custodians, manager, agent, professional adviser, banker, stockbroker or any other persons nor for allowing trust funds or securities of the Fund to remain in the custody or control of any such person for any time howsoever long.

12.30

For the purposes of this Deed the Trustee shall be entitled to regard a direction, instruction or other written authorisation signed by or purporting to be signed by the Secretary for the time being of the Principal Employer or a Participating Employer as a valid direction, instruction or other written authorisation of the Principal Employer or a Participating Employer.

12.29

The Trustee or such committees formed by the Trustee under clause 12.24 of this Deed shall be indemnified against all liabilities incurred by it through any act or omission in the exercise of its powers, duties and discretions under this Deed or in the bona fide intended or purported exercise of its duties under this Deed and shall have a lien on the Fund for such indemnity to the extent permitted by any guidelines or regulations issued by a Relevant Authority. The Trustee or committee shall not be liable for any act or default done or omitted to be done in the exercise of its powers, duties and discretions or for any loss or expenses incurred by the Fund through the insufficiency or deficiency of any security in or upon which any of the moneys of the Fund shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any persons with whom any moneys or securities shall be deposited or for any other loss, damage or misfortune whatever except where due to its own wilful acts or defaults.

12.28

Indemnity of the Trustee

Notwithstanding any rule of law or equity to the contrary the Trustee shall have the fullest power to exercise or concur in exercising all of the powers and discretions contained in this Deed or otherwise by law conferred notwithstanding that the Trustee has or may have a direct personal interest (whether as Trustee of any other settlement or as a director or shareholder of the Trustee or any company) in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion.

12.27

The Trustee shall arrange for the collection of all moneys falling due to the Fund and for their prompt lodgment to the credit of the Fund's banking account.

12.26

All cheques and other negotiable or transferable instruments and all receipts of moneys paid and transfers to the Fund shall be signed drawn accepted endorsed or otherwise executed as the case may be in the manner determined from time to time by the Trustee.

12.25

The Trustee may delegate any of its powers to a committee or committees as it shall think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed upon it by the Trustee.

12.24

Rights of Members

- 13.5 No person whether as a Member or otherwise shall have any claim, right or interest to or in respect of the Fund or any contribution thereto or any interest therein or any claim upon or against the Trustee or the Employer except under and in accordance with the provisions of the Deed.
- 13.6 Every person who becomes a Member shall thereby be deemed to be bound by this Deed.
- 13.7 Every Member shall have the right to inspect a copy of this Deed at the office of the Employer during the Employer's usual business hours. Every Member shall have the right to inspect a copy of such returns, statements, reports, certificates and notices described in clauses 11.2, 11.3 and 11.5 of this Deed.
- 13.8 When an Employee is admitted as a Member of the Fund in terms of clause 3.5 of this Deed the Trustee shall as soon as practicable thereafter give the Member a written statement containing details of the kinds of benefits provided to members by the Fund and the conditions relating to those benefits and the method of determining entitlements of Members. Where an Employee is admitted to the Fund and the Benefits payable in any circumstances differ from those provided under the relevant provisions of this Deed the Trustee shall advise him in writing to this effect.
- 13.9 Where this Deed is altered the Trustee shall give to each of the Members as soon as practicable thereafter a written statement explaining the effect (if any) of the alterations on the entitlements of the Members.
- 13.10 The Trustee shall give to each of the Members as soon as practicable after the end of each Fund year but in any event within 6 months after the end of each Fund Year a written statement setting out:
- (1) the amount of the benefits vested in the Member at the commencement of the relevant Fund Year;
 - (2) the amount of the benefits vested in the Member at the end of the relevant Fund Year;
 - (3) the method of determining the benefits referred to in clause 13.10(2) of this Deed;
 - (4) the amount of the portion of the benefits referred to in clause 13.10(2) that is required by the Deed or a Relevant Authority to be preserved in relation to a Member in the event of his withdrawal from the Fund;
 - (5) the amount of contributions made by the Member during the relevant Fund Year;
 - (6) the amount of net earnings allotted to the Member during the relevant Fund Year and the rate at which those earnings were allotted; and
 - (7) the amount of the current death or disability benefit of the Member.
- 13.11 Where a person ceases to be a Member of the Fund the Trustee shall give to the person as soon as practicable thereafter a written statement setting out:

Employer's Right to Terminate Employment

13.17 Nothing in this Deed shall restrict the right of the Employer to dismiss an Employee or be used to increase damages in any action brought against the Employer in respect of such dismissal or affect the rights of a Member or his legal personal representative or other persons to claim damages or compensation at common law or under a *Workers' Compensation Act* or any other statute in force governing compensation to a Member injured or dying from an accident arising out of or in the course of his employment with the Employer and the amount payable hereunder shall not be reduced by reason of payment of such damages or compensation except as herein provided.

Statutory Benefit Scheme

13.18 Where a scheme having government support or recognition whether in Australia or any state or territory or any other place with which the activities of the Principal Employer are or may for the time being be concerned ("Statutory Scheme") provides, or will provide, Members, their Dependents or Beneficiaries with benefits which in the sole opinion of the Trustee are of a similar nature to any benefit provided under this Deed, the Trustee, with the consent of the Principal Employer and after seeking the advice of the Actuary, may alter or vary in any way whatsoever the provisions of this Deed which in the sole discretion of the Trustee correspond to the provisions of the Statutory Scheme without regard to the limitations in clauses 13.19 to 13.21.

Variation of Trust Deed

13.19 The Trustee with the approval of the Principal Employer may at any time amend, revoke or modify all or any of the provisions of this Deed provided that such amendment, revocation or modification shall not

(1) alter the objects of the Fund as stated in this Deed; or

(2) without the written approval of all the Members or a Relevant Authority reduce any benefits or entitlements that have accrued to any of the Members at the date of such amendment.

13.20 The Trustee with the approval of the Principal Employer may amend, revoke or modify all or any of the provisions of this Deed to enable either:

(1) the Fund to comply with or conform to any present or future law governing or regulating the operation or maintenance of superannuation or Approved Deposit Funds; or

(2) the Fund, Members or beneficiaries to either reduce or be exempted from liability to pay stamp duty or probate, estate and other duties in consequence of the death of a Member or former Member or the Spouse of such Member or former Member.

13.21 Subject to the provisions of clause 13.23 but otherwise notwithstanding anything contained in this Deed the Trustee and the Principal Employer covenant and agree that:

FIRST SCHEDULE

Overells Stationery Pty Ltd

ITEM 1:
Principal Employer

ITEM 2:
Associated Employer

Christopher Zaris

ITEM 3:
Trustee

Susan Mary Zaris

**Zaris
Superannuation Fund No 2**

ITEM 4:
Name Of Fund

1st May 1993

ITEM 5:
Commencement Date

SECOND SCHEDULE

<p>APPLICATION FOR MEMBERSHIP</p> <p>CONFIDENTIAL</p>

To: The Trustee

fundname

I, the undersigned person, being eligible apply for admission to membership of the Fund.

I agree and undertake as follows:

(1) I will be bound by the Trust Deed governing the Fund as it is or may be by variation from time to time.

(2) I will make a full disclosure in writing of any benefits I may receive from any superannuation fund, Approved Deposit Fund or transfer amount from any other superannuation fund or Eligible Annuity.

(3) I understand the terms and conditions of the Deed and more particularly the terms and conditions of the Deed concerning benefits payable and I acknowledge I have been informed of my rights and the rights of my Dependents pursuant to the Deed.

(4) I consent to the Trustee acting as Trustee.

I declare that the rights held by me and the amounts received by me from any other superannuation fund, Approved Deposit Fund or Eligible Annuity are set out in the Attachment.

Dated 19..... Signature

Name	:
Address	:
Occupation	:
Date of Birth	:
Date Of Membership	:
Membership Category	:

NOMINATED DEPENDANT(S)

I nominate the undermentioned persons as my Nominated Dependents:

Surname(s)	Given Name(s)	Relationship	% of Benefit
.....
.....
.....
.....

ATTACHMENT TO APPLICATION FOR MEMBERSHIP

PART 1 - DETAILS OF OTHER FUND OR PLAN MEMBERSHIPS

Total Number of other Funds or Annuities ()

Name of Other Fund or Annuity:

Trustee:

Address of Trustee:

Value of Accumulation Account or Member's Credit: \$

Contributions paid by Applicant to Fund: \$

Value of Preserved Payment Benefit (including productivity): \$

Name of Other Fund or Annuity:

Trustee:

Address of Trustee:

Value of Accumulation Account or Member's Credit: \$

Contributions paid by Applicant to Fund: \$

Value of Preserved Payment Benefit (including productivity): \$

Name of Other Fund or Annuity:

Trustee:

Address of Trustee:

Value of Accumulation Account or Member's Credit: \$

Contributions paid by Applicant to Fund: \$

Value of Preserved Payment Benefit (including productivity): \$

PART 2 - DETAILS OF AMOUNTS (NOT BEING ROLL-OVERS) PREVIOUSLY RECEIVED FROM SUPERANNUATION FUNDS, PENSION FUNDS, APPROVED DEPOSIT FUNDS AND ELIGIBLE ANNUITIES

Total Number of other Funds or Annuities ()

Amount Received: \$

Date:

Name of Employer, Superannuation Fund, Approved Deposit Fund, Deferred Annuity

Amount Received: \$

Date:

Name of Employer, Superannuation Fund, Approved Deposit Fund, Deferred Annuity

Amount Received: \$

Date:

Name of Employer, Superannuation Fund, Approved Deposit Fund, Deferred Annuity

VESTING SCHEDULE

Complete Years of Fund Service Resignation Factor

0-4	Nil
5	.25
6	.30
7	.35
8	.40
9	.45
10	.50
11	.55
12	.60
13	.65
14	.70
15	.75
16	.80
17	.85
18	.90
19	.95
20 (or more)	1.00

Provided that the Employer of a Member may direct the Trustee to apply a Resignation Factor greater than that determined above provided it does not exceed 1.00.

AS WITNESS the execution by the parties hereto on the day and year hereinbefore written in the Schedule hereto.

PRINCIPAL EMPLOYER

THE COMMON SEAL OF

Overells Stationery Pty Ltd

ACN 053 539 147

was hereunto affixed by authority of a Resolution of the Board of Directors in accordance with its Articles of Association and in the presence of:

X
.....
(Witness)

TRUSTEES

SIGNED SEALED AND DELIVERED

By the said

Christopher Zaris

In the presence of:

X
.....
(Witness)

SIGNED SEALED AND DELIVERED

By the said

Susan Mary Zaris

In the presence of:

X
.....
(Witness)

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D. Zaris

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