

SUPERANNUATION

TRUST DEED

OF

MICHELON TINWELL SUPER FUND

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THIS DEED is made on the date set forth in the Schedule hereto as the date of making of this Deed

BY The persons whose names are set forth in the Schedule hereto beside the words The Trustee (hereinafter called "the Trustees")

WHEREAS:-

A The Trustees wish to establish a Superannuation Trust Fund to provide superannuation benefits for such approved persons who may by application become Members of the Fund and for such other purposes as may be permitted by the Superannuation Law (as defined herein).

COMMISSIONER OF STATE TAXATION

5.2 STAMP DUTY PAID
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DEED

1 THE FUND

1.1 The trust fund constituted by this Trust Deed shall be called by and known as the name set forth in the Schedule hereto beside the words "Name of this Superannuation Fund".

1.2 The Fund shall consist of all money (including contributions to the Fund and investments for the time being representing the same) from time to time held by or on account of the Trustees pursuant to this Deed who shall hold the same on trust for the objects and the purposes of this Deed.

2 PROPER LAW

This Deed and the Rules annexed hereto shall in all respects be governed and construed in accordance with the law of the State or territory set forth in the Schedule hereto beside the words "Law of this Fund".

3 THE TRUSTEES

The expression "the Trustees" are appointed means the trustee or trustees for the time being of the Fund whether initial, additional or substituted.

4 INTERPRETATION

4.1 This Trust Deed shall be read and construed on the basis that the provisions of the Superannuation Law, as defined herein, are to the extent that they impose obligations on the Trustees in order for the Fund to gain income tax concessions, incorporated in the Trust Deed, provided that this Trust Deed shall not be so read or construed and no such provision or regulation shall be so incorporated if to do so would constitute a breach of the power granted by clause 31 to vary, add to or rescind the provisions of the Trust Deed. Where there is any inconsistency between a provision in this Trust Deed and a provision in the Superannuation Law which is so incorporated, the latter shall prevail over the former.

4.2 If any clause or part thereof contained in this Deed and the Schedules and Rules forming part of this Deed shall be judged to be invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of the remainder of this Deed including the Schedules and Rules forming part hereof and such invalid clause or part thereof shall be deemed to have been deleted from this Deed.

4.3 The headings herein are for reference purposes only and shall not affect the interpretation of the Trust Deed. In this Trust Deed and the rules annexed hereto, unless the context otherwise requires, the words denoting one gender include other genders and words denoting the singular number include the plural number and vice versa and the following expressions shall have the meanings herein attributed to them:-

"Allocated Pension" means a pension which satisfies the Superannuation Law and, in particular, Regulation 1.06(4) of the Superannuation Industry (Supervision) Regulations (Cth), and the expression 'allocated pension Member' means a Member who is in receipt of or is to receive an allocated pension;

"Dependant" means the spouse (including de facto spouse), widow, widower, or children of a Member or any other person who in the opinion of the Trustees was dependent on the Member at the relevant date;

"Disqualified Person" in relation to an individual or a body corporate (as the case may be) has the meaning given to that term in the SIS Act;

"Employer" means a Member's Employer who makes contributions to the Fund and in relation to a particular Member means the Employer of that person at the relevant time;

"Employer's Contribution Account" has the meaning given to it in clause 11 hereof;

"Full-Time Basis" means a Member who is employed or self-employed on a full-time basis within the meaning of the Superannuation Law;

"Highest Average Salary" has the same meaning as that attributed to that expression or the expression "HAS" in the Superannuation Law;

"Member" means a person whom the Trustees have admitted as a Member of the Fund and includes a person who at the relevant time is receiving or is entitled to receive benefits from the Fund;

"Member's Benefit" in respect of a Member is the net amount then standing to his credit in the Employer's Contribution Account (if any) plus the amount standing to his credit in the Member's Contribution Account plus that proportion of the value (if any) at that time of any policy of insurance which relates to premiums paid out of the Member's Employer's Contribution account or Member's Contribution Account;

"Member's Contribution Account" has the meaning given to it in clause 11 hereof;

"Part-time Basis" refers to a Member who is employed or self-employed for at least 10 hours per week or such other number of hours as are prescribed under the Superannuation Law;

"Pension" shall, where appropriate, include an allocated pension;

"Permanently and Totally Disabled" means

- (i) such disablement as, in the opinion of the Trustees, has rendered the Member permanently incapable of engaging in full-time work for which he is reasonably fitted by education training or experience; or
- (ii) where the benefit payable on permanent and total disablement is insured, the definition of permanent disablement contained in the policy document evidencing the contract of insurance,

PROVIDED THAT, the Trustees shall only regard a Member as being permanently and totally disabled if they have received a certificate signed by two registered medical practitioners certifying that, in the opinion of those practitioners, the Member is unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience;

"Preservation Requirements" means any requirement imposed by the Superannuation Law that requires that a Member's Benefit not be paid to a Member until the occurrence of certain events or that it be paid only in a certain manner or form to a complying superannuation fund or other annuity or fund which complies with the standards prescribed under the Superannuation Law, the non-compliance with which requirement would result or may result in the Fund failing to be a complying superannuation fund in any year of income and includes any requirement or guideline that is imposed or established by or under the Superannuation Law or under the terms in which a transfer of moneys or assets into the Fund is made;

"Revenue Account" has the meaning given to it in clause 11 hereof;

"Rules" means the Rules contained in the Schedule annexed hereto and any alterations to, additions to or variation thereof made from time to time;

"Self Employed" refers to a Member who is self employed in a business, trade, profession, vocation, calling or occupation;

"SIS Act" means the Superannuation Industry (Supervision) Act 1993 (Cth) and includes any

regulations prescribed under it;

"Superannuation Authority" means any person or body appointed under any Superannuation Law who is empowered under that legislation or some other legislation to:

- (a) exercise any discretion;
- (b) give any consent or approval; or
- (c) give effect to and administer the Superannuation Law;

"Superannuation Charge Laws" means the Superannuation Guarantee Charge Act 1992 (Cth) and the Superannuation Guarantee (Administration) Act 1992 (Cth) and includes any regulations prescribed under those Acts;

"Superannuation Complaints Tribunal" means the tribunal established by the Superannuation (Resolution of Complaints) Act 1993 (Cth);

"Superannuation Law" means Superannuation Requirements in any of:

- (a) the SIS Act;
- (b) the Superannuation Entities (Taxation) Act 1993 (Cth);
- (c) the Tax Act;
- (d) the Superannuation Charge Laws;
- (e) any other present or future law of the Commonwealth of Australia or any State or Territory of it which the Trustee determines to be a Superannuation Law for the purposes of this Deed;
- (f) regulations and statutory instruments made or issued under any Act specified in paragraphs (a) to (e) (inclusive) and all other requirements, whether legislative or otherwise, including (without limitation):
 - (i) any administrative guidelines, rulings or determinations made or laid down by a Superannuation Authority; and
 - (ii) statements by the government of the Commonwealth of Australia or any State or Territory (as the case may be) advising changes and proposed changes to the Superannuation Law; and
- (g) a statutory instrument which replaces any Act specified in paragraphs (a) to (e) (inclusive) or regulation specified in paragraph (f), or has the same effect, in whole or in part (whether or not passed or approved by the same legislative or other relevant authority and whether or not incorporating or adopting any law previously in force);

"Superannuation Requirements" means requirements with which or which the Fund, this Deed or the Trustee must comply or satisfy (or with which or which, in the reasonable opinion of the Trustee, the Fund, this Deed or the Trustee ought comply or satisfy) in order to be a complying or regulated superannuation fund under the Superannuation Law or in order to secure or better secure any concession in respect of any tax or other government impost granted or available to the Fund or in order to avoid what the Trustee may consider to be a relevant penalty, detriment or disadvantage;

"Tax Act" means the Income Tax Assessment Act, 1936 (Cth);

"Taxation Reserve Account" has the meaning given to it in clause 11 hereof;

"Trust Deed" or **"Deed"** means this Trust Deed and the rules annexed hereto or alterations to, additions to or variation thereof made from time to time.

5 DATE OF COMMENCEMENT

The Fund was constituted on the date hereinbefore mentioned. The Fund is intended to be a complying superannuation fund which is established for the primary purpose of providing old-age pensions to or in respect of Members on their retirement or on reaching a particular age, providing superannuation benefits to or in respect of Members on their death or disablement and for all other purposes which may be permitted under the Superannuation Law.

6 ADMISSION OF MEMBERS

- 6.1 Persons who are engaged on a Full Time Basis or a Part Time Basis in a business, trade, profession, vocation, calling, occupation or employment who wish to become Members shall apply for membership by completing the form of application in Appendix A or such other form of application as the Trustees decide upon. Upon acceptance of the application by the Trustees the person making the application shall be bound by this Trust Deed in all respects as if he were an original party to this Deed.
- 6.2 All applicants for membership of the Fund shall provide the Trustees with such information as the Trustees may require, including proof of their correct age.
- 6.3 A Member shall inform the Trustees, as soon as practicable, after he ceases;
- (a) to be employed or self employed on a Part-time Basis after attaining age 65; and
 - (b) to be employed or self employed on a Full-Time Basis after attaining age 65.

7 CONTRIBUTIONS BY AN EMPLOYER

- 7.1 An Employer, or any other person authorised by the Superannuation Law to make contributions to the Fund, may contribute to the Fund in respect of each Member such amount as it in its absolute and uncontrolled discretion shall determine PROVIDED THAT the maximum contribution made in any period shall not exceed the maximum permitted under the Superannuation Law, to enable the Fund to obtain the maximum income tax concessions.
- 7.2 At the time of making such contributions the Employer, or any other person contributing, shall advise the Trustees of the contribution in respect of each Member.
- 7.3 Any payment of contribution by the Employer, or any other person contributing, directly to a life insurance company or investment manager shall be deemed to be a payment of contributions to the Trustees and a payment by the Trustees to the life insurance company or investment manager.
- 7.4 The Trustees shall refuse to accept contributions to the Fund from persons other than:-
- (a) a Member;
 - (b) a Member's employer;
 - (c) a company in which a Member's Employer has a controlling interest;
 - (d) if a Member's Employer is a company - a person who is associated with that company within the meaning of the Superannuation Law; and
 - (e) any other person authorised by the Superannuation Law to make contributions to the Fund.
- 7.5 The Trustees shall refuse to commence to accept contributions to the Fund by or in respect of a Member if the Member is not engaged in a business, trade, profession, vocation, calling, occupation or employment on a Full-Time Basis or a Part Time Basis.
- 7.6 The Trustees shall refuse to accept contributions, in respect of a Member:-
- (a) if the Member

- (i) has ceased for a continuous period of 2 years to work on a Full Time Basis or a Part Time Basis, but
 - (ii) has not retired from the workforce;
- (b) if the member has retired from the workforce.

7.7. The Trustees shall refuse to accept a contribution by or in respect of a Member who has attained age 65 if to do so would result in the Fund not being entitled to the maximum income tax concessions.

8 CONTRIBUTIONS BY MEMBERS

- 8.1 Each Member may contribute to the Fund such amount as is agreed upon between the Member and the Trustees **PROVIDED THAT** the maximum contribution made in any period shall not exceed the maximum permitted under the Superannuation Law, to enable the Fund to obtain the maximum income tax concessions. Unless otherwise allowed by the Superannuation Law, the Trustees shall refuse to accept any such contribution during any period that a Member is not engaged in a business, trade, profession, vocation, calling, occupation or employment. The Employer may if authorised by the Member, deduct such contribution from the Member's Salary and remit it to the Trustees within fourteen days of the end of the calendar month in which it was deducted.
- 8.2 At the time of paying a Member's contribution to the Trustees, the Employer or the Member shall advise the Trustees of the contribution in respect of the Member.
- 8.3 Any payment of a Member's contribution directly to a life insurance company or investment manager shall be deemed to be a payment of contributions to the Trustees and a payment by the Trustees to the insurance company or investment manager.
- 8.4 The Trustees may assume, without enquiry, that an Employer is authorised by the Member and by law to pay a Member's contribution by deducting the agreed amount pursuant to clause 8.1 hereof from the Member's Salary and neither the Trustees nor the Fund shall be liable in any case where such payment or deduction is not authorised by the Member or by law, even if the Trustees have notice thereof.

9 INVESTMENTS

- 9.1 The Trustees may invest the whole or any part of the moneys or assets of the Fund not presently required for other purposes in any investments of any kind which the Trustees in exercising their absolute discretion think fit and without limiting the generality of the foregoing either directly or indirectly:-
 - (a) in investments authorised by the laws of any State or Territory of the Commonwealth of Australia for the investment of trust funds;
 - (b) in the purchase of or improvement of or mortgages of real property of any tenure whether improved or unimproved;
 - (c) on deposit with any of the employers, any bank or building society or any other company, partnership or person either with or without security and on such terms as the Trustees, in their absolute discretion, determine **PROVIDED THAT** the Trustees may not loan any part of the moneys or assets of the Fund to Members;
 - (d) in shares, stock, options, debentures, bonds, unsecured notes or other securities of any company or financial institution carrying on business in Australia or elsewhere in the world;
 - (e) in units or sub-units of any unit trust; and
 - (f) in bills of exchange and other negotiable instruments,

PROVIDED THAT the proportion of Fund assets invested in any single investment shall be limited to the amount provided for in the Superannuation Law in order for the Fund to obtain the maximum income tax concessions and **PROVIDED FURTHER THAT** the investments made by the Trustees

shall be of such nature that they can be readily realised to enable benefits to be paid in money as they fall due and **PROVIDED FURTHER THAT** the Trustees shall not invest in "in-house assets" within the meaning of the Superannuation Law if to do so would result in the Fund not being entitled to the maximum income tax concessions.

- 9.2 The Trustees may hold an interest in a part of any such investment and shall have power to vary, transpose and replace such investments in such manner as they, in their absolute discretion, think fit, without being responsible for loss occasioned by so varying, transposing or replacing.
- 9.3 The Trustees may, in their absolute discretion, hold particular investments for particular Members and, in the case of allocated pension Members, investments which are appropriate for the investment strategy for allocated pension Members. The earnings on such investments shall be credited to the relevant accounts of the Members for whom such particular investments are held and income tax payable in respect of such investments shall be debited to the relevant Member's accounts.

10 POLICIES OF INSURANCE AND ANNUITIES

- 10.1 The Trustees may, in their absolute discretion, invest the whole or any part of the amount standing to the credit of a Member in the Books of the Fund in the payment of premiums on a policy or policies of life, disability or accident insurance in which the Trustees have a legal or equitable interest or in payment of the consideration for an annuity.
- 10.2 The Trustees may effect such policies or annuities with such company on such terms and conditions and for such periods as the Trustees think fit. The Trustees shall also have the power to accept an assignment of a policy of life, disability or accident insurance or of an annuity on such terms as the Trustees, in their absolute discretion, determine.
- 10.3 The premiums for such policies or consideration for such annuities shall be paid for out of the amount standing to the Member's credit in the Employer's Contribution Account and/or the Member's Contribution Account in such proportion as is agreed upon by the Trustees and the Member and in the absence of any such agreement, on such basis as the Trustees determine. The proceeds of such policies shall be credited to the Employer's Contribution account and/or the Member's Contribution Account in the same proportion as premiums for such policies were paid from those accounts.
- 10.4 The Trustees shall have power to continue such policies or annuities for such periods as the Trustees think fit and to discontinue or surrender such policies or annuities.

11 RECORDS ACCOUNTS AND AUDITING

- 11.1 The Trustees shall keep a complete record of all matters essential to the administration of the Fund including:-
- (a) A Minute book in which proceedings and resolutions of the Trustees are recorded.
 - (b) An Employer's Contribution Account for each Member in which is recorded:-
 - (i) contributions to the Fund by the employer in respect of that Member pursuant to clause 7 of this Trust Deed;
 - (ii) amounts credited to such account pursuant to clause 32 of this Trust Deed;
 - (iii) profits or losses of the Fund credited or debited to such account pursuant to clauses 12.1 and 12.2 of this Trust Deed;
 - (iv) forfeited benefits credited to such account pursuant to clause 15 of this Trust Deed;
 - (v) amounts debited to such account to pay premiums on policies of insurance or annuities pursuant to clause 10 of this Trust Deed;
 - (vi) the proceeds of policies of insurance credited to such account pursuant to clause 10.3 of this Trust Deed;

- (vii) amounts debited to such account to pay income tax;
- (viii) amounts which are not required to meet income tax liabilities and which are credited to the account pursuant to a paragraph (e) of this clause.

(c) A Member's Contribution Account for each Member in which is recorded:-

- (i) contributions by that Member pursuant to clause 8 of this Trust Deed;
- (ii) amounts credited to such account pursuant to clause 32 of this Trust Deed;
- (iii) profits or losses of the Fund credited or debited to such account pursuant to clauses 12.1 and 12.2 of this Trust Deed;
- (iv) amounts debited to such account to pay premiums on policies of insurance or annuities pursuant to clause 10 of this Trust Deed;
- (v) the proceeds of policies of insurance credited to such account pursuant to clause 10.3 of this Trust Deed;
- (vi) amounts debited to such account to pay income tax;
- (vii) amounts which are not required to meet income tax liabilities and which are credited to the account pursuant to paragraph (e) of this clause.

and in relation to a Member or former Member who receives or is to receive a benefit in the form of an allocated pension:

- (viii) the Trustees must transfer to the Members's Contribution Account any part of the benefit not yet held there;
- (ix) instalments of the allocated pension are to be debited to the Member's Contribution Account and the allocated pension ceases when the Member's Contribution Account is exhausted;
- (x) the Trustees must agree with the Member on:
 - (A) the dates for payment of allocated pension instalments; and
 - (B) the amount of the instalments.

in terms which enable the benefit to be treated as an allocated pension under the Superannuation Law;

- (xi) if for any financial year the Trustees and the Member have not agreed an instalment amount, the Trustees must pay the allocated pension at the minimum level required for the benefit to be treated as an allocated pension under the Superannuation Law;
- (xii) the Trustees may agree with the Member on whether, after the Member's death, the allocated pension is to continue for any Dependant who is the reversionary beneficiary;
- (xiii) on the death of the Member and any other person to whom the allocated pension is payable under (xii), the balance of the Member's Contribution Account is payable as a death benefit;
- (xiv) a person entitled to an allocated pension may commute all or part of it to a lump sum if the Superannuation Law permits; and
- (xv) the maximum commutation amount at any time is the balance of the Member's Contribution Account.

(d) A Revenue Account to which shall be credited all income from investments, profits earned

and capital gains realised during each financial year having regard, where appropriate, to the income, accumulations, moneys, accretions, profits, assets or investments which relate to or represent the respective interests of the Members (including the allocated pension Members in the Fund), and to which shall be debited all expenses (other than premiums on policies of insurance), outgoings and losses incurred during each financial year.

- (e) A Taxation Reserve Account to which shall be credited amounts set aside by the Trustees to pay income tax payable in respect of contributions to the Fund and earnings of the Fund and to which shall be debited income tax paid and amounts which the Trustees determine from time to time to transfer to the Member's Accounts in proportion to the amounts standing to the credit of those accounts at that time or on such other basis as the Trustees consider to be equitable. The balance in the Taxation Reserve Account shall be transferred to the Members' Accounts in accordance with this paragraph prior to the winding-up or on crystallisation of the Fund.
 - (f) A Forfeited Benefits Reserve Account to be credited with amounts in accordance with clause 15 and to which shall be debited any amounts which are applied in accordance with clause 15 hereof.
- 11.2 The Trustees shall appoint an auditor or a registered company auditor (as required by the Superannuation Law) to conduct an annual audit of the records and accounts of the Fund and certify to the Trustees whether the Fund complies with the standards imposed under the Superannuation Law.
- 11.3 The Trustees shall:
- (a) comply with the standards imposed under the Superannuation Law and shall maintain such records as are required under the Superannuation Law; and
 - (b) provide Employers and Members with such information in relation to the Fund as is required by the Superannuation Law or as the Trustees otherwise determine.

12 VALUATIONS AND ALLOCATION OF PROFITS OR LOSSES

- 12.1 (a) After the thirtieth day of June each year, the profits or losses arising from the investment of the assets of the Fund (other than life insurance policies or annuities) during the preceding financial year; or
- (b) on the winding up of the Fund or whenever the Trustees think it necessary, the profits or losses arising from the investment of the assets of the Fund (other than life insurance policies or annuities) during the current financial year,

less such provision for depreciation, liabilities, losses and taxation as the Trustees in their absolute discretion deem prudent shall be credited or debited by the Trustees to the Employer's Contribution Accounts and Members' Contribution Accounts in proportion to the amounts standing to the credit of such accounts on the thirtieth day of June of the preceding financial year or on such other basis as the Trustees consider to be equitable, having regard at all times to the interests of the Members (including the allocated pension Members) in the Fund.

- 12.2 The Trustees may whenever they think it necessary make a valuation of the assets of the Fund (other than policies of life insurance and annuities) in such manner as the Trustees may determine and deduct therefrom the amount of outstanding liabilities and expenses, the estimated costs of realising the investments and such provision for taxation as the Trustees in their absolute discretion deem prudent and if the net value of the assets of the Fund determined in accordance with this clause exceeds or is less than the aggregate of the net amounts standing to the credit of all of the Employer's Contribution Accounts and the Members' Contribution Accounts at that date, the Trustees shall credit the surplus or debit the deficit to the Members' Contribution Accounts, and the Employer's Contribution Accounts in proportion to the amounts standing to their respective credits or on such other basis as the Trustees consider to be equitable, having regard at all times to the interests of the Members (including the allocated pension Members) in the Fund.
- 12.3 The Trustees may allocate to the Member's accounts of a Member, in respect of whom a benefit is being paid, an interim earning rate determined by the Trustees to apply from the date on which an

allocation was last made under clause 12.1 or 12.2 to the date on which the benefit is being paid.

13 BENEFITS AND EXCESSIVE BENEFITS

13.1 In relation to a Member's Benefit:

- (a) the payment of the Member's Benefit shall be subject to any applicable Preservation Requirements and the Trustees shall not be required to pay a Member's Benefit to a Member, dependent, legal personal representative or any other person other than in accordance with the Superannuation Law;
- (b) if the Trustees are required to pay a Member's Benefit at or by a certain time by the Superannuation Law, or if the Trustees are otherwise required to pay a Member's Benefit by the Superannuation Law, then notwithstanding any provision in the Rules or the fact that a claim has not been made under this clause, the Trustees may pay the Member's Benefit to or in respect of a Member in accordance with the Superannuation Law less any deduction that is required to be made in respect of any taxes;
- (c) if any Member's Benefit (or part thereof) otherwise payable to a Member is unable to be so paid by reason of the Preservation Requirements then the Member's Benefit may be transferred to another eligible fund elected by the Member and approved by the Trustees;
- (d) subject to the Superannuation Law, the Trustees may pay the Member's Benefit to or in respect of a Member by way of a pension, purchase of an annuity or lump sum and otherwise in accordance with the Rules applicable to the Member.

13.2 If at any time, in the opinion of the Trustees, a Member's Benefit exceeds or would be likely to exceed the maximum reasonable benefit for the purposes of the Superannuation Law, the Trustees may take such of the following actions which they, in their absolute discretion, determine:-

- (a) decline to accept any further contributions for the benefit of that Member,
- (b) establish a separate excessive benefits Fund of which the Trustees shall be the trustees and which is subject to the same trusts and powers contained in this Trust Deed;
- (c) transfer to the separate Fund established under paragraph (b) of this clause, the amount which the Trustees determine represents the excess over the maximum reasonable benefit for the purposes of the Superannuation Law.

The Trustees may accept a transfer from the separate Fund referred to in paragraph (b) of this clause 13.

14 FORFEITURE OF BENEFITS

14.1 A Member or former Member shall cease to be presently or presumptively entitled to the Member's Benefit at the discretion of the Trustees if in their opinion:-

- (a) he has become bankrupt or insolvent or has attempted to assign, alienate, charge or encumber all or a part of his Member's Benefit;
- (b) he is declared mentally ill or becomes liable to have his affairs dealt with under the laws relating to mental health; or
- (c) his whereabouts cannot be traced by the Trustees for a period of five years, after making reasonable enquiries.

Notwithstanding the generality of the foregoing, this clause shall not apply to a Member's Benefit to which the Member (or any person claiming under, or in respect of, him or her) is absolutely entitled or (in the case of a Member who becomes bankrupt, commits an act of bankruptcy or executes a deed of assignment or a deed of arrangement under the Bankruptcy Act 1966) to the beneficial interest (within the meaning of the Bankruptcy Act 1966) of the relevant person.

- 14.2 In any such event the Trustees shall apply the amount so forfeited that stood to the credit of the Member's Contribution Account for the benefit of the Member or such of the Member's Dependents as the Trustees, in their absolute discretion, determine and the Trustees may, in its absolute discretion, in order to relieve hardship only, apply the amount so forfeited that stood to the credit of the Member's Employers Contribution Account for the maintenance or support of the Member or such of his Dependents as the Trustees in their absolute discretion determine or in a manner provided for in the Superannuation Law. Such application of the Member's Benefit shall be a discharge to the Trustees for the payment thereof.

15 ALLOCATION OF FORFEITED BENEFITS

The amount of any forfeited benefit in the Fund by reason of the operation of clause 14 hereof and the Rules annexed hereto which is not applied in accordance with clause 14.2 hereof shall be credited to the Forfeited Benefits Reserve Account established in accordance with the provisions of clause 11.1 (f) and shall be applied within six months of the end of each financial year (or such other period provided for in the Superannuation Law):-

- (i) to the provision of the benefits that other Members or their Dependents have rights to receive from the Fund; or
- (ii) to the provision for other Members or their Dependents who have rights to receive benefits from the Fund of additional benefits on a basis that a Superannuation Authority regards as reasonable having regard to all of the circumstances; or
- (iii) for any purpose approved in writing by a Superannuation Authority; or
- (iv) in such other manner that is permitted or required under the Superannuation Law, in order for the Fund to obtain income tax concessions.

16 COMMON LAW RIGHTS OF MEMBERS

The provisions of this Deed and the Rules annexed hereto shall not in any way affect the right of a Member or his personal representatives or any other person to claim compensation or damages under an Act of Parliament or at a common law, in the event of the Member being injured or dying as a result of an event arising out of and in the course of his employment.

17 LOANS TO MEMBERS

Subject to the Superannuation Law, the Trustees shall not make any loans or advances to a Member or a relative of a Member of the Fund.

18 MEMBERS' RIGHTS TO BENEFITS AND STATEMENTS

- 18.1 A Member shall have no right to or interest in his Member's Benefit except as provided herein and in the Rules annexed hereto and in the Superannuation Law.
- 18.2 The rights of the Members and their Dependents to receive benefits from the Fund shall be those set out in this Trust Deed.
- 18.3 The rights of the Members and their Dependents to receive the benefits payable under the Rules shall be fully secured within the meaning of the Superannuation Law.
- 18.4 The Members shall be provided with statements and information in relation to the administration of the Fund in accordance with the requirements of the Superannuation Law.

19 EMPLOYER'S RIGHT TO DETERMINE EMPLOYMENT

- 19.1 Nothing herein contained shall restrict the right of the Employer to dismiss or otherwise determine the employment of a Member or remove a director of the Employer from office and being a Member shall

not be taken as guaranteeing continuation of employment or as a Director.

- 19.2 The fact of being a Member shall not be used as a ground for claiming or increasing damages in a claim by the Member for alleged wrongful termination of employment or for claiming the payment of any amount on retrenchment.

20 TRUSTEES - APPOINTMENT AND REMOVAL

- 20.1 The Trustees may be natural persons or a corporation.

- 20.2 Where the Trustees are natural persons the number of Trustees shall not be less than 2 or such greater number determined by the Employer or, if there is no Employer, by the Trustees in accordance with the Superannuation Law. The Trustees shall have the power by deed or by an oral or written resolution to appoint a new or additional Trustee or Trustees.

- 20.3 The Trustees or, where the Trustees are natural persons, each of those persons, shall hold office until:

- (a) the Trustees or person is a Disqualified Person or is otherwise disqualified from that office by operation of law;
- (b) the Trustees or person is removed from that office by notice in writing from the Employer;
- (c) the Trustees or person retires from that office by giving 60 days' written notice to the Employer (or such lesser period as the Employer may agree); or
- (d) in the case of a natural person:
 - (i) the person dies; or
 - (ii) the person becomes of unsound mind.

- 20.4 If a corporation is at the time of being placed in receivership or liquidation the sole Trustee of the Fund the receiver or liquidator shall have the power to appoint a new Trustee or Trustees.

- 20.5 Subject to clause 25 :

- (a) If an office of the Trustees becomes vacant the Employer shall by deed appoint another person to act in that vacant office in accordance with this clause;
- (b) upon retirement, a Trustee shall be deemed to be discharged from the trusts of this Deed and the duties and obligations of a Trustee under this Deed at the time and on the date of retirement;
- (c) if a Trustee has retired from office, the Trustees shall thereupon or at any time thereafter (if called upon by the remaining Trustees so to do) do, deliver, sign and execute all such things, papers, records, writings, documents, deeds and other property as may be necessary to give proper effect to such retirement from office and the transfer or assignment to or otherwise the vesting of the assets of the Fund in the new Trustee or Trustees.

- 20.6 Where the Trustees are natural persons, a Trustee may with the approval of the Employer appoint any person (whether a Trustee or not) as his alternate Trustee to exercise as his delegate any of the powers, duties and discretions conferred upon him as a Trustee under this Deed, including the right to attend and vote at meetings of the Trustees at which the Trustee making the appointment is not present. The appointment of the alternate Trustee may be terminated at any time by the Trustee making the appointment or upon written notice from the alternate Trustee and shall determine automatically if that Trustee ceases to be a Trustee.

- 20.7 Nothing contained in this Deed shall relieve a person who ceases to be a Trustee from liability for any antecedent breach of trust for which that person would otherwise be liable.

- 20.8 The Trustees shall not be entitled to remuneration for their services as Trustees. The Trustees shall be reimbursed from the Fund for all reasonable expenses incurred by them in carrying out their

duties in relation to the Fund.

20.9 A Trustee which is a corporation may act by resolution of its board of directors or by any person appointed for the purpose by resolution of its directors, whether or not the exercise of a discretion is involved.

20.10 Except during such time as a Trustee is a corporation:

- (a) the Trustees may meet, adjourn and regulate their meetings as they see fit and a meeting of the Trustees at which a quorum is present shall be competent to exercise all or any of the powers, authorities and discretions exercisable by the Trustees under this Deed;
- (b) a Trustee may at any time convene a meeting of Trustees by giving not less than 7 days' prior written notice to each other Trustee but all Trustees may by unanimous decision determine that a meeting of Trustees shall be held at shorter notice or held without prior notice;
- (c) subject to the Superannuation Law, motions presented at a meeting of Trustees shall only be passed if approved by not less than two-thirds of the Trustees present and voting, with each Trustee having one vote;
- (d) the Trustees may elect one of their number to be the Chairman to preside over the meetings of the Trustees. If the Chairman so appointed is not present at a meeting or if at the time of a meeting there is no chairman so appointed, another Trustee shall be appointed by the Trustees present at such meeting to act as Chairman of that meeting;
- (e) at a meeting of Trustees, the number of Trustees whose presence is necessary to constitute a quorum, shall be two;
- (f) in the event of a vacancy or vacancies in the office of Trustee, the remaining Trustees may act but if the number of remaining Trustees is not sufficient to constitute a quorum at a meeting of Trustees, the Employer shall appoint additional Trustees pursuant to clause 20.2;
- (g) the Trustees shall keep or cause to be kept proper minutes in a book provided for the purpose of all resolutions made and matters arising at any meeting of the Trustees. Minutes of any meetings signed by the Chairman of such meeting or of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated therein;
- (h) a written resolution signed by all the Trustees shall be effective as a resolution passed at a meeting of the Trustees duly convened and held. If such an instrument is signed by the Trustees on different days, the resolution shall be effective as a minute of a meeting of the Trustees on the date it is signed by the last Trustee. A resolution signed by the Trustees pursuant to this clause may be signed in a number of counterparts and each such counterpart taken together shall constitute a resolution of the Trustees; and
- (i) a meeting of Trustees shall be valid notwithstanding that they did not meet at one place if during the meeting a quorum of Trustees were in communication with each other by telephonic or other means.

21 POWERS OF TRUSTEES

21.1 The Trustees shall have complete management and control of the Fund and shall, in addition to the powers otherwise granted herein and conferred upon trustees by statute and general law, exercise any of the following powers:-

- (a) to pay out of the Trust Fund all costs, charges and taxes incidental to the administration, management and winding up of the Fund;
- (b) to pay out of the Trust Fund expenses incurred in:-
 - (i) providing for the secretarial work required for proper record keeping and administration to be performed;
 - (ii) having the accounts of the Fund audited;

- (iii) having taxation returns and returns to Government authorities prepared; and
 - (iv) engaging such persons as the Trustees consider appropriate for the proper administration and maintenance of records of the Fund;
- (c) to enter into such contracts and deeds on behalf of the Fund as the Trustees consider necessary for the administration of the Fund;
- (d) to delegate (by power of attorney or otherwise) to any person or company any of the powers duties and discretions vested in the Trustees on such terms and conditions as the Trustees in their absolute discretion think fit and the Trustees shall not be responsible for any loss incurred as a result of such delegation;
- (e) to take and act upon the advice of a barrister, solicitor, accountant, actuary or superannuation consultant in relation to the administration of the Fund and pay out of the Trust Fund the fees payable to such advisers;
- (f) to commence, carry on and defend any legal proceedings that the Trustees in their absolute discretion think necessary for the proper administration of the Fund to protect the rights of Members;
- (g) to open and maintain such bank accounts as the Trustees think fit;
- (h) to sell the assets of the Fund by private sale or public auction, for cash or on terms and in such other manner and on such other terms as the Trustees see fit;
- (i) to borrow any sum of money for the purposes of obtaining temporary finance (as defined in the Superannuation Law) and secure the repayment thereof in such manner and upon such terms and conditions and at such rate of interest as the Trustees think fit and in particular by charging or mortgaging all or any of the assets of the Fund and no lender shall be concerned to enquire as to whether the necessity for any such borrowing has arisen or as to the purpose for which it is required or as to the application of money borrowed;
- (j) generally to do all such things and perform such acts as the Trustees in their absolute discretion consider appropriate in the administration of the Fund and the performance of their obligations under this Trust Deed and the Rules annexed hereto.
- 21.2 The Trustees may do all things considered by the Trustees as necessary or convenient to comply with any provision of the Superannuation Law and without limiting the generality of the foregoing the Trustees may:
- (a) require Employers, Members, dependants of Members or other persons entitled to a Member's Benefit or making contributions to the Fund to provide such information as the Trustees may require in order to satisfy the Trustees that any provision of the Superannuation Law is complied with, to determine whether any taxes are payable or to calculate any Member's Benefit;
 - (b) refuse to accept any contribution or refuse to pay any Member's Benefit to any person where acceptance of the contribution or payment of the Member's Benefit may in the reasonable opinion of the Trustees result in the Fund ceasing to be a complying superannuation fund or where information sought under paragraph (a) has not been provided; and
 - (c) lodge any returns or other documents required by the Superannuation Law, make objections to any assessment or seek review of any determination of any Superannuation Authority or to pursue any objection or review by way of legal or other proceedings.
- 21.3 Subject to the Superannuation Law, if there is any dispute or difference as to the effect or interpretation of this Deed the decision of the Trustees shall be final and binding.
- 21.4 The Trustees shall comply with the Superannuation Law in relation to enquiries into and complaints about the operation or management of the Fund. The Trustees may determine to require a person making an enquiry or complaint to pay the Trustees' costs and expenses reasonably incurred in responding to that enquiry or complaint in relation to the operation or management of the Fund.

- 21.5 The Trustees shall keep all records and reports as required by the Superannuation Law in accordance with the Superannuation Law.
- 21.6 The Trustees shall comply with the Superannuation Law in relation to the notification of significant adverse events.
- 21.7 When required by the Superannuation Law, the Trustees shall establish rules setting out a procedure for appointing Member representatives during such time as the Trustee is:
- (a) a corporation - to the board of directors of the Trustee;
 - (b) natural persons - as Trustees,
- and the Trustees shall publish the rules in such a way as will make Members aware of the procedures for appointment and removal of Member representatives and must ensure that the Member representatives appointed in accordance with those rules may only be removed by the same procedure as that by which they were appointed, except in the event of:
- (c) the death of the Member representative;
 - (d) the mental or physical incapacity of the Member representative;
 - (e) the retirement of the Member representative;
 - (f) the termination of employment of the Member representative;
 - (g) the Member representative becoming a Disqualified Person;
 - (h) the suspension or removal of the Trustee in accordance with the Superannuation Law; or
 - (i) other circumstances prescribed under the Superannuation Law.
- 21.8 Where the Trustee is a corporation, if a director, secretary or executive officer of the Trustee becomes a Disqualified Person the Trustee shall immediately notify the Superannuation Authority. Where the Trustees are natural persons, if a Trustee becomes a Disqualified Person that Trustee shall immediately notify the Superannuation Authority.
- 21.9 The Trustees shall comply with notices and directions from the Superannuation Authority and the Superannuation Complaints Tribunal.
- 21.10 Subject to the Superannuation Law, the Trustees may retain reserves within the Fund.
- 21.11 The Trustees may make any levy payment or other payment out of the Fund as is required by the Superannuation Law from time to time to be made.

22 TRUSTEES - EXERCISING DISCRETIONS AND DISCRIMINATION

- 22.1 In administering the Fund and in exercising the trusts, powers and authorities vested in them herein and the Rules annexed hereto, the Trustees shall have an absolute and uncontrolled discretion at all times to exercise or refrain from exercising such trusts, powers, and authorities **PROVIDED HOWEVER** that the Trustees shall not discriminate against any person on the grounds of that person's race, sex or marital status in such a manner as to infringe any law of the Commonwealth or a State or Territory in respect of discrimination.
- 22.2 Notwithstanding any provision of this Deed (including any provision of this Deed which purports to apply notwithstanding other provisions of this Deed), no provision of this Deed shall be construed as permitting the Trustees to be subject, in the exercise of any of the Trustees' powers under this Deed, to direction by any other person to the extent that, in the opinion of the Trustees, such provision will or may contravene the Superannuation Law.
- 22.3 Notwithstanding any provision of this Deed (including any provision of this Deed which purports to apply notwithstanding other provisions of this Deed), no provision of this Deed shall be construed as permitting a discretion under this Deed 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 contravene the Superannuation Law.

- 22.4 To the extent that any provision of this Deed provides for the exercise of a discretion by a person other than the Trustees, the exercise of which discretion without the consent of the Trustees would or might contravene the Superannuation Law, that discretion may be exercised by that person with the consent of the Trustees but not otherwise, and the Trustees may give their consent to the exercise of such discretion.

23 LIABILITY OF TRUSTEES

A Trustee shall not be liable for any loss that is:-

- (a) not attributable to his own dishonesty;
- (b) attributable to actions or defaults of a co-trustee;
- (c) attributable to any action taken inconformity with the decisions of the Trustees hereunder; or
- (d) attributable to the neglect or default of an agent employed in good faith by the Trustees.

24 INDEMNITY

- 24.1 Subject to the Superannuation Law, the Trustees and, during such time as the Trustee is a corporation each director of the Trustee, shall be indemnified by the Fund in respect of any liability incurred while acting as the Trustees or as a director of the Trustee (as the case may be) except where the liability arises from a breach of trust where the Trustees or a director:

- (a) fails to act honestly in a matter concerning the Fund;
- (b) intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund, the degree of care and diligence required to be exercised,

or the liability is for a monetary penalty under a civil penalty order imposed under the Superannuation Law. The Trustees may realise any assets of the Fund (including any insurance policy or any units or interests under any insurance policy) in whole or in part for the purposes of such indemnity and, without limitation, the indemnity shall extend to all legal and other costs, charges and expenses of administering or winding up the Fund and otherwise of performing any trusts, powers, authorities and discretions under this Deed. The indemnity provided to the Trustees and the directors of the Trustee under this clause shall be in addition to any other indemnity allowed by law or given under this Deed.

- 24.2 Subject to the Superannuation Law, the Trustees shall have a lien on and may dispose of all assets of the Fund in the hands of the Trustees for the purpose of the indemnity set forth in clause 24.1.

25 EQUAL REPRESENTATION

The Trustees shall ensure that the Fund complies with the equal representation rules prescribed by the Superannuation Law as are applicable to the Fund from time to time.

26 TRUSTEES' MEETINGS

- 26.1 The Trustees may meet together to dispose of business concerned with the administration of the Fund, determine a quorum, adjourn the meetings and otherwise regulate their meetings as they see fit. Two-thirds of the Trustees shall be a quorum unless there is only one Trustee in which case a quorum shall be that Trustee.
- 26.2 A meeting of the Trustees at which a quorum is present shall be competent to exercise the trusts, powers, authorities and discretions vested in the Trustees herein and the Rules annexed hereto.
- 26.3 The Trustees may elect a Chairman of each meeting.

- 26.4 A resolution of the Trustees shall be valid and binding if two-thirds of the total number of Trustees have voted in favour of it.
- 26.5 The Trustees shall keep minutes of their resolutions and proceedings in a book provided for that purpose.
- 26.6 A resolution, in writing signed by two-thirds of the Trustees, shall have the same effect and validity as resolution of the Trustees passed at a duly convened meeting.

27 SIGNING OF DOCUMENTS BY TRUSTEES

Any two of the Trustees, where there are more than two Trustees, are hereby authorised on behalf of all the Trustees to execute, sign, enter into and acknowledge all cheques, negotiable instruments, agreements, contracts writings, proposals for insurance, transfers of shares, policies of insurance or units in a unit trust and all other documents as validly and effectually as all the Trustees could do.

28 REMUNERATION OF PROFESSIONAL PERSONS

Any person who is an accountant, actuary, solicitor, barrister or other professional person and is also a Trustee or a director of a company acting as Trustee, who is called upon or whose firm is called upon to perform any service in relation to the Fund shall be entitled to make the same professional charges for such service that he would make had he not been a Trustee or a director of a company acting as Trustee hereof.

29 TRUSTEES AS MEMBER'S ATTORNEY

Each Member hereby irrevocably appoints the Trustees his attorneys to execute and sign all such deeds and instruments and do all such things the Trustees consider necessary or desirable in administering the Fund.

30 TRUST DEED AVAILABLE FOR INSPECTION

A copy of this Trust Deed and the Rules annexed hereto shall be kept by the Trustees and be available for inspection by any Member at all reasonable times.

31 VARIATION OF TRUST DEED

- 31.1 The Trustees may at any time and from time to time either by deed executed by the Trustees or by oral resolution vary, add to or rescind all or any of the provisions from time to time of this Trust Deed and the Rules annexed hereto and the new provisions so made shall have the same validity and effect as if they had been originally contained herein and shall be subject to being varied, added to or rescinded in like manner PROVIDED THAT no such variation, addition or rescission shall have the effect of:-

- (a) reducing the amount of a benefit calculated on the basis of contributions to the Fund and earnings on those contributions, that has accrued, or become payable, before the variation, addition or rescission; or
- (b) reducing the amount of a benefit, other than a benefit referred to in paragraph (a) of this clause, that is, or may become, payable in relation to a period before the date of the variation, addition or rescission;

and the benefits that have accrued, or become payable, to or in respect of a Member shall not otherwise be reduced, unless:-

- (i) the reduction is required because of, and does not exceed the value of, any tax payable on the taxable income of the Fund; or
- (ii) the reduction is required only to enable the Fund to comply with the Superannuation Law; or

(iii) the member so affected approves in writing of the reduction; or

(iv) a Superannuation Authority approves in writing of the reduction.

31.2 No amendment shall be made to this Deed which would have the effect of permitting the primary purpose of the Fund to be other than the provision of old-age pensions.

31.3 The Trustees shall as soon as practicable advise the Members in writing of the nature, purpose and effect of any such variation, addition or rescission.

32. TRANSFER OF BENEFIT FROM ANOTHER FUND

32.1 Where a Member requests that an amount standing to his credit or a policy of insurance in another complying superannuation or approved deposit fund be transferred to the Fund, the Trustees may accept the transfer of such amount or policy to the credit of the Member's Contribution Account **PROVIDED THAT** if the said amount or policy is being transferred from a superannuation fund conducted by or contributed to by an Employer or an associate of an Employer, the said amount or policy shall be credited to the Member's Contribution Account and/or the Employer's Contribution Account in the same proportion as such amount or policy stood to the credit of the Member's contribution account and/or the Employer's Contribution Account (or the equivalent thereof) in the previous superannuation or provident fund or on such other basis as the Trustees and the Member agree upon.

32.2 If any moneys which are subject to the Preservation Requirements are transferred from another complying superannuation or approved deposit fund the Member's Benefits preserved by the moneys so transferred may not be paid to the Member otherwise than in accordance with the Preservation Requirements.

33. TRANSFER OF BENEFIT TO ANOTHER FUND

The Trustees may, on receiving the written request of a Member, transfer the whole or a part of the Member's benefit to the Trustees of another superannuation fund which the Trustees are satisfied complies with the Superannuation Law and the Preservation Requirements or provided termination of employment has occurred transfer the benefit to an approved deposit fund which the Trustees are satisfied complies with the Superannuation Law, **PROVIDED THAT** such a transfer shall only be made if it is a condition of such transfer that the amount transferred shall not be paid from that fund prior to the Member retiring from the workforce and attaining age 55 except in the event of death or permanent incapacity for work or in such other circumstances as are permitted under the Superannuation Law 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. The receipt of the Trustees of such fund shall be a complete discharge to the Trustees in respect of any liability to that Member and persons claiming through him in relation to the amount so transferred.

34. BENEFITS PAYABLE IN AUSTRALIAN CURRENCY

The benefits payable hereunder shall be calculated in and be payable in Australian currency.

35. ADMISSION OF EMPLOYERS TO FUND

The Trustees may admit an Employer as a contributor to and a participant in the Fund on completion of Appendix B or such other form of application as the Trustees decide upon. An Employer so admitted shall be bound by the provisions of this Trust Deed and the Rules annexed hereto in the same way the Employer would be if it had been an original party to the Trust Deed.

36. DISSOLUTION OF THE FUND

36.1 When the last remaining Member ceases to be a Member the Fund shall be wound up and the Trustees shall, subject to the Rules annexed hereto, pay or transfer to the Members or former Members, benefits in accordance with the provisions of the Rules annexed hereto, after deducting

from the assets of the Fund the cost of administering and winding up the Fund. Such payment or transfer shall be accepted by the Members and former Members in full discharge of all claims in respect of the Fund.

- 36.2 Notwithstanding anything contained in clause 36.1 the Trustees shall not pay or transfer the benefit to a Member except in accordance with the provisions of the Rules annexed hereto.
- 36.3 If any amount remains in the Fund, after all the Members' entitlements to benefits have been paid, the amount so remaining shall be paid to the former Members or their Dependents in such proportions as the Trustees consider to be equitable.
- 36.4 The trusts constituted by this Trust Deed shall, unless previously terminated in accordance with clause 36.1 hereof, endure during the life of the survivor of all the lineal descendants of His Late Majesty King George V living at the date of this Trust Deed and for twenty-one years after the death of such survivor and for such further period (if any) as may be allowed by law for the duration of the trusts hereby established provided that this provision shall not apply where the laws of the State or Territory of Australia applicable to the Deed provides that the rule against Perpetuities shall not apply.

37 SUPERANNUATION LAW

- 37.1 Notwithstanding any provision of this Deed, any provision of the Superannuation Law that is required to be included in this Deed for the Fund to remain or to be a complying superannuation fund shall be deemed to be included in this Deed as if every such provision was set out in this Deed on and from the date that the provision is required to be so included.
- 37.2 In the event of any inconsistency between the provisions deemed by clause 37.1 to be included in this Deed and the terms of this Deed, the provisions deemed to be included by clause 37.1 shall prevail.
- 37.3 The Trustees shall not be taken to be in contravention of this Deed or to be in breach of trust if the Trustees do anything or fail to do anything which is in contravention of the Superannuation Law if:
- (a) the contravention is approved by a Superannuation Authority; or
 - (b) the contravention is rectified within 30 days from the date the Trustees become aware of the contravention.
- 37.4 Subject to the Superannuation Law, the Trustees may seek modification of or exemption from the requirements of the Superannuation Law, and if any modification or exemption is granted by the Superannuation Authority, the Trustees are relieved from compliance with those provisions of this Deed and the Superannuation Law expressed in that modification or exemption subject to any conditions in that modification or exemption.

38 OVERRIDING PRUDENTIAL REQUIREMENTS

- 38.1 Notwithstanding any provision of this Deed (including any provisions of this Deed which purport to apply notwithstanding other provisions of this Deed), the Trustees covenant to comply with the covenants required from time to time by the Superannuation Law to be contained in this Deed and those covenants are deemed to be contained in this Deed, subject to any exemption granted or any modification made by a Superannuation Authority.
- 38.2 The Trustees may comply with any requirement or provision of the Superannuation Law including, without limitation, any requirement or provision in relation to:
- (a) equal representation;
 - (b) borrowing money or maintaining an existing borrowing;
 - (c) investing the assets of the Fund;
 - (d) acquiring assets from Members or their relatives;

- (e) appointing investment managers and custodian trustees;
- (f) establishing procedures for dealing with enquiries into or complaints about the operation and management of the Fund;
- (g) providing financial assistance to Members or their relatives;
- (h) maintaining Fund records;
- (i) reporting significant adverse events in relation to the Fund;
- (j) preparing statements in relation to the Fund;
- (k) providing information about the Fund to Members;
- (l) complying with notices and requests in relation to the Fund;
- (m) in-house assets;
- (n) acceptance of contributions by the Fund; and
- (o) payment of benefits, including the payment of pensions and unclaimed benefits.

38.3 The Trustees may elect that from the date of election the Fund shall be a regulated superannuation fund and any election made under this clause may not be revoked.

SCHEDULE

DATE OF MAKING THIS DEED

25 October 1997

THE TRUSTEE

AARON JOHN MICHELON and TINA
KATHLEEN ELIZABETH TINWELL both of 4/78
Bridge Street Kensington 5068 in the State of
South Australia

THE NAME OF THE FUND

MICHELON TINWELL SUPER FUND

LAW OF THIS FUND

SOUTH AUSTRALIA

IN WITNESS WHEREOF this Trust Deed has been executed on the day and year set forth in the Schedule.

SIGNED SEALED AND DELIVERED

by the said

AARON JOHN MICHELON

in the presence of

)

)

)

) TRUSTEE



WITNESS

SIGNED SEALED AND DELIVERED

by the said

TINA KATHLEEN ELIZABETH TINWELL

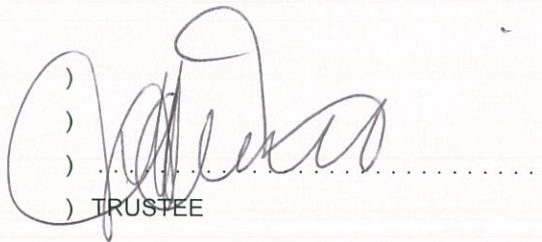
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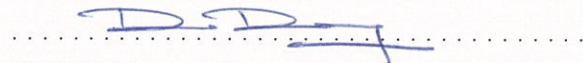
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WITNESS



**SCHEDULE
OF
RULES**

1 BENEFIT PAYABLE ON RETIREMENT OR DEATH AFTER RETIREMENT

- 1.1 The amount of the Member's Benefit shall, subject to the provisions of the Trust Deed, be paid to a Member upon his retirement from the workforce after attaining age 55. In the event of the Member's death on or after attaining age 55, the Member's Benefit or the balance thereof shall, subject to Rules 1.4 and 1.5, be paid or applied by the Trustees in a lump sum in accordance with the provisions of Rule 2. The benefit payable under this Rule 1.1 on retirement shall, in the discretion of the Trustees, but subject to the Superannuation Law, be paid in a lump sum or by way of pension or annuity.

A pension or annuity paid to a Member:

- (a) in the case of a pension or annuity other than an allocated pension - shall not exceed 75% (or such other amount permitted under the Superannuation Law) of Highest Average Salary; and
- (b) in the case of an allocated pension - shall comply with the Superannuation Law and the provisions of the Trust Deed as they apply to allocated pensions,

and shall be paid on a basis that meets the requirements of the Superannuation Law from the Fund to obtain the maximum income tax concessions.

If a Member's Benefit that is being paid by pension or annuity exceeds the maximum reasonable pension benefit for the purposes of the Superannuation Law, the excessive amount may be paid by way of pension or annuity or a lump sum. The Trustees may, at the request of the Member and with the approval of the Commissioner pay benefits by transferring in specie assets of equivalent value to the benefit payable.

- 1.2 A benefit payable under Rule 1.1 shall commence to be paid no later than the Member's sixty-fifth birthday unless the Member is continually employed or self employed on a Part-Time Basis after attaining age 65 and elects to retain his benefit in the Fund in which case the benefit payable under Rule 1.1 shall commence to be paid no later than the Member's seventieth birthday.
- 1.3 Where a Member continues to be employed or self employed on a Full-Time Basis, after attaining age sixty five, his benefit may, if he so elects remain in the Fund until he retires from the workforce **PROVIDED THAT** if the Member ceases to be employed or self employed on a Full-Time Basis, but immediately thereafter becomes continually employed or self employed on a Part-Time Basis, his benefit shall continue to be paid on his seventieth birthday or, if later, the date he ceased to be employed or self employed on a Full-Time Basis.
- 1.4(a) On the death of a Member to whom a pension (other than an allocated pension) is being paid pursuant to Rule 1.1 and who is survived by a spouse, an annual pension equal to the annual pension payable to the deceased Member at the date of death shall be paid to the deceased Member's spouse for the balance of the 10 year period which commenced on the first day of the period to which the first pension payment to the deceased Member by the Trustees relates and at the expiry of the said 10 year period, an annual pension equal to 85% (or such other amount permitted under the Superannuation Law) of the annual pension payable to the deceased Member at the date of death shall be paid to the deceased Member's spouse for life (provided the Member's Benefit is not exhausted in that period). If, at the date of the Member's death, 10 years have elapsed from the first day of the period to which the first pension payment made to the deceased Member relates, an annual pension not exceeding 85% (or such other amount permitted under the Superannuation Law) of the annual pension payable to the deceased Member at the date of death, shall be paid to the deceased Member's spouse for life (provided the Member's Benefit is not exhausted in that period). Such a pension shall commence on the date of the Member's death and shall comply with the requirements of the Superannuation Law for the Fund to obtain the maximum income tax concessions.

- 1.4(b) On the death of a Member to whom an allocated pension is being paid pursuant to Rule 1.1 and is survived by a spouse, the balance of the Member's Benefit may continue to be paid as an allocated pension to the spouse or other Dependant who is the reversionary beneficiary or as a death benefit under Rule 1.5.

- 1.5 In the event of the death of a retired Member who does not have a spouse or in the event of the death of a Member's spouse to whom a pension was payable under Rule 1.4, the balance of the Member's Benefit shall be paid in a lump sum to such of the Member's Dependents as the Trustees, in their absolute discretion determine. If the payment of part or all of such benefit does not comply with the requirements of the Superannuation Law for the Fund to obtain the maximum income tax concessions the proportion of the benefit that does not so comply shall be treated as a forfeited benefit and shall be applied in the manner stated hereunder. If the Trustees are unable to establish within six months of the death of the Member or the Member's spouse (whichever occurs last) that there are any Dependents, the benefit payable under this Rule 1.5 shall be paid to the Member's legal Personal Representative but, if a grant of Probate or Letters of Administration in respect of the estate of the Member is not made within three years of this death (or such longer period as the Trustees determine), the benefit payable under this Rule shall be treated as a forfeited benefit and shall be applied in the manner provided for in the Superannuation Law or shall be applied by the Trustees in accordance with the provisions of clause 15 of the Trust Deed.

2 BENEFIT PAYABLE ON DEATH BEFORE RETIREMENT

- 2.1 In the event of the death of a Member the amount of the Member's Benefit shall be held by the Trustees upon trust for the benefit of such one or more of the Member's Dependents, to be paid in a lump sum or in such manner and in such shares and proportions as the Trustees, in their absolute discretion, determines subject to the Superannuation Law.
- 2.2 If the Trustees are unable to establish within six months of the Member's death that there are any Dependents, the benefit payable under Rule 2.1 shall be paid to the Member's Legal Personal Representative but if a grant of Probate or Letters of Administration in respect of the estate of the Member is not made within three years of his death (or such other period as the Trustees determine), the benefit payable hereunder shall be treated as a forfeited benefit and shall be applied in the manner provided for in the Superannuation Law or shall be applied by the Trustees in accordance with the provisions of clause 15 of the Trust Deed.

3 BENEFIT PAYABLE ON DISABLEMENT

- 3.1 If the event of a Member becoming in the opinion of the Trustees, Permanently and Totally Disabled, the amount of the Member's Benefit shall, subject to the provisions of the Trust Deed, be paid to the Member or, if he is unable to manage his own affairs, to such of his Dependents and in such proportions as the Trustees, in their absolute discretion, determine. If, prior to the Trustees determining that a Member is Permanently and Totally Disabled, the proceeds of a temporary disablement insurance policy on the life of the Member become payable, such proceeds shall be paid to the Member or his Dependents as aforesaid PROVIDED THAT the amount of such periodical benefit shall not exceed the maximum reasonable benefit that is allowed under the Superannuation Law in order for the Fund to obtain the maximum income tax concessions.
- 3.2 The benefit payable under Rule 3.1 on the occurrence of Permanent and Total Disablement shall, in the discretion of the Trustees, be paid in a lump sum or by way of pension. A pension or annuity shall comply with the requirements of the Superannuation Law for the Fund to obtain the maximum income tax concessions. If a Member's Benefit that is being paid by pension or annuity exceeds the maximum reasonable pension benefit for the purposes of the Superannuation Law, the excessive amount may be paid by way of pension or annuity or a lump sum. The Trustees may, at the request of the recipient of a benefit and with the approval of a Superannuation Authority, pay benefits by transferring in specie, assets of equivalent value to the benefit payable.
- 3.3 Where a benefit is payable under Rule 3.2 by way of pension, the Trustees shall, in their absolute discretion, determine the amount of the pension and the manner in which and the period for which it is paid PROVIDED THAT if, at the date that the payment of the pension commences, the Member's Benefit exceeds the maximum reasonable lump sum benefit for the purposes of the Superannuation Law, the pension shall be paid for a minimum period of ten years and on a basis that meets the

requirements of the Superannuation Law for the Fund to obtain the maximum income tax concessions **AND PROVIDED FURTHER THAT** the amount of the pension from time to time shall not exceed the amount which a qualified Actuary consulted by the Trustees certifies in writing to be the maximum amount that can be paid to the Member.

- 3.4 In the event of the death of a Member or a Member's spouse to whom a pension (including an allocated pension) was payable under Rule 3.2, the balance of the Member's Benefit shall:
- (a) be paid in a lump sum to such of the Member's Dependants as the Trustees, in their absolute discretion, determines; or
 - (b) where appropriate, continue to be paid as an allocated pension to such of the Member's Dependants who is the reversionary beneficiary as the Trustees, in their absolute discretion, determines,

provided such payment complies with the requirements of the Superannuation Law for the Fund to obtain maximum income tax concessions.

If the payment of part or all of such benefit does not so comply, the proportion of the benefit that does not so comply shall be treated as a forfeited benefit and shall be applied in the manner stated hereunder. If the Trustees are unable to establish within six months of the death of the Member or the Member's spouse (whichever occurs last) that there are any Dependents, the balance of the Member's Benefit shall be paid to the Member's legal Personal Representative but, if a grant of Probate or Letters of Administration in respect of the estate of the Member is not made within three years of his death (or such longer period as the Trustees determine), the benefit payable under this Rule shall be treated as a forfeited benefit and shall be applied in the manner provided for in the Superannuation Law or shall be applied by the Trustees in accordance with the provisions of clause 15 of the Trust Deed.

4 BENEFIT PAYABLE IN OTHER CIRCUMSTANCES

4.1 Member Going Overseas

The benefit payable under these Rules shall be paid to the Member prior to the Member attaining age 55 if the Trustees are satisfied that the Member intends to live permanently overseas with no intention of returning to live in Australia.

4.2 Financial Hardship

The Trustees shall, in their absolute discretion, pay part or all of the benefit payable to a Member prior to the Member attaining age 55, if the Trustees are satisfied that the Member would suffer financial hardship if the part or the whole of his benefit is not paid to him **PROVIDED THAT** any such payment must first be approved by a Superannuation Authority, if the Superannuation Law so requires in order for the Fund to obtain income tax concessions.

4.3 Other Circumstances

The Trustees may, in their absolute discretion but subject to the Preservation Requirements, pay so much of the benefit payable to a Member prior to the Member attaining age 55 as the Trustees are satisfied would be otherwise permitted by the Superannuation Law.

5 PAYMENT OF BENEFITS TO MINORS

Where a person, to whom benefits are payable hereunder, is a minor, the Trustees may pay the benefit to any other person for application on behalf of that minor and the receipt of the person to whom the benefit is so paid shall be a complete discharge to the Trustees in respect of such benefit.

6 DEDUCTION OF INCOME TAX

The Trustees may deduct from any benefit payable, the amount of any income tax that is calculated by the Trustees to be payable in respect of such benefit and shall remit any amount so deducted to

the Commissioner of Taxation.

7 PENSION CONDITIONS

- 7.1 If a Member's Benefit that is being paid by pension or annuity exceeds the maximum reasonable pension benefit for the purposes of the Superannuation Law, the excessive amount may be paid by way of pension or annuity or a lump sum.
- 7.2 When the Member's Benefit is reduced to nil, the pension payable under these Rules shall cease to be payable and the person who was receiving the pension shall cease to be entitled to any further benefits and, if a Member, shall cease to be a Member.
- 7.3 The recipient of a pension under these Rules may commute to a lump sum payment any amount up to fifty percent (or such other percentage that is prescribed by the Superannuation Law) of the pension on making written application to the Trustees **PROVIDED** the option to commute a pension to a lump sum payment is exercised within six months of the first day of the period to which the first pension payment paid by the Trustees relates or as otherwise required by the Superannuation Law, except in the event of the death of a Member or in such other circumstances as are permitted by the Superannuation Law in order for the Fund to obtain the maximum income tax concessions.
- 7.4 A pension payable under these Rules shall not be assigned by the person in receipt of it and it shall not be mortgaged or encumbered in any manner whatsoever.
- 7.5 A pension payable under these Rules may be increased annually by the Trustees by an amount not exceeding any percentage increase during the previous 12 months in the Consumer Price Index (All Capital Cities) or any replacement index **PROVIDED THAT** the minimum annual increase of the pension shall be the lesser of:-
- (i) 5% of the pension;
 - (ii) any percentage increase during the previous 12 months in the Consumer Price Index (All Capital Cities) published by the Australian Statistician for the March quarter in the preceding year or any replacement index; and
 - (iii) any other minimum increase permitted under the Superannuation Law.
- 7.6 The Trustees may, in their absolute discretion, provide a pension payable under these Rules by applying a Member's Benefit to the purchase, in the ownership of either the Trustees or the Member, of an annuity that meets the requirements of the Superannuation Law for the Fund to obtain the maximum income tax concessions.

**APPLICATION FOR MEMBERSHIP
OF
MICHELON TINWELL SUPER FUND**

APPENDIX A

Full Name: _____

Address: _____

Date of Birth: _____ Sex: _____

I hereby apply to become a member in category _____ of the abovementioned Fund which is administered in terms of a Trust Deed dated the _____ day of _____ 19 ____.

I have been advised of the benefits which I am entitled to receive from the Fund on retirement, death or termination of service with my employer.

In consideration of my admission to membership, I hereby agree to abide by and be bound by the provisions of the abovementioned Trust Deed.

*I hereby authorise my current Employer to deduct from my salary such amounts (if any) as are from time to time agreed upon by myself and my employer as contributions to be made by me to the abovementioned Fund.

NOMINATION OF BENEFICIARIES

Whilst I acknowledge the discretion the Trustees have to determine who the benefit is paid to, I hereby nominate the following persons to receive the benefit payable by the Trustees of the Fund in the event of my death:-

Name and Address	Relationship of member	Proportion of benefit
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

Dated this _____ day of _____ 19 ____.

Signature of Applicant: _____

Witness: _____

* Delete this clause if applicable

APPLICATION FOR PARTICIPATION BY EMPLOYER

APPENDIX B

To the Trustees of:

I/We, _____
(hereinafter called "the Associated Employer") hereby applies to participate in the abovementioned Fund and to include the employees of the Associated Employer as members of the Fund and in consideration of the acceptance of the Associated employer as a participant in the Fund, the Associated employer undertakes to contribute to the Fund and be bound by the Trust Deed and Rules governing the Fund as if it were originally named therein.

DATED this _____ day of _____ 19 ____

THE COMMON SEAL of _____)
_____)
was hereunto affixed with the _____)
authority of the directors _____)
in the presence of _____)

.....
DIRECTOR

.....
SECRETARY

SIGNED SEALED AND DELIVERED _____)
by the said _____)
_____)
in the presence of _____)

.....
WITNESS

SIGNED SEALED AND DELIVERED _____)
by the said _____)
_____)
in the presence of _____)

.....
WITNESS

NB The upper panel is to be used where the Associate Employer is a Company and the lower panel is to be used where the Associated Employer is a Partnership or Sole Trader.
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