

DEED OF VARIATION

Dated the *22nd* day of *June* 1989  
of the

A. & C. HICKEY PTY. LIMITED SUPERANNUATION FUND

Prepared for

DCA FINANCIAL SERVICES  
235 Darby Street,  
COOKS HILL. N.S.W. 2300  
(049) 294523

*Original Stamped July 89*  
*as held by B.O.A.*

This Deed of Variation is made on the date referred to in the First Schedule to this Deed

OLD DUTY - BNE

BETWEEN

1690011449-9

The person, persons, company or companies described in the Second Schedule to this Deed (hereinafter called "the Trustees").

12/02/2003 10:09:08  
\$20.00 SUP  
\$20.00 FNL  
\$40.00 TOT

AND

The person, persons, company or companies described in the Third Schedule to this Deed (hereinafter called "the Employer") of the other part.

WHEREAS:

- A. The Trustees are the trustees of the Superannuation Fund (hereinafter called "the Fund") described in the Fourth Schedule to this Deed and established by the instrument (hereinafter called "the Trust Deed") described in the Fourth Schedule to this Deed.
- B. The Employer is the Principal Employer for the purposes of the Fund.
- C. The Trust Deed may be varied pursuant to, and subject to the conditions contained in, the Clause of the Trust Deed enumerated in the Fifth Schedule to this Deed (hereinafter called "the Variation Clause").
- D. The parties hereto desire to amend the Trust Deed to ensure that the Fund complies with the provisions of the Occupational Superannuation Standards Act 1987 of the Commonwealth of Australia, and the Occupational Superannuation Standards Regulations made thereunder, and for related purposes.
- E. All the members of the Fund have consented to the amendment of the Trust Deed in the manner contained in this Deed.

NOW THIS DEED WITNESSES that pursuant to the Variation Clause and of every other power thereunto enabling, the provisions of the Trust Deed enumerated in the Sixth Schedule to this Deed are hereby deleted and the Clauses and Rules set out in the annexure "A" to this Deed are inserted into the Trust Deed in their place.

THE FIRST SCHEDULE

(Date of this Deed)

The *twenty second* day of *June* 1989

THE SECOND SCHEDULE

(The Trustees)

Name: ANDREW JAMES HICKEY and CAMILLE MARY HICKEY  
Address: c/- 235 Darby Street,  
Cooks Hill, NSW 2300

THE THIRD SCHEDULE

(The Employer)

Name: A. & C. HICKEY PTY. LIMITED  
Address: c/- 235 Darby Street  
Cooks Hill, NSW 2300

FOURTH SCHEDULE

(The Fund and The Trust Deed)

Name of Fund: A. & C. HICKEY PTY. LIMITED SUPERANNUATION FUND  
Trust Deed dated 25th June, 1986 and made between A. & C. HICKEY PTY.  
LIMITED and ANDREW JAMES HICKEY and CAMILLE MARY HICKEY

THE FIFTH SCHEDULE

(Variation Clause)

Part 27 of the Trust Deed

THE SIXTH SCHEDULE

(Provisions of the Trust Deed Deleted)

Part 1 to Part 35

IN WITNESS WHEREOF the parties hereto have executed this Deed on the date referred to in the First Schedule to this Deed.

THE COMMON SEAL of A. & C. )  
HICKEY PTY. LIMITED was )  
hereunto affixed pursuant to )  
a resolution of the Board of )  
Directors in the presence of )

.....  
Director & C. HICKEY  
PTY. LIMITED  
.....  
Secretary

SIGNED SEALED AND DELIVERED )  
by the said Andrew James )  
Hickey in the presence of )

.....  
*Andrew James Hickey*

*W. Paul Rosquena*  
.....  
Witness

SIGNED SEALED AND DELIVERED )  
by the said Camille Mary )  
Hickey in the presence of )

.....  
*Camille Mary Hickey*

*W. Paul Rosquena*  
.....  
Witness

"A"

1. INTERPRETATION

- (1) In this Deed and the Rules the following words and expressions shall unless the context otherwise requires have the following meanings:

"allocated portion of the Fund" at any date means the aggregate of the amounts in the member's reserves as at that date;

"annual salary" means the annual rate of the member's salary as at the date when he becomes a member or as at the relevant review date as advised by the Employer to the Trustees for the purposes of the Fund;

"Applicable Laws" means such of the ITA Act, the OSS Act, the OSS Regulations and any other applicable legislation or any requirements of the Commissioner or any other relevant authority (whether or not having the force of law) which from time to time have force or effect in relation to the operation or administration of the Fund or are required to be complied with to secure to the Fund what the Trustees consider to be the most favourable relief or concession from taxation;

"associated company" means a company which is associated with the Principal employer within the meaning of Section 23F(4) of the ITA Act in its form immediately prior to its repeal by Act No. 138 of 1987 or otherwise as defined by the Applicable Laws;

"Child" includes a stepchild legally adopted child and a person recognized by the Trustees as an adopted child;

"Commissioner" means such of the Insurance and Superannuation Commissioner or the Commissioner of Taxation as may have jurisdiction in relation to the subject matter of the particular provision of this Deed or the Rules in which the reference to "the Commissioner" appears;

"dependant" in relation to a member the wife husband widow widower and any child of the member and any person who in the opinion of the Trustees is or was at the relevant date wholly or partially dependent on the member PROVIDED THAT such person shall also be a dependent within the meaning of that word in Section 3 of the OSS Act;

"employee" means a person who is in the service of the Employer;

"Employer" means each or any one (as the context requires) of the Principal Employer (or the declared assignee of the Principal Employer pursuant to Clause 22(3) hereof) and any of its subsidiary or associated companies which with the approval of the board of directors of the Principal Employer has applied to the Trustees in or to the effect of the form set out in Appendix "A" to this Deed and has been accepted as and has not ceased to be a participant in the Fund and where the word "Employer" is used in relation to member it means the Employer by which the member is for the time being employed;

"Employer Representative" has the same meaning as that expression bears in Regulation 3(1) of the OSS Regulations;

"final average salary" means the average of the amounts of the member's annual salaries on the review dates which occur within the period of three years prior to the member's retirement;

"Fund" means the Fund known as the A. & C. Hickey Pty. Limited Superannuation Fund which has been established in terms of this Deed comprising all moneys investments and property paid transferred to or accepted by the Trustees and held by them pursuant to this Deed or upon the trusts in this Deed declared and all accretions and additions thereto from any source and the investments property and assets from time to time representing the said moneys investments property accretions and additions;

"ITA Act" means the Income Tax Assessment Act 1936 as amended and any amendment or re-enactment thereof for the time being in force;

"Large Fund" has the same meaning as that expression bears in Regulation 13 of the OSS Regulations;

"member" means an employee who is participating in the Fund as a member or (as the context requires) a person who has become entitled to receive a benefit under the Fund;

"Member Representative" has the same meaning as that expression bears in Regulation 3(1) of the OSS Regulations;

"member's reserve" in respect of a member at any date means the accrued amount standing in the member's reserve at the date as determined in the manner specified in Rule 3;

"normal retirement date" means the member's sixty-fifth birthday or such other date as is agreed upon by the Trustees and the member and is approved by the Applicable Laws or the Commissioner;

"OSS Act" means the Occupational Superannuation Standards Act 1987 and any amendment or re-enactment thereof for the time being in force;

"OSS Regulations" means the Occupational Superannuation Standards Regulations made under the Occupational Superannuation Standards Act 1987 as in force from time to time;

"Principal Employer" means A. & C. Hickey Pty. Limited or its declared Assignee pursuant to Clause 22(3) hereof;

"review date" means the thirtieth day of June in each year or such other as is selected by the Trustees and agreed to by the Employer as at which adjustments to contributions and benefits are to be determined each year;

"Rules" means the Rules for the time being governing the Fund being the Rules referred to in Clause 19 of this Deed and any alterations additions or replacements thereto or thereof;

"service" means continuous service and for the purposes of this definition an employee's service shall not cease to be continuous by reason only of a transfer from the service of one Employer (as herein defined) to the service of another of those Employers;

"Small Fund" has the same meaning as that expression bears in Regulation 15 of the OSS Regulations;

"Subsidiary Company" means a Company in which the Principal Employer has a controlling interest;

"Supplementary Benefits Fund" means the separate fund which is referred to in Clause 4 of this Deed;

"this Deed" means the Deed by which the Fund has been established and any alterations or additions thereto being the Deed for the time being in force governing the Fund;

"Trustees" means the Trustees or the Trustee for the time being of this Fund;

"unallocated portion of the Fund" means that part of the Fund which is not included in the allocated portion of the Fund;

"Vested Benefit" in relation to a member means the total of the following amounts at the date upon which it is necessary to determine the vested benefit of such member:

a) That proportion of the members reserve in respect of such member which the total of:

- (i) the contributions to the Fund by such member;
- (ii) any contributions to the Fund made by the Employer in relation to such member in accordance with an agreement or award (including a consent award) certified or made by a Commonwealth Industrial Authority or State Industrial Authority; and
- (iii) any other contributions to the Fund which the Employer designates to be fully vested benefits in respect of such member;

bears to the total of all contributions to the Fund by or in respect of such Member;

- (b) any part of the member's reserve which the Trustees at any time designate to be fully vested benefits in respect of such Member; and
- (c) such other part (if any) of the member's reserve which is required by the Applicable Laws to be vested in the Member.

"widow" includes widower and means the person who becomes the member's widow or widower and the subsequent remarriage of that person shall not for the purposes of the Fund affect that person's status as widow or widower of the member.

In this Deed any reference to an Act or Regulations or other laws shall include any Act or Regulations or other laws amending or replacing the first mentioned Act or Regulations or other laws, and any reference to any Section of any Act or to any Regulation shall include any Section or Regulation amending or replacing the first mentioned Section or Regulation.

In this Deed and in the Rules words importing the singular number include the plural and vice versa and words importing the masculine or neuter gender include all genders as the case may require.

The heading in this Deed and in the Rules are for the convenience of reference and shall not affect the interpretation thereof.

- (2) In computing "years of service" for the purpose of the Fund:-



- (a) years of service shall be expressed as years and fractions of a year the said fractions being calculated on the basis of complete months of service;
- (b) any period during which the member is temporarily absent from the service of the Employer shall not unless the Employer otherwise determines or the law otherwise requires be included in the member's years of service;
- (c) if on or about the time when an Employer first participates in the Fund the Principal Employer specifies a date from which service with that Employer is to be taken into account, service with that Employer prior to the specified date shall not be counted;
- (d) if and to the extent that the Trustees and the Employer so determine and the Commissioner so approves a member's previous period of employment or part thereof either with an Employer or any other employer will be included in the member's years of service.

2. FUND AND CONTRIBUTIONS

- (1) The Fund shall be vested in the Trustees and shall at all times be held controlled and managed by them subject to the trusts powers and provisions herein contained.
- (2) Each Employer separately covenants to pay to the Trustees or as directed by them:-
  - (a) the contributions (if any) which each member has or is deemed to have requested the Employer to deduct from his salary and which the Employer has so deducted; and
  - (b) (subject as hereinafter provided) the Employer's contributions in accordance with the Rules,

PROVIDED THAT the Employer may pay to the Trustees such additional sums (if any) in conformity with the Applicable Laws as the Employer may from time to time determine and those sums shall be applied by the Trustees as the Employer shall in writing direct PROVIDED FURTHER THAT any Employer may at any time on giving one month's notice to the Trustees of its intention so to do terminate reduce or suspend the payment of its contributions to the Fund.

- (3) Upon the expiration of the notice given by the Employer in accordance with sub-clause (2) of this Clause the contributions to the Fund shall cease either wholly or to

the extent or for the period or in the circumstances mentioned in the notice except however in respect of payments due on or before the date of expiration of the notice.

- (4) The contributions payable by the Employer in respect of any member shall be paid by the Employer by which the member is for the time being employed PROVIDED HOWEVER that the contributions may be paid by such other Employer as agrees and is permitted by the provisions of the Applicable Laws to pay the said contributions.

3. APPLICATION OF CONTRIBUTIONS

The contributions received by the Trustees (or applied as directed by the Trustees) and any other money or property forming part of the Fund which is received by the Trustees shall be held in trust by the Trustees and applied by them in accordance with this Deed and the Rules.

4. LIMITATION OF BENEFIT

- (1) Except as provided in sub-clause (2) of this Clause the Trustees shall notwithstanding any other provisions of this Deed and Rules limit the benefits and contributions under the Fund in respect of each member to such extent as will ensure that:-

- (a) the benefits being provided under the Fund; and
- (b) those benefits together with benefits (of which the Trustees are aware) which have or are being provided under any other superannuation or similar fund or plan and which are for the purpose of this Clause to be taken into account.

are not in the opinion of the Trustees greater than the benefits which are permitted from time to time or in any particular case by the Applicable Laws.

- (2) the Trustees may establish a fund (hereinafter called "the Supplementary Benefits Fund") which is separate and distinct from the Fund and which is administered by the Trustees subject to the same trusts powers authorities discretions and provisions as apply to the Fund as set out in this Deed and the Rules (excepting sub-Clause (1) of this Clause) and may transfer from the Fund to the Supplementary Benefits Fund such amounts securities or other assets as in the opinion of the Trustees relate to the benefits or part thereof which are in the opinion of the Trustees greater than the benefits permitted for the time being by the Applicable Laws and may apply to the Supplementary Benefits Fund such contributions as are required to provide the benefits under the Supplementary

Benefits Fund PROVIDED HOWEVER that the amount of the benefit payable from the Supplementary Benefits Fund in the case of retirement (on or after the member's normal retirement date or within five years prior to that date) or death of the member shall be the amount then accrued in respect of the member in the Supplementary Benefits Fund and following termination of employment for any other reason shall be such amount as the Trustees determine being not greater than the amount then accrued in respect of the member in the Supplementary Benefits Fund and subject to Clauses 5 and 6 of this Deed not less than such proportion of the said amount accrued as is specified in Rule 10.

- (3) The Trustees may at any time transfer amounts securities or other assets from the Supplementary Benefits Fund to the Fund if they are of the opinion that such a transfer is warranted for the funding of the benefits under the Fund and that the transfer will not affect compliance of the Fund with the Applicable Laws.
- (4) In this Deed and the Rules the words "the Fund" shall subject to the provisions of sub-clauses (1)(2) and (3) of this Clause mean both the Fund and the Supplementary benefits Fund unless the context otherwise requires.

5. DEFALCATION

If a member has been party to or privy to any defalcation in respect of the Fund or of the funds of the Employer or of any funds entrusted to him either alone or jointly with others by the Trustees or any Employer or if the member is dismissed because of misconduct or negligence or resigns to avoid dismissal on those grounds the benefit to which the member would otherwise have been entitled under the Fund shall be applied so far as it shall extend to make good the defalcation and to meet any costs or losses (including the costs of any prosecution or civil proceedings) incurred by the Employer or the trustees as a result of or incidental to or arising howsoever out of the defalcation misconduct or negligence and the amount so applied shall be paid by the Trustees to the Employer or retained in the Fund (as the case may require) and the balance of the said benefit shall be dealt with in accordance with the other provisions of this Deed and the Rules.

6. FORFEITURE

- (1) The benefits being provided under the Fund in respect of a member (other than the Vested Benefit in respect of such member if such forfeiture shall be contrary to the Applicable Laws) shall be absolutely forfeited if he becomes bankrupt or insolvent or if he does or suffers anything whereby his benefit under the Fund or any part

thereof shall become vested in or payable to some other person.

- (2) The benefits of a member (other than the Vested Benefit in respect of such member if such forfeiture shall be contrary to the Applicable Laws) shall be suspended if he is found by any competent Court or is shown to the satisfaction of the Trustees to be mentally ill or of unsound mind or incapable of managing his own affairs.
- (3) The Trustees may in their absolute discretion pay or apply the whole or any part of the Member's Benefit to or for the benefit of the member or any one or more of his dependants in such shares and proportions in such manner as the Trustees in their absolute discretion determine PROVIDED HOWEVER that while the member is still in the service of the Employer the Trustees shall not make any payment in accordance with this Clause except for the maintenance or support of the member or his dependants and for the purpose of relieving hardship and provided that such payment is not in contravention of the Applicable Laws.
- (4) If in regard to a member whose benefits have been suspended in accordance with sub-clause (2) of this Clause a competent Court declares or the Trustees are satisfied that the member is no longer mentally ill or of unsound mind and is capable of managing his own affairs or if the member dies any benefit which has become payable in respect of the member and which has not been applied in accordance with sub-clause (3) of this Clause and any benefit which subsequently becomes payable shall be paid to him or his dependants of (if there is no dependant) to his legal personal representatives in accordance with the Rules.
- (5) For the purpose of this Clause "member" shall unless the context otherwise requires include a dependant who is in receipt of a benefit.

7. MEMBER NOT TO CHARGE BENEFITS

A member while he is in the service of the Employer shall not charge mortgage transfer assign or otherwise deal with his benefit under the Fund or attempt so to do.

8. POWER TO DISMISS

Nothing in this Deed or in the Rules 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 an employee's dismissal.

9. DAMAGES AND COMPENSATION

Nothing in this Deed or in the Rules shall in any way affect the right of a member or his legal personal representatives or other persons to claim damages or compensation by 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 except as provided in the Rules the amount payable in terms of this Deed and the Rules shall not be reduced by reason of any payment of damages or compensation as aforesaid.

10. TRUSTEES

- (1) Subject to the succeeding sub-clauses of this Clause 10 and to the other provisions of this Deed, the Trustees at the date of adoption of this Clause 10 shall continue to be the Trustees.
- (2) Subject to sub-clauses (4), (5) and (6) of this clause, whenever a vacancy occurs amongst the Trustees, or if the Trustees comprise a body corporate then amongst the board of directors of such body corporate, such vacancy shall be filled within sixty (60) days by -
  - (i) the Employers - if the vacating Trustee or board member is an Employer Representative; or
  - (ii) the members - if the vacating Trustee or board member is a Members Representative.
- (3) Subject to sub-clauses (4), (5) and (6) of this clause, the office of a Trustee or of a board member of any corporate trustee shall become vacant if:-
  - (i) he resigns his office by notice in writing to the Principal Employer;
  - (ii) he becomes bankrupt or is wound up or makes an assignment to or composition with his creditors;
  - (iii) he dies;
  - (iv) he is removed by:-
    - (a) the Employer - if the Trustee or board member is a Employer Representative; or
    - (b) the members - if the Trustee or board member is a Members Representative.
- (4) If the Fund is a Small Fund then alternatively to sub-clauses (1), (2) and (3) of this clause:-

- (i) the Trustees may comprise one or more persons appointed following nomination by agreement between the members of the Fund (or a trade union or other organisation representing the interest of those members) and the Employers (or an organisation nominated by such Employers as representing the interests of the Employers);
  - (ii) if a body corporate is so appointed as Trustee it shall not be necessary for the board of directors of such body corporate to comprise equal number of Employer Representatives and Member Representatives;
  - (iii) any Trustee so appointed may be removed by agreement between the Employers (or an organisation nominated by the Employers as representing the interest of the Employers) and the members of the Fund (or a trade union or other organisation representing the interests of those members).
- (5) If the Fund is a Large Fund and the Commissioner so approves then the Principal Employer shall be entitled to appoint as a Trustee a person or persons, or a body corporate the board of directors of which comprises persons, not being or comprising equal numbers of Employer Representatives and Member Representatives, and the Principal Employer shall be entitled to remove any such person or persons or body corporate as Trustees.
- (6) If the Fund is neither a Small Fund nor a Large Fund then the Principal Employer shall be entitled at any time to appoint as a Trustee such person or body corporate as the Principal Employer determines, and the Principal Employer shall be entitled at any time to remove any such person or body corporate as a Trustee.

11. MEETING OF THE TRUSTEES

- (1) The Trustees may regulate their meetings as they think fit and may determine the quorum necessary for the transaction of business.
- (2) Subject to sub-clauses (4) and (5) any question or discretion (including the powers authorities and discretions by this Deed and the Rules vested in the Trustees generally) shall, if there be more than one Trustee, be decided or exercised by a majority of the Trustees or in accordance with a resolution of the Trustees passed by a majority of votes at a meeting of the Trustees at which a quorum is present each Trustee being entitled to one vote and in the case of an equality of votes the chairman having a second or casting vote.

- (3) If a corporation is a Trustee of the Fund it may act through its board of directors.
- (4) If the Fund is a Large Fund any question or discretion (including the powers, authorities and discretions by this Deed and the Rules vested in the Trustees generally) shall require not less than two-thirds of the total number of the Trustees or of the board of directors of any corporate Trustee;
- (5) a resolution in writing signed by all the Trustees or by all of the members of the board of any corporate trustee shall have the same effect and validity as a resolution of the Trustees pursuant to sub-clause (2) or sub-clause (3) of this clause.

12. POWERS OF THE TRUSTEES

- (1) The Board of Directors of a corporate Trustee of the Fund may at any time and from time to time by resolution delegate any of its powers and authorities to such of the directors or officers of the Trustee or other persons as it specifies and may authorize any one or more of them to sign and endorse cheques and to sign documents and forms relating to the Fund and to the investments and policies of insurance relating to the Fund and to the moneys payable thereunder PROVIDED HOWEVER that if the Fund is a Small Fund or a Large Fund and such delegees exercise actual control over the policies of the Fund such delegees shall comprise equal numbers of Employer Representatives and Member Representatives unless the Fund is a Small Fund and the Employer (or an organisation nominated by the Employers as representing the interest of the Employers) and the members of the Fund (or a trade union or other organisation representing the interests of those members) agree to such delegees not comprising equal numbers of Employer Representatives and Member Representatives.
- (3) If the Fund is administered by Trustees (not being a corporation acting as the sole Trustee of the Fund) the Trustees may by resolution authorize any limited number of the Trustees or other specified persons to sign or endorse cheques and to sign all documents and forms relating to the Fund and to the investments and any policies forming part of the Fund and the moneys payable thereunder in connection with the Fund PROVIDED HOWEVER that if the Fund is a Small Fund or a Large Fund and such other persons exercise actual control over the policies of the Fund such other persons shall comprise equal numbers of Employer Representatives and Member Representatives unless the Fund is a Small Fund and the Employer (or an organisation nominated by the Employers as representing the interest of the Employers) and the members of the Fund (or a trade union or other

organisation representing the interests of those members) agree to such other persons not comprising equal numbers of Employer Representatives and Member Representatives.

13. TRUSTEE NOT UNDER PERSONAL LIABILITY

No person being a Trustee or being a member of the Board of Directors of the Trustee or being a director or officer of the Trustee or any other person authorized by the Trustees or the said Board of Directors to act in respect of the Fund shall be under any personal liability in respect of any loss or breach of Trust relating to the Fund unless the same shall have been due to his own dishonesty.

14. EXERCISE OF POWERS AUTHORITIES AND DISCRETIONS

The Trustees in the exercise of the powers authorities and discretions vested in them by this Deed and the Rules shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of those powers authorities or discretions from time to time and at any time or any refrain from exercising all or any of those powers authorities or discretions from time to time or at all and their decisions as to the interpretation and effect of this Deed and the Rules shall be final.

15. TRUSTEES TO BE INDEMNIFIED

Each of the Trustees shall be indemnified by the Fund against all liabilities by him in the execution or attempted execution or in respect of the non-execution of the trusts authorities powers and discretions contained in this Deed and shall have a lien on and may use any moneys for the time being in the hands of the Trustees for the indemnity and generally for the payment of all proper legal and other costs charges and expenses of administering or winding up the Fund and otherwise of performing their duties under this Deed. The indemnity hereby provided shall apply to any payment made on the death of a member to any person whom the Trustees bona fide believe to be entitled thereto.

16. TRUSTEES MAY ACT THROUGH AGENT OR CUSTODIAN

- (1) The Trustees shall not be bound to act personally but may appoint an investment manager or a solicitor accountant or other agent or a secretary to transact all or any business of whatsoever nature required to be done in connection with the Fund (including the receipt and payment of money) and shall be entitled to be allowed and to be paid out of the Fund all remuneration charges and expenses incurred in respect of the appointment of and the work performed by the investment manager and the solicitor accountant and other agent and the secretary as



aforesaid PROVIDED HOWEVER that if the Fund is a Small Fund or a Large Fund and any such person exercises actual control over the policies of the Fund such person shall comprise equal numbers of Employer Representatives and Member Representatives unless the Fund is a Small Fund and the Employer (or an organisation nominated by the Employers as representing the interest of the Employers) and the members of the Fund (or a trade union or other organisation representing the interests of those members) agree to such delegates not comprising equal numbers of Employer Representatives and Member Representatives.

- (2) The Trustees may at any time revoke or vary the terms of appointment of an investment manager or of a solicitor accountant or other agent or secretary as aforesaid and may appoint another company firm or person to act as investment manager or as solicitor accountant or other agent or as secretary in respect of the Fund or of a part of it.
- (3) The Trustee may appoint a corporate body as Custodian Trustee to hold on their behalf the title to some or all of the securities policies or other assets in which the Fund is for the time being invested and the Custodian Trustees shall at all times act in accordance with the instructions given by the Trustees either generally or in relation to specific transactions. The Trustees may pay to the Custodian Trustees out of the Fund such remuneration for its services as the Trustees from time to time determine. The Trustees may be giving notice to the Custodian Trustees terminate its appointment and may appoint another corporate body to act as custodian Trustees.

17. INVESTMENTS

- (1) Any moneys in the hands of the Trustees upon the trusts hereof and not required for payment of costs charges or expenses or the immediate purposes of the Fund may be invested in any one or more of the following investments:-
  - (a) in any investments for the time being authorized by the laws of Australia or any State or Territory thereof for the investment of trust funds;
  - (b) in the acquisition of or any mortgage of or charge on freehold or leasehold land even through the mortgage or charge exceeds two-thirds of the value of the land or does not rank as a first charge on the land;
  - (c) on deposit at call or otherwise with any bank insurance company or other financial institution or with the Employer or any company trust partnership or person (not being a member) and at

such rate of interest and upon such terms and conditions as the Trustees deem expedient;

- (d) in the acquisition of or subscription for shares stock bonds mortgages debentures or securities of any nature of any building society trust or fund or any company incorporated or operating in Australia and whether those shares or stock are or are not fully paid up or do or do not involve any contingent or reserve liability;
  - (e) in bills of exchange and other negotiable instruments;
  - (f) in effecting or acquiring or in entering into an agreement relating to a policy of insurance or annuity on the life of or in respect of a member (or in respect of a group or all of the members) and in paying premiums on the said policy.
- (2) The Trustees shall have full liberty from time to time to sell vary and transpose any investments of the Fund as aforesaid.
- (3) The Trustees shall have the following powers to be exercised by them or not in their absolute discretion in relation to any assets for the time being form part of the Fund:-
- (a) the power to hold use construct demolish maintain repair renovate reconstruct develop improve transfer convey surrender let lease exchange take and grant options over or rights in or otherwise deal with any moveable or immoveable property;
  - (b) the power to pay all insurance premiums rates taxes rents and other outgoings in connection with any property whether moveable or immoveable subject to the trusts hereof and to manage the said property and effect such improvements and repairs as the Trustees may consider necessary or advisable;
  - (c) the power to remunerate any member who is at any time in the employ of the Trustees to the same extent and in the same manner as if the member so employed was not a member and all bona fide payments made by the Trustees to any such member in the form of remuneration for services rendered or to be rendered or on account of expenses in connection with such employment shall not be or be deemed to be payment to the member of or on account of his or her share in the Fund or the income thereof;

- (d) the power to take such action as they shall think fit for the adequate protection of any part or parts of the Fund and to do all such other things as may be incidental to the exercise of the powers and authorities conferred on the Trustees by this Deed;
- (e) the power to take and act upon the written or oral opinion of any lawyer practising in any country where the Fund or any part thereof may for the time being be invested in relation to the interpretation and effect of this Deed or as to the administration of the Trusts hereof without being liable to any of the persons beneficially interested in respect of any act done by the Trustees in accordance with such opinion provided that nothing in this provision shall prohibit or impede the Trustees from applying to any Court if they shall think fit;
- (f) the power to take and act upon the written or oral opinion of any accountant auditor actuary or other professional person in relation to the operation of this Deed or the administration of the trusts hereof without being liable to any of the persons beneficially interested in respect of any act done by the Trustees in accordance with such opinion provided that nothing in this provision shall prohibit or impede the Trustees from applying to any Court if they shall think fit;
- (g) the power to open any account or accounts with any bank or banks and to operate in all usual ways on such accounts;
- (h) the power to pay out of the Fund or the income thereof all costs charges and expenses incidental to the management of the Fund or to the exercise of any power authority or discretion herein contained or in carrying out or performing the trusts hereof which the Trustees may at any time incur including all income tax or other taxes payable in respect of the Fund and all moneys which the Trustees may be required to pay as costs or settlement gift stamp or revenue duties in respect of the Fund or on these presents or any variation thereof or in respect of or as a consequence of the exercise of any of the trusts discretions and powers conferred upon them by this Deed or by law;
- (i) the power to give effectual receipts and discharges for any moneys received by or on behalf of the Trustees or otherwise relating to any of

the acts matters and things provided for in this Deed.

18. POWER FOR THE TRUSTEES TO CHARGE ASSETS

The Trustees may to the extent permitted by the Applicable Laws or approved by the Commissioner whenever they think fit for the purpose of the Fund give guarantee borrow or raise money or other financial accommodation and may in order to support those guarantees or to secure the repayment of any moneys so borrowed give charges over the assets of the Fund in such manner and upon such terms and conditions in all respects as they think fit.

19. RULES

The Rules set out in the First Schedule to this Deed shall until altered as hereinafter provided apply to and be the Rules for the management of the Fund and the said Rules with any alterations or amendments thereof or additions thereto which are made as provided in this Deed shall be construed with this Deed but in so far as the Rules are inconsistent with the provisions of the Deed or any alterations or amendments thereof or additions thereto the said provisions of this Deed shall prevail.

20. AMENDMENTS TO THE DEED OR RULES

This Deed and the Rules may be resolution or deed of the Trustees and the Principal Employer be added to or altered in any respect but so that no addition or alteration shall:

- a) impose any further liability on any employee entitled to participate in the Fund without that employee's consent; or
- b) reduce any benefits that have accrued to any of the members of the Fund or affect the basis for calculating the amount of retirement benefit of any such members in a way that reduces that amount with respect to the period of membership before the date of the alteration of the Deed or otherwise retrospectively reduce the benefits accrued or payable to any of such members unless:-
  - (i) such addition or alteration is made for the purposes of ensuring compliance of the Fund with the Applicable Laws and then subject to any requirements of the Applicable Laws; or
  - (ii) all the members whose benefits are so reduced consent to such addition or alteration.

21. TRANSFER FROM AND TO OTHER FUNDS

- (1) The Trustees may accept into the Fund and hold on and subject to the provisions of this Deed and the Rules an amount in respect of a member (or of any employee who thereupon becomes a member) which is transferred from another pension or superannuation or other similar fund or plan in which he has participated or from an approved deposit fund and in which he has been a depositor and in such case the benefits being provided for or in respect of him under the Fund may be adjusted in such manner as is agreed upon by the Trustees and the member to take account of the amount so transferred and accepted in to the Fund and any amount so transferred shall, to the extent to which such amount had, prior to the date of transfer to the Fund, become vested in such member under such other fund, be deemed to be a contribution made by such member to the Fund PROVIDED HOWEVER that notwithstanding any other provision contained in this Deed or the Rules any such amount in respect of a member (or of an Employee who thereupon becomes a member) which is transferred from another pension or superannuation or other similar Fund or Plan to which former Section 23FB or former Section 23(ja) of the ITA Act applies and which is accepted by the Trustees into the Fund shall not be payable to such member pursuant to this Deed or the Rules prior to the date upon which such amount would have become payable to such member under such other Fund or Plan had such amount not been transferred from such other Fund or Plan and accepted by the Trustees into the Fund pursuant to this sub-clause.
- (2) In any case where a member may participate in another pension superannuation or similar fund or plan the Trustees with the consent of the Employer may in lieu of dealing in accordance with the other provisions of this Deed and the Rules with the benefits under the Fund relating to the member or with such part thereof as the Trustees determine transfer the amount in the Fund relating to those benefits or the part thereof to the trustees of the other pension superannuation or similar fund or plan PROVIDED HOWEVER that a transfer may be made in accordance with this Clause only if the Trustees are satisfied that:-
  - (a) the rights of the member or his dependants or legal personal representative to receive the benefits arising from the amount transferred are fully secured; and
  - (b) such transfer complies with the Applicable Laws.
- (3) In any case where a member (who has not attained the age of sixty-five years) so requests the Trustees will transfer to an approved deposit fund nominated by the

member such amount (or such part thereof as the member specifies) as would otherwise have been paid to the member on his ceasing to be in the service of the Employer PROVIDED HOWEVER that a transfer may be made in accordance with this Subclause only if the trustees are satisfied that such transfer complies with the Applicable Laws.

22. DISCONTINUANCE OF THE FUND

- (1) Subject to sub-clause (3) of this Clause and to Clause 26 if for any reason the Principal Employer is wound up or decides to discontinue the Fund the Trustee shall cause a calculation to be made of the net assets of the Fund and shall allocate the amount then in the Fund to the members in such shares and proportions as they consider equitable and the amounts so allocated shall be held in trust and invested by the Trustees and the amount allocated to the member and any accretion thereto (or less any diminution thereof) shall subject to the other provisions of this Deed and any relevant Rules be paid to the member on his ceasing to be in the service of the Employer or to the dependants or legal personal representatives of the member in the event of his death.
- (2) If on the discontinuance of the Fund there is no member or if after payment of amounts to members or their dependants or legal personal representatives as provided in sub-clause (1) of this Clause a surplus remains in the Fund the surplus shall at the discretion of the Trustees and subject to the Applicable Laws be applied in payment of benefits to persons who have been employed by the Employer prior to the discontinuance of the Fund or to their dependants and any balance shall be paid to the Heart Foundation of Australia or such other Charity or Charities as the Trustees may nominate in such shares and proportions as the Trustees determine or for other purposes approved by the Commissioner.
- (3) Notwithstanding the foregoing provisions of this Clause, if another person acquires all or substantially all of the assets of the Principal Employer or commences to employ all of the members of the Fund, and the Trustees both:-
  - (a) declare such other person to be the assignee of the Principal Employer for the purposes of this Deed; and
  - (b) obtain the execution by such other person of a Deed whereby such other person covenants that such person will perform all of the obligations which according to the provisions of this Deed might or would fall due for performance by the Principal Employer,

then as and from the date of such declaration such other person shall take the place of the Principal Employer for all purposes of this Deed.

23. DEDUCTION OF TAX AND DUTY

The Trustees shall have power to deduct from any amount payable to or in respect of a member from the Fund such sums as are required by law in respect of income or other taxes or duties as relate to the amount so payable and the Trustees shall remit the said sums to the relevant authority and shall advise the member or his dependants or legal personal representatives as the case may be.

24. TRANSFER OF ASSETS

The Trustees may at the request of the member of dependant to whom a benefit is payable in accordance with this Deed and the Rules transfer investments of the Fund of equivalent value to the benefit so payable (or the part thereof specified by the member or dependant) in lieu of paying the benefit or the part thereof as aforesaid to the member or dependant but the said transfer shall not be made until the Trustees receive from the Commissioner an acknowledgement that the transfer will not cause the Fund to fail to satisfy the requirements of the Applicable Laws.

25. GENERAL

Notwithstanding any other provision contained in this Deed or the Rules should (apart from this clause) any benefit become payable to a member or any dependants of a member under the terms of this Deed or the Rules then so much of such benefit as is required by Regulation 11 of the OSS Regulations or otherwise by the Applicable Laws to be Preserved shall be Preserved as and in the manner required by such Regulation or the Applicable Laws.

26. Notwithstanding any other provision contained in this Deed or the Rules it is hereby expressly agreed and declared that:-

- (i) this Deed and the Rules, and the exercise by the Trustees of the trusts, powers and discretions conferred upon them by this Deed and the Rules, shall at all times be subject to the Applicable Laws;
- (ii) the requirements in the Standards prescribed by Regulations 6(1)(a), 7, 8, 9, 10, 11, 13, 14, 15, 16 and 17, as in force from time to time and applicable to the Fund, together with any other Standards prescribed from time to time by the OSS Regulations which are part of the Applicable Laws,

are deemed to be included in this Deed and the Rules;

(iii) to the extent to which any provision of this Deed or the Rules is inconsistent with the provisions and requirements of the Applicable Laws (and in particular Regulations 6(1)(a), 7, 8, 9, 10, 11, 13, 14, 15, 16 and 17 of the OSS Regulations, as in force from time to time), having application to this Fund, the provisions and requirements of the Applicable Laws shall prevail and the provisions of this Deed and the Rules shall be deemed to be modified and the Trustees shall exercise the trusts, powers and discretions conferred upon them by this Deed and the Rules accordingly.

27. The Trustees are hereby authorised and empowered to make such adjustments as may, subject to the Applicable Laws, in their opinion be necessary or required to be made in relation to the amount of any member's benefit under the Fund at any time for the purpose of ensuring compliance with the terms and provisions from time to time of this Deed (including the Rules) and ensuring compliance with the Applicable Laws.
28. Notwithstanding any other provision contained in this Deed or the Rules, the Trustees are absolutely prohibited from benefiting under this Deed and this Clause 28 shall not be capable of amendment pursuant to Clause 20 of this Deed or otherwise provided however that this Clause shall not affect any rights of indemnity which by this Deed or by Law are conferred on the Trustees.



THE SCHEDULES REFERRED TO IN THE DEED

FIRST SCHEDULE

RULES FOR THE MANAGEMENT OF THE SUPERANNUATION FUND

1. ELIGIBILITY

- (1) Every employee who applies for membership of the Fund in a form approved by the Trustees and who is nominated by the Principal Employer to participate in the Fund on the terms and conditions of this Deed and the Rules shall upon acceptance of such membership by the Trustees in their absolute discretion thereupon become a member.
- (2) The Employer shall when an employee becomes a member advise the Trustees that the member is, in accordance with the Member's election in his application form, to be classified as coming within category one or category two (referred to in the Rules as a category one member or a category two member as the case may be).
- (3) The Employer may advise the Trustees that as from a specified review date a member's classification is, in accordance with the Member's election to the employer, changed from category one to category two or vice versa and the Trustees shall advise the member that his classification has from that review date been changed (the member being thereafter regarded for the purposes of the Rules as a category one member or a category two member according to the new classification applying to him).

2. CONTRIBUTIONS

- (1) Unless otherwise agreed between the Employer and the member the Employer will pay the whole of the contributions to the Fund in respect of the member.
- (2) Subject to Clauses 2 and 4 of this Deed the Employer shall contribute to the Fund in respect of each member such amount each year as it determines being not greater than the contribution required (as determined by the Trustees and after taking into account the contributions (if any) payable by the members) to provide the intended benefits specified in sub-rule (3) of this Rule.
- (3) For the purposes of determining the contributions payable by the Employer as aforesaid the intended benefits under the Fund on the member's retirement from the Fund (howsoever occurring) are, subject to the other provisions of this Deed and the Rules:-

- (a) in the case of a category one member a lump sum equivalent to the maximum amount permitted by the Applicable Laws to be paid to or in respect of the member; or
- (b) in the case of a category two member a pension equal to the maximum pension permitted by the Applicable Laws to be paid to or in respect of the member (including any reversionary pension to the spouse of any member or any increase in the rate of any pension or any other benefit referable to any such pension permitted by the Applicable Laws).

3. MEMBER'S RESERVE

- (1) The member's reserve at any date shall consist of the contributions to the Fund by and in respect of the member which have been received by the Trustees plus the amounts credited thereto and less the amounts debited thereto in accordance with this Deed and the Rules.
- (2) The member's share as determined from time to time by the Trustees of the net investment earnings of the Fund shall be credited to and shall form part of the member's reserve and the member's share as aforesaid of the net investment losses shall be debited against and shall thereby reduce the member's reserve.
- (3) The member's share as determined from time to time by the Trustees of any tax payable in respect of any contributions to the Fund or on the investment earnings of the Fund or otherwise in respect of the Fund shall be debited against and shall thereby reduce the member's reserve.

4. ANNUAL REVIEW

- (1) The Trustees shall on a selected date in each year (called the "review date") determine the net investment earnings or losses of the Fund for the period then ended and shall allocate those earnings or losses to the member's reserves and to the unallocated portion of the Fund on such basis as is determined by the Trustees PROVIDED THAT the proportion of such earnings or losses which the total of the Vested Benefits of all members of the Fund as at such Review Date bear to the total of all members reserves of the Fund at such review date shall be allocated to the member's reserves and the amount allocated to each member shall be credited to and shall form part of that member's reserve or (in the case of a net loss) shall be debited against and shall thereby reduce that member's reserve as at the review date.
- (2) The amount (if any) allocated to the unallocated portion of the Fund in accordance with sub-rule (1) of the Rule shall be added to and shall form part of the unallocated

portion of the Fund or (in the case of a net loss) shall be debited against and shall thereby reduce the unallocated portion of the Fund as at the review date.

- (3) In determining the net investment earnings or losses of the Fund for the purposes of this Deed and the Rules the Trustees may at such times as they consider appropriate cause a valuation to be made of the assets of the Fund and shall include any increase in the net value of the assets in the investment earnings and shall reduce the said earnings (or shall increase the investment losses) by any decrease in the net value of the assets.
- (4) The Employer will prior to each review date advise the Trustees of changes in the salaries of the members in order that the benefits payable under the Fund and the contributions to provide those benefits may be determined.

#### 5. ADJUSTED BENEFITS IN PARTICULAR CASES

- (1) If in any case benefits in respect of a member are wholly or partly funded or insured by means of a policy of life insurance and if when the member dies the amount payable by the life office is adjusted (because the member's date of birth is shown to have been incorrectly stated or because other information supplied to the life office is shown to have been incorrect or because the member has died by his own hand or for any other reason) the benefit payable under the Fund in respect of the member may be adjusted in such manner and to such extent as the Trustees consider equitable having regard to the relevant circumstances.
- (2) If the application for the granting of any insurance on the life of a member or of any increase in the amount thereof is not accepted by the life office on its standard terms the benefits payable under the Fund on the member's death may be adjusted in such manner and to such extent as the Trustees consider equitable having regard to the amount (if any) of the insurance granted by the life office and the conditions relating thereto.

#### 6. BENEFITS ON RETIREMENT

- (1) Subject to Clause 4 of this Deed if the member retires on or after his normal retirement date or within a period of five years prior to his normal retirement date the benefit payable shall subject to the other provisions of this Deed and the Rules be:-
  - (a) in the case of a category one member a lump sum equal to the member's reserve as at the date of his retirement together with interest (if any) at such rate as the Trustees determine for the period from the last review date until the member's retirement; or

- (b) in the case of a category two member a pension which as specified in sub-rule (3) of this Rule is provided by the amount of the member's reserve as at the date of his retirement together with interest (if any) as aforesaid from the last review date until the member's retirement.
- (2) If a category one member so requests the Trustees will pay to a life office or other financial institution the whole or such part as the member specifies of the benefit payable as aforesaid for the purpose of purchasing for the member an annuity (with or without a reversionary annuity for the dependant nominated by the member) of such type as the member specifies.
- (3) For the purposes of paragraph (b) of sub-rule (1) of this Rule the Trustees shall determine (having regard to the other provisions of the Deed and the Rules) the amount of the member's pension which (on such basis as the Trustees consider reasonable and having regard to the increases in the pension and the provision of a reversionary pension to the member's widow or other benefits referable to any such pension permitted by the Applicable Laws) is equivalent to the amount in the member's reserve at the date of his retirement (including interest as aforesaid) but the said pension shall not exceed the intended benefit referred to in Rule 2(3)(b).
- (4) The pension determined as aforesaid which is payable to the member or the widow (as the case may be) shall unless the Trustees in any particular case otherwise determine increase as at the review date in each year by an amount not exceeding the amount permitted by the Applicable Laws.
- (5) If the amount standing to the credit of a Member's reserve is, in the opinion of the Trustees, insufficient to enable the Trustees to continue paying the pension in the amount previously determined by the Trustees under this Rule then the Trustees may reduce the pension payable to or in respect of such member accordingly.

7. PENSION PAYMENTS

- (1) The pension determined in accordance with the provisions of Rule 6 in the case of a category two member shall subject to the other provisions of this Deed and the Rules be payable to the member in monthly installments of one-twelfth of the pension determined as aforesaid the first of these installments being payable on the first day of the calendar month following the month in which the member ceases to be in the service of the Employer and except as referred to in sub-rule (2) of this Rule the last installment being payable on the first day of the calendar month in which the member dies.

- (2) The instalments of pension shall be debited against the member's reserve and shall be subject to the other provisions of this Deed and the Rules continue to be payable while a balance remains in the member's reserve and shall cease to be payable following payment of the instalment (or part thereof) which eliminates the balance in the member's reserve.
- (3) If the member who has become entitled to receive instalments of pension as aforesaid dies when a balance remains in the member's reserve and leaves a widow instalments shall be payable to the member's widow during that person's subsequent lifetime or until such time as the balance in the member's reserve is eliminated the instalments so payable being not greater than that percentage permitted by the Applicable Laws of the maximum instalments of pension which may as referred to in sub-rules (3) and (4) of Rule 6 and sub-rule (1) of this Rule be payable to the member.
- (4) If any benefits (other than the reversionary pension referred to in Rule 7(3) or the increase in the rate of the pension referred to in Rule 6(4)) referable to any pension are permitted by the Applicable Laws then the Trustees in their discretion may provide the same subject to the other provisions of this Deed and the Rules.
- (5) If the retired member and the member's widow die while a balance remains in the member's reserve (or if the retired member dies without leaving a widow) the amount of that balance shall be paid to the persons and in the manner referred to in Rule 9.

#### 8. OPTION FOR COMMUTATION

- (1) A category two member shall be entitled to request the Trustees either before the first instalment of the pension referred to in Rule 6 is paid to him or with the approval of the Trustees at a later date to commute for a lump sum such portion of the pension as the member specifies being not more than that percentage as is permitted by the Applicable Laws of the pension otherwise payable as aforesaid and the Trustees shall on or after the date when the member ceases to be in the service of the Employer and otherwise subject to the Applicable Laws pay the said lump sum to the member.
- (2) For the purposes of this Rule the Trustees shall determine the amount of the lump sum which is to be paid in commutation of portion of the pension as aforesaid and may for this purpose obtain such actuarial or other advice as they consider necessary.

9. BENEFITS ON DEATH

(1) Subject to Clause 4 of this Deed if the member dies while he is in the service of the Employer the amount of the benefit then payable shall be equal to such amount as has been determined by the Employer and advised by the Employer or the Trustees to the member at the time the employee becomes a member or as at a subsequent review date (while the member is in the service of the Employer) being not less than the higher of:

(a) the proceeds of a policy of insurance (if any) on the life of the member which has been effected or acquired by the Trustees; and

(b) the member's reserve for such member,

and being not greater than the maximum benefit permitted by the Applicable Laws to be paid to or in respect of such member.

(2) The Trustees shall pay or apply the benefit payable on the member's death as aforesaid to or for the benefit of any one or more of the member's dependants and in such shares and proportions and in such manner as the Trustees in their absolute discretion determine and if there is no dependant the Trustees shall pay the benefit payable to the member's legal personal representatives.

(3) Where a dependant to whom an amount being the benefit payable (or part thereof) as aforesaid is to be paid is a minor or is otherwise under a legal disability the Trustees may pay the said amount to the legal personal representatives of the deceased member or to the parent or guardian of the dependant in trust to be applied for the benefit of the dependant and the receipt of the person so paid shall be sufficient evidence to and discharge of the Trustees that the amount has been paid for the benefit of the dependant.

10. CEASING TO BE IN THE EMPLOYER'S SERVICE

Subject to Clause 4 of this Deed if the member prior to his normal retirement date ceases (other than by reason of his retirement or his death as provided in Rule 6 or Rule 9) to be in the service of the Employer the benefit determined as follows shall be payable to the member:-

(a) if the member ceases to be in the service of the Employer on account of total and permanent disablement (as determined by the Trustees having regard to the definition (if any) of disablement in a policy (if any) on the life of the member) the benefit payable shall:-

- (i) if total and permanent disablement benefits are insured under a policy in respect of the member which has been effected or acquired by the Trustees be equal to the benefit which would have been payable in accordance with Rule 9 if the member had died on the date when he became disabled; or
  - (ii) if total and permanent disablement benefits are not so insured be equal to the member's reserve at the date of his ceasing to be in the service of the Employer;
- (b) if the member ceases for any other reason to be in the service of the Employer the benefit payable shall be such amount as the Trustees determine being not greater than the member's reserve at the date of his ceasing to be in the service of the Employer and subject to paragraph (c) of this sub-rule not less than such proportion of the member's reserve as aforesaid as is determined from the following Table:-

THE TABLE

<u>Completed Years of Membership of the Fund</u>	<u>Proportion</u>
Less than 5	Nil
5 and Less than 20	10% increased by 2 percentage points for each completed year of membership in excess of 5.
20 and Less than 32	40% increased by 5 percentage points for each completed year of membership in excess of 20
32 and over	100%

- (c) the benefit payable by the Member as referred to in paragraph (b) of this sub-rule shall not be less than the Vested Benefit of such Member at the date of his ceasing to be in the service of the Employer.

11. SURRENDER OR MATURITY OF POLICIES

Where a policy on the life of the member is included in the Fund the Trustees shall when the member ceases for any reason to be in the service of the Employer or when for any other reason a benefit becomes payable collect the proceeds of the policy or surrender the policy or (if it is otherwise dealt with as agreed upon by the member and

the Trustees) the surrender value thereof shall be taken into account by the Trustees in determining the amount payable to or in respect of the member in accordance with this Deed and the Rules.

12. DEFERRAL OF BENEFIT PAYMENT

In any case where a member who has ceased to be in the service of the Employer prior to his normal retirement date so requests the Trustees will retain in the Fund on behalf of the member for such period as the member specifies (being up to ninety days following the date of cessation of the member's service or for such longer period as the Trustees in any particular case approve) the amount of the benefit payable to the member in accordance with the other provisions of this Deed and the Rules and shall at the request of the member at or before the expiration of the said period pay to the member the said amount together with such interest (if any) thereon in respect of the said period as the Trustees determine (having regard to the earning rate of the Fund).

13. UNALLOCATED PORTION OF THE FUND

- (1) If when a member ceases for any reason to be in the service of the Employer or to be a member the whole of the member's reserve is not paid to the member or otherwise dealt with in accordance with this Deed and the Rules the balance of the member's reserve will be dealt with in such manner as is approved by the Applicable Laws or by the Commissioner (including, if so approved, transfer to the unallocated portion of the Fund).
- (2) The Trustees may subject to the Applicable Laws from time to time apply the amounts in the unallocated portion of the Fund in any of the following ways:-
  - (a) in providing assistance to any member in the case of hardship;
  - (b) in providing assistance to the dependants of any member or former member in the case of hardship;
  - (c) in augmenting the benefit payable in terms of the Rules to the member (but subject to the limits imposed by Clause 4 of this Deed);
  - (d) in or towards payment of contributions under the Fund;
  - (e) in paying any expenses in connection with the establishment or administration of the Fund;
  - (f) in stabilising the investment earnings of the Fund and in offsetting the effect on the members' reserves of investment losses;



- (g) in any other manner approved by the Applicable Laws or by the Commissioner.
- (3) If any part of the unallocated portion of the Fund is applied as aforesaid to augment the benefit payable to a member or as contributions to the Fund the amount so applied shall be credited to and shall form part of the member's reserve.

APPENDIX A

APPLICATION BY A SUBSIDIARY OR ASSOCIATED COMPANY

The Trustees

(hereinafter called "the Employer") hereby applies to participate in the said Superannuation Fund and to include employees of the Employer as members of the Fund and the Employer undertakes to contribute to the Fund and to be bound by the Deed and Rules governing the Fund as if it were originally named therein and the Employer declares that the contributions by the Employer and its employees and the amounts arising therefrom shall be held in trust by the Trustees of the Fund to provide benefits in accordance with the provisions of the Deed and the Rules.

Dated this                      day of

(GFB:4605H)  
(12/88)