

and other relevant matters). The Trustee may change the name or other specifications at any time.

14.1.4 Subject to the Act, the Trustee may merge, divide or discontinue Investment Options at any time. In this event the Trustee will determine how the interests of Beneficiaries will be attributed between the Investment Options to reflect those changes.

14.1.5 The Trustee will ensure that the Assets and Liabilities associated with each Investment Option can be identified separately.

14.2 Selection of investment options

Amounts may be attributed to one or more Investment Options requested by the Member and accepted by the Trustee.

14.3 Switches

14.3.1 A Member may apply to switch amounts between Investment Options.

14.3.2 The Trustee may accept or reject a switch application and, if it accepts an application, determine the date on which it takes effect.

14.4 Order of debiting

14.4.1 Where there are two or more Investment Options attributable to a Beneficiary, the order in which debits relating to the Member's Account (including those relating to benefit payments) attributed to those Investment Options will be in accordance with arrangements selected by the Member and accepted by the Trustee.

14.4.2 The Trustee:

- (a) may determine the form in which a selection referred to in Clause 14.4.1 is to be made; and
- (b) may suspend a selection made in accordance with Clause 14.4.1.

**15. Reserve Account**

15.1 Maintenance of account

15.1.1 The Trustee for the convenient and efficient operation and administration of the Fund may establish such accounts in the records of the Fund as the Trustee considers necessary or desirable; including:

- (a) an accumulation reserve account;
- (b) an accumulation retirement account;
- (c) a pension reserve account;
- (d) such reserve accounts or liability accounts as may assist the Trustee to identify the value of assets that may have been exchanged or segregated as either current pension assets, non-current pension assets or that are dealt with as a different sub-fund, segment of partition;

- (e) such other accounts and reserves as the Trustee considers appropriate from time to time including, one or more contribution, miscellaneous and investment reserve accounts.

15.1.2 (a) The Trustee may make provision or adjustments in the accounts for all liabilities (including any account of Tax on unrealised gains, advance tax instalments and notional surcharge amounts), tax credits, depreciation, amortisation or revaluations as the Trustee considers appropriate.

- (b) The Trustee may alter exchange and segregate current pension assets from non-current pension assets and deal with the Fund as different sub-funds, segments or partitions and account for them separately.

## 15.2 Additions/Deductions

Subject to the Act, the following amounts may be added to or deducted from a Reserve Account:

- (a) amounts transferred from another Benefit Arrangement that are not allocated to any Member's Account;
- (b) any amount in a Member's Account that is not required or that cannot be applied to pay benefits in respect of the Member;
- (c) any investment earnings determined having regard to Clause 7.5, Clause 9.9, the requirements of the Act, and any Investment Options applicable; and
- (d) any other amounts for such matters or things as the Trustee considers appropriate.
- (e) any amounts to be credited to Member's Accounts by way of:
  - (i) additions to benefits otherwise payable; or
  - (ii) satisfaction in whole or in part of any obligation of an Employer or Member to make contributions to the Fund;

## 16. Confidentiality

### 16.1 Non-disclosure

The Trustee will not disclose any confidential information regarding Beneficiaries or Employers acquired in the course of acting as Trustee to other parties, except in connection with Members' interests in the Fund.

### 16.2 Exceptions

This Clause 16 does not apply:

- (a) where the Trustee may be legally compelled to, or penalised for, failure to disclose such information; or
- (b) to disclosures made to Employers or agents or delegates of the Trustee in connection with the operation of the Fund; or
- (c) where non-disclosure of the material may cause adverse tax

consequences to the Fund.

## 17. Termination of the Fund

### 17.1 General

17.1.1 The Fund will be terminated upon the first to occur of the following:

- (a) if the Trustee's office becomes vacant and no new Trustee is appointed within ninety (90) days;
- (b) if the Trustee resolves to terminate the Fund in accordance with Clause 17.2; or
- (c) if the rule of law known as the rule against perpetuities applies to the Fund, on the expiration of the maximum period allowed under that rule for the duration of the trusts established under this Deed.

17.1.2 Where Clause 17.1.1(a) applies, references in Clauses 17.3 and 17.4 to:

- (a) the "Trustee", refer to any entity appointed after the ninety (90) day period referred to in Clause 17.1.1 (a); and
- (b) the "Closure Date" refers to the date of expiry of the ninety (90) day period referred to in Clause 17.1.1 (a).

17.1.3 Where Clause 17.1.1(c) applies, references in Clauses 17.3 and 17.4 to the "Closure Date" refer to the date on which the Fund terminates by law.

### 17.2 Termination by Trustee

The Trustee may resolve to terminate the Fund at any time. If it decides to do so the following provisions will apply:

- (a) the Members and Employers will be notified in accordance with the Act; and
- (b) the Trustee will determine a closure date ("Closure Date").

### 17.3 Application of assets

Assets of the Fund will be applied in the following order on termination:

- (a) to provide for all Liabilities relating to the Fund, except for those relating to benefit payments;
- (b) to provide for benefits that became payable on or before the Closure Date including benefits that have begun to be paid in pension form;
- (c) in relation to Beneficiaries for whom benefits have not become payable under paragraph (b), and subject to this Deed, to provide for a benefit being an amount equal to the Member's Account Balance;
- (d) in the case of Members in respect of whom a Reserve Account is maintained in the Fund, to increase any benefits by application of amounts from the Reserve Account on a basis determined by the Trustee; and

- (e) subject to the Act, to pay any amounts remaining to or for the benefit of one or more of the Members or former Members, as the Trustee considers appropriate.

## 18. Amendments

### 18.1 Power

Subject to this Clause 18 the Trustee may amend any provision of this Deed (including this Clause) at any time by deed or by resolution in writing of the Trustee.

### 18.2 Effective date

An amendment made under this Clause will take effect from a date specified by the Trustee (whether before or after the date of the deed or resolution), or if none is specified, from the date of the deed or resolution.

## 19. Severance

If any provision of this Deed or part thereof is void, prohibited or unenforceable in a jurisdiction then such provision or the relevant part thereof will be severed. The remainder of this Deed will have full force and effect notwithstanding any consequential alteration to the meaning or construction of that provision or this Deed that may result unless severing the provision would be contrary to public policy or the Act.

## 20. Notices

### 20.1 Form

Any notice given under this Deed must be in writing.

### 20.2 Receipt

Notices will be deemed to have been given to the recipient if:

- (a) they are handed to them personally; or
- (b) they are sent by pre-paid post addressed to:
  - (i) in the case of Beneficiary, the person's last known address or place of employment; or
  - (ii) in the case of a Trustee or an Employer which is a corporation, its registered office or place of business; or
  - (iii) in the case of a Trustee or an Employer which is not a corporation, its place of business or other last known address.

## 21. Governing Law

The law applicable to the Fund is the law of the State or Territory of the Commonwealth of Australia where the Trustee resides.

## GENERAL SCHEDULE

Date of Making This Deed	The..... <i>7<sup>th</sup></i> .....day of <i>April</i> ..... <i>20<sup>05</sup></i>
The Trustees	<p>Paul Vincent Witt 2 Yurilla Drive BELLEVUE HEIGHTS SA 5050</p> <p>Diane Leslie Witt 2 Yurilla Drive BELLEVUE HEIGHTS SA 5050</p>
The Name of the Fund	PV & DL WITT SUPERANNUATION FUND
Law of this Fund:	South Australia

**SCHEDULE 2**  
**BENEFIT SCHEDULE**  
**PART 1**

**1. Circumstances**

Subject to the Act and this Deed, benefits are payable in the following circumstances:

- (a) if the Member has reached the Retirement Age;
- (b) if the Member has ceased Service;
- (c) if the Member has died;
- (d) if the Member has become Totally and Permanently Disabled; or
- (e) if the Member has become Temporarily Disabled.

To avoid doubt, a benefit must be paid when required under the Act as provided by Clause 12.5.1(b).

**2. Calculation of benefits other than pension benefits**

**2.1 General**

Subject to this Deed and except where Rules 2.2 or 3 of this Schedule apply, the amount of a Member's benefit will be the amount of the Member's Account Balance plus any additional amount included in accordance with Clause 12.6.6 where applicable;

**2.2 Disablement benefit**

Rule 2.1 does not apply in the case of a benefit payable on the Member's Total and Permanent Disablement or Temporary Disablement. The benefit payable in those circumstances will be calculated having regard to:

- (a) the amount or amounts payable under the Policy in respect of the Member's Disablement;
- (b) the timing of those payments;
- (c) the liabilities incurred by the Trustee in connection with the Policy (including receipt and payment of proceeds); and
- (d) any relevant Policy terms.

**3. Pension benefits**

**3.1 General**

Where a benefit in respect of a Member is to be payable in pension form, the amount referred to in Rule 3.2 will be applied for the purposes of providing that pension.

**3.2 Relevant amount**

For the purposes of Rule 3.1, the relevant amount is:

- (a) the amount that would be payable as a lump sum under Rule 2.1 if it

applied; or

- (b) if the Member requests that only part of that amount be applied to fund the pension and the Trustee accepts that request, the amount of the part requested.

### 3.3 Pension conditions

- 3.3.1 The conditions applicable to payment of pension benefits appear in Part 2 of this Benefit Schedule.
- 3.3.2 A Member who is entitled to receive a pension may nominate one or more reversionary beneficiaries to receive pension payments after the Member's death.
- 3.3.3 The Trustee may ignore any of the provisions of Part 2 of this Benefit Schedule or impose additional conditions on any pension payable under this Deed if this is necessary to ensure the Fund complies with the Act and /or the Social Security Act.

### 3.4 Commute to Lump Sum

A Member to whom a pension is payable is entitled, subject to the Act, to commute part or all of that benefit to a lump sum prior to the pension commencing or being established for the Member. Such commutation to be on terms agreed between the Trustee and the Member, or in the absence of agreement as determined by the Trustee.

## PART 2

### PROVISIONS APPLYING TO PENSION BENEFITS

#### 1. Forms of pension

Without limiting anything in this Deed, the Trustee and a Beneficiary may agree that the whole or any part of any amount payable to a Beneficiary under this Deed will be paid in one or more of the following forms:

- (a) a Lifetime Pension;
- (b) an Allocated Pension;
- (c) a Defined Pension;
- (d) a Life Expectancy Pension;
- (e) a Market Linked Pension; and
- (f) subject to the Act, any other form of pension that the Trustee chooses to make available at the relevant time.

Terms relating to each type of pension referred to in paragraphs (a) to (e) are provided in the subsequent Rules 4 to 10 of this Schedule ("Pension Clauses").

#### 2. Provisions of Act

The Pension Clauses are designed to reflect certain provisions of the Act relating to pensions. To the extent that those provisions of the Act may be:

- (a) varied or supplemented, the Trustee may offer pensions on terms that are

consistent with the varied or supplemented provisions; or

- (b) removed, the Trustee may adjust the features of pensions to which the Pension Clauses apply, having regard to the provisions that have been removed.

Subject to the Act, where a change of the type referred to in paragraphs (a) or (b) of this Rule 2 occurs, or if the Trustee otherwise considers it appropriate to do so, the Trustee may change the terms on which a current pension is paid, without being required to amend the terms of this Deed.

### 3. Additional terms

Subject to the Act, the Trustee is also permitted to:

- (a) pay pensions in any form permitted by the Act, which may include forms other than those described in the Pension Clauses;
- (b) make the payment of pensions, including those governed by the Pension Clauses, subject to any other terms that the Trustee considers appropriate. Those other terms may supplement or wholly or partly replace the terms that would otherwise apply; and
- (c) further document the terms governing any pension, including those governed by the Pension Clauses, in any manner it considers appropriate, whether by way of variation, supplement, qualification or deletion of terms that might otherwise apply.

### 4. Terms

Terms used in the Pension Clauses have the same meaning as in the Act (and in particular those provisions of the Act relating to pensions) unless the context otherwise requires.

### 5. Lifetime Pension

The following terms apply to Lifetime Pensions:

- (a) Payments of a Lifetime Pension must be made at least annually throughout the life of the primary beneficiary in accordance with paragraphs (b) and (c) and, if there is a reversionary beneficiary:
  - (i) throughout the reversionary beneficiary's life; or
  - (ii) if he or she is a child of the primary beneficiary or of a former reversionary beneficiary under the pension — at least until his or her 16th birthday; or
  - (iii) if the person referred to in subparagraph (ii) is a full-time student at age 16 — at least until the end of his or her full-time studies or until his or her 25th birthday (whichever occurs sooner);
- (b) Unless otherwise agreed in a particular case, and subject to the Act, the size of pension payments in a year will be fixed. The size of a fixed pension payment will be as agreed between the Trustee and Beneficiary or, in the absence of agreement, as determined by the Trustee. This does not limit the ability to allow commutation to pay a superannuation contributions surcharge liability;
- (c) Unless the relevant Regulator otherwise approves, or the Act otherwise allows, the sum payable as benefit in each year to the primary beneficiary or to the reversionary beneficiary, as the case may be, may be no less than the sum payable in the immediately preceding year;



- (d) The pension will not have a residual capital value;
- (e) The pension cannot be commuted except:
  - (i) if the commutation is made within 6 months after the commencement day of the pension;
  - (ii) if the commutation is made within 10 years after the commencement day of the pension to the benefit of a reversionary beneficiary on the death of the primary beneficiary;
  - (iii) if the eligible termination payment resulting from the commutation is transferred directly to the purchase of another benefit provided under arrangements that are consistent with the relevant requirements of the Act;
  - (iv) to pay a superannuation contributions surcharge liability; or
  - (v) for any other purpose permissible under the Act.
- (f) If the pension reverts or is commuted, it may not have a reversionary component greater than 100% of the benefit that was payable before the reversion or the commutation;
- (g) The pension cannot be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary;
- (h) The capital value of the pension and the income from it cannot be used as security for a borrowing; and
- (i) The pension may be offered on the basis that:
  - (i) if the primary beneficiary dies within 10 years after the commencement day of the pension, a surviving reversionary beneficiary may be paid an amount equal to the total payments that the primary beneficiary would have received, if the primary beneficiary had not died, from the day of death until the end of the period of 10 years; and
  - (ii) if the primary beneficiary dies within 10 years after the commencement day of the pension and there is no surviving reversionary beneficiary, an amount may be paid to the primary beneficiary's estate, not exceeding the difference between the sum of the amounts paid to the primary beneficiary and the sum of the amounts that would have been so payable in the period of 10 years; and
  - (iii) if the primary beneficiary dies within 10 years after the commencement day of the pension and there is a surviving reversionary beneficiary who also dies within that period, an amount may be paid to the reversionary beneficiary's estate, in accordance with the previous subparagraph as if that subparagraph applied to the reversionary beneficiary.

#### 6. Allocated Pension

The following terms apply to Allocated Pensions:

- (a) Subject to the Act, the size of pension payments in a year is not fixed.
- (b) Except where the Act does not require:

- (i) payments must be made at least annually; and
  - (ii) the payments in a year, except a payment by way of commutation, must not be less than the minimum amount nor more than the maximum amount calculated in accordance with the Act; and
  - (iii) the Member must specify the amount to be paid annually. If the Member does not specify the amount to be paid, the annual payment must be the minimum amount applicable under the Act.
- (c) The pension cannot be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary;
  - (d) The capital value of the pension and the income from it cannot be used as security for a borrowing;
  - (e) The pension may be commuted by application to the Trustee, subject to meeting the requirements of the Act;
  - (f) For the purposes of Rule 6(c) the Trustee and Member may agree that on the death of a Beneficiary to whom an allocated pension is being paid, a pension may be paid to one or more reversionary pensioners. In the absence of agreement with the Beneficiary, the Trustee may determine such arrangements;
  - (g) Where a reversionary pension is payable, the amount and terms and conditions of the reversionary pension will be agreed on between the reversionary pensioner concerned and the Trustee. In the absence of the agreement, the Trustee may determine such matters; and
  - (h) Payments of the pension will cease when the relevant Member's Account Balance is nil.

## 7. Defined Pension

The following terms apply to Defined Pensions:

- (a) Unless otherwise agreed in a particular case, and subject to the Act, the size of pension payments in a year will be fixed. The size of a fixed pension payment will be as agreed between the Trustee and Beneficiary or, in the absence of agreement, as determined by the Trustee. However:
  - (i) Payments may vary from year to year provided that the variation does not exceed, in any year, the average rate of increase of the CPI in the preceding 3 years or any other limit imposed by the Act; and
  - (ii) Nothing in this paragraph (a), including paragraph (a)(i), limits the ability to allow a commutation to pay a superannuation contributions surcharge liability;
- (b) Payments must be made at least annually;
- (c) The pension cannot be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary;
- (d) Subject to the Act, the pension may be commuted. However, the lump sum payable on commutation may be no greater than the amount permitted by the Act. In accordance with the Act, any commutation made in order to pay a superannuation contributions surcharge liability may be treated separately for this purpose.