

**THE METCALF
SUPERANNUATION FUND**

SUPERANNUATION TRUST DEED



(Incorporated in Western Australia) as trustee for The Data Plan Trust

P.O. BOX 71, OSBORNE PARK, W.A. 6017 TEL: (09) 443 1999 FAX: (09) 443 1972

TO THE TRUSTEES

Your Superannuation Trust Deed is written in simple English and is structured as both a reference guide and a training guide within a legal document

Caution: *The purpose of the explanations, considerations and procedures contained within the Deed are to assist the Trustees to obtain an increased understanding of the Rules and to maximise perception of the opportunities and benefits of a self-managed superannuation fund, preparatory to performance of the Trustees' duty to obtain qualified independent advice prior to taking actions.*

Superannuation rules are constantly changing together with other areas of legislation which affect the circumstances and considerations pertaining to fund members. It is, therefore, not intended nor advisable that the Trustees should rely solely on this Deed.

The Deed has been drafted to enable the Trustees to extract, in partially formatted form, the information required to satisfy administrative requirements, eg, those of Rule 10; "Financial reporting and disclosure of information standards."

Trustees' Duty:

The Trustees of the Fund shall exercise, in relation to all matters, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the Trustees felt morally obligated to provide.

Trustees' Indemnity:

There cannot be a provision within the governing rules of a superannuation fund which prohibits the Trustees from seeking advice from any person or entity in respect of any matter relating to the performance of duties or the exercise of the powers of the Fund, and any provision in the Governing Rules which purports to preclude the Trustees from being indemnified out of the assets of the Fund in respect of the cost of obtaining such advice, or to limit the amount of indemnity, is void as per Rule 9.41 and the Act.

Qualified Independent Advice:

The Trustees are required, under the Act, to seek qualified independent advice, as and when applicable, including but not limited to, actuarial, legal, accounting and investments, including the tax implications of making such investments, and the requirement to formulate and give effect to, and maintain an investment strategy, where it is appropriate, cost-effective and prudent to do so.

Immediate Actions Required Upon Receipt of the Superannuation Trust Deed/s:

See "Information and Assistance" section following.

THIS DEED is made the 4th day of March 1997

WESTERN AUSTRALIA STAMP DUTY
07-APR-97 001000603-001
DUP \$ ***** 2.00
D/S \$ *****5.00

BETWEEN

WHEELDON VALE PASTORAL CO PTY LTD ACN 008 762 945 of care of Suite 6, 18 Harvest Terrace, West Perth, Western Australia ("Trustee")

AND

WHEELDON VALE PASTORAL CO PTY LTD ACN 008 762 945 as trustee for **THE LC METCALF FAMILY TRUST** of care of Suite 6, 18 Harvest Terrace, West Perth, Western Australia ("Principal Employer")

WHEREAS

- A. The Principal Employer desires to establish an indefinitely continuing superannuation fund ("Fund") to provide retirement and other benefits to members of the Fund.
- B. The Trustee has agreed to act as the first Trustee of the Fund.

NOW THIS DEED WITNESSES AS FOLLOWS:

The parties agree as follows:

- 1 The Fund shall be known as **THE METCALF SUPERANNUATION FUND**
- 2 This Deed includes the rules ("Rules") annexed hereto.
- 3 The Trustee shall hold the assets of the Fund on trust to apply them in the manner set out in the Rules.
- 4 This Deed may be amended in the manner set out in the Rules.
- 5 This Trust Deed and the Rules shall comply with the provision of the Superannuation Industry (Supervision) Act 1993 and the trustee of the Fund shall be a constitutional corporation.

Executed by the parties as a Deed.

As Trustee and as Principal Employer)
the Common Seal of WHEELDON VALE)
PASTORAL CO PTY LTD ACN 008 762 945)
for itself and as trustee for THE LC METCALF)
FAMILY TRUST was hereunto affixed in)
accordance with its Articles of Association)
in the presence of:)



B. T. Metcalf
Director

F. Metcalf
Director/Secretary

THE FOLLOWING FOUR PAGES CONTAIN:

**INFORMATION
AND
ASSISTANCE**



“THE INDEX”

INFORMATION AND ASSISTANCE



Immediate actions required upon receipt of Superannuation Trust Deed/s

Trust Deeds:

- Sign Deed/s and affix Company Seal, as and if appropriate, and issue to Stamp Office for stamping.

ESTABLISHMENT OF A NEW SUPERANNUATION FUND:

- All requirements are contained within the Data Plan Self-Managed Superannuation Fund Kit, if supplied, including, but not limited to, partially completed - Election to Become a Regulated Superannuation Fund, Tax File Number Application, Trustee's Consent to Act and Declaration as to Status, Membership Applications, Epitome of Rights, Trustees' Certificate of Membership, Schedules, Minutes, Participating Employer Application, as applicable, etc.
- Complete and sign Election to Become a Regulated Superannuation Fund application form which must be received by the ISC (Insurance and Superannuation Commissioner) within 60 days of the commencement date of the Fund, being the latter of the date of execution of the Trust Deed and the date on which assets (including rollovers), investments or income are set aside for the Member.
- Complete and sign Tax File Number application form on behalf of the Fund and submit to the ATO (Australian Taxation Office). Note: It is preferable that the Fund's elected accountant's or advisor's address is shown on the application form for future administration purposes, and the form is lodged through that accountant or advisor.
- Complete and sign, as appropriate, all Registers, Applications, Certificates, Minutes, Participating Employer Application, etc, as applicable, included within the Kit or supplied by the accountant or advisor.
- Complete and issue a Prospective (New) Member's Advice.

UNDERSTANDING THE RULES:

Obligation of Trustees:

The trustees of a superannuation fund are required to understand the rules pertaining to superannuation as contained within the SIS (Superannuation Industry (Supervision) Act 1993). The Data Plan Superannuation Trust Deed is designed for use as both a reference and training guide, is written in simple English and includes explanations, considerations, procedures and requirements under the Act, to assist the Trustees in fulfilling their obligations.

Advice and Disclaimer:

Superannuation rules are constantly changing as are the circumstances of the Fund and its individual members. The trustees of a superannuation fund cannot base their decisions solely on the contents of this Deed, and need to seek advice from qualified advisors prior to taking actions.

THE DEED:

- This Deed will service the Fund indefinitely with a simple, cost-effective facility to adopt an amended set of Rules, when and if required, which will be advised to the Trustees, accountant or authorised administrator/advisor, with a "deeming rule" to automatically accept changes under the Act in the interim.

TRUSTEES' CONSIDERATIONS:

- Trustees are required under the Act to seek qualified independent advice in the areas of actuarial, legal, accounting, research and investments, including the tax implications of making such investments and the requirements to formulate and give effect to, and the maintenance of, an Investment Strategy, where it is cost-effective and prudent to do so.

INDEX:

- The following two Index Pages open out alongside each other and display the full contents of the Deed, divided into Section Headings and Rules, in order of likely application, for ease of assimilation and use.

Recommendation for training: Use the Index as a training guide and consider one section heading at a time.

BASIC APPLICATIONS OF THE DEED:

- | | | |
|---|--|---|
| <p>Pre-Retirement Benefits</p> <ul style="list-style-type: none"> Employer Sponsored Members Self-Employed Members Non-Employee Members Salary Sacrifice | <p>Ancillary Benefits</p> <ul style="list-style-type: none"> Temporary Disablement Total and Permanent Disablement Death Benefit | <p>Post-Retirement Benefits</p> <ul style="list-style-type: none"> Immediate Fixed-Term Annuity Allocated Pension Lifetime Pension
(Self-Managed or External) |
|---|--|---|

GENERAL DESCRIPTION

- Allocated or Unallocated or Mixed • Award • Superannuation Guarantee • Unlimited Choice of Categories and Vesting Entitlements • Equalisation Account • Deeming Rule • Self-Managed Pre-and Post-Retirement Benefits • Full Investment Options • Choice of Retirement Vehicles • Detailed Preservation Rules • Disclosure of Information and Reporting Standards (fully detailed, in application style format) • Investment Strategy • Full Trustee Rules • Clear Explanation of all the Rules
- Previous Rights Preserved • Specific crucial explanations and cautions incorporated within the rules including procedures for the protection of Trustees and Members • Written in simple English • The Data Plan Superannuation Trust Deed is designed to assist trustees, members and administrators as both a reference and training guide within the legal structure of the Deed.

REPORTING STANDARDS

EXCLUDED FUNDS AND NON-EXCLUDED FUNDS WITH LESS THAN OR MORE THAN 5 MEMBERS

ENQUIRIES:

IT IS RECOMMENDED THAT TRUSTEES SHOULD CONSULT WITH THEIR FUND ADVISORS PRIOR TO MAKING ENQUIRIES ON THIS SECTION AS THESE FACILITIES MAY BE OFFERED OR AVAILABLE THROUGH THE FUND'S ADVISOR OR ADMINISTRATOR;

No	Statements & Requirements	No	Discharge Statements	No	Statements & Requirements
1 *	Prospective (New) Member's Advice	8	Cessation of Membership	15	Investment Strategy matrix (for simple individual design)
2 *	Member's Benefit Statement	9	Early Release of Benefits	16	Salary Sacrifice Agreements (Employer and Employee)
3 *	Cessation of Membership Statement (see Discharge Statements)	10	Roll over (Transfer) of Benefits	17	Self-Employed Person's annual deductible contribution advice
4	Fund Statement (Non-Excluded Funds)	11	Temporary Disablement	18	Proxy Vote Election
5	Trustee's Consent to Act and Declaration as to Status	12	Total and Permanent Disablement or Invalidity	19	Tax File Number Authorisation
6	Letter of Compliance	13	Death Benefit	*	(asterisk) denotes two programmes • Excluded Funds • Non-Excluded Funds
7	Loan Agreement	14	Retirement Benefit		

ON HARD COPY OR DISK

Enquiries to: Data Plan Phone (09) 443 1999 Fax (09) 443 1972

WHAT ARE THE ADVANTAGES AND DISADVANTAGES OF A SELF-MANAGED SUPERANNUATION FUND ?

The immediate advantage of maintaining control of pre-and post-retirement decisions, benefits, investment choice, flexibility, costs and tax advantages plus full retirement options within the Fund, are some of the advantages. There are numerous other advantages, some of which will only be appropriate to your particular circumstances and require specialist advice. It is also prudent to seek qualified investment advice to maximise the investment opportunities available through your self-managed fund.

Please seek specialist qualified advice to maximise your opportunities and avoid the downsides which can apply to self-managed funds and could lead to substantial fines and tax penalties.

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19-20	• Application for Membership	24-25	• Trustees Advice to Members

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28	• Compulsory Employer Contributions	35	• Superannuation Guarantee
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THE RULES

THE RULES

DEFINITIONS AND INTERPRETATIONS

In these rules, unless the context otherwise requires:

- 1.1 **Accumulation Account** means an account established within the Fund for the benefit of members in the following categories: AF, AIYF, AIZF, AL, AIYL, AIZL, AP and AIP;
- 1.2 **Accumulation Benefit** means a benefit payable to the following categories of members; AF, AIYF, AIZF, AL, AIYL, AIZL, AP and AIP. This definition shall include benefits payable to a member in more than one category pursuant to Rule 2.1 hereof;
- 1.3 **Act** means, according to context, the Income Tax Assessment Act 1936, the Corporations Law, the Occupational Superannuation Standards Act 1987, the Superannuation Guarantee (Administration) Act 1992, the Superannuation Industry (Supervision) Act 1993 or any Act or statute of Federal or State Parliament in force, in its most recently amended form. An Act may specify supplementary regulations and/or authorise discretionary powers and provisions for application by a minister, executive government authority or delegate. If any term defined by an Act is used in this Deed and is not defined herein, then, unless the context otherwise requires, it shall have the same meaning as in the Act;
- 1.4 **Actuary** means a Fellow of the Institute of Actuaries of Australia, or a firm or company of actuaries of which at least one member or director (as the case requires) is such a Fellow or an accredited Member of the Institute of Actuaries of Australia;
- 1.5 **Actuarial Certificate** means a certificate prepared by an actuary which is required for unallocated members' (defined) benefits or immediate fixed-term annuity or allocated pension or lifetime pension benefits provided for members within the Fund, plus if applicable, further certificate/s for funds which are accepting members' Superannuation Guarantee benefits relative to the Superannuation Guarantee Charge;
- 1.6 **ADF Or Approved Deposit Fund** means a complying superannuation fund for the retention of ETP (eligible termination payments). The Trustees may roll over benefits to or accept rollovers from an ADF but shall not provide an internally managed ADF within these Rules;
- 1.7 **Allocated Accumulation Benefit** means an individual allocated accumulation benefit account established for each member which shall be accredited with employer and member

contributions, as applicable, together with members' proportionate allocation of Fund accreditations less expenses;

- 1.8 Allocated Annuity** means a pension paid from an allocated account which is only available from a registered life insurance company and cannot be offered internally within this Deed;
- 1.9 Allocated Pension** means a pension paid from an allocated account on behalf of that member to continue for as long as a balance remains in that account with the right of the member to take drawdowns from that account within the limits thereof and subsequent amendments to the Act, which also rule the minimum and maximum allocated pension payments per year. All members, dependants, beneficiaries and reversionary beneficiaries of members, with the exception of category AP, AIP, UP and UIP members, shall have the right upon retirement or at such other time, or on conditions in accordance with the Act, to receive benefits in the form of an allocated pension;
- 1.10 Annuity** means an immediate annuity which could be either a lifetime annuity with or without a reversionary annuitant and indexed in accordance with the Act, with no right of commutation after six (6) months, or an immediate fixed-term annuity with or without indexation or right of commutation or a reversionary annuitant or a residual amount at the expiry of said annuity. The Trustees may roll over benefits to or accept rollovers from immediate annuities and provide immediate fixed-term annuities within this Deed in accordance with the Act;
- 1.11 Associates (Associated)** is defined in very wide terms to include relatives of, beneficiaries or business associates of, the directors, shareholders and/or unitholders of the principal employer, original member, participating employer or trustees, business partners and spouses and children of business partners. The circumstances in which companies are "associates" include where the directors are accustomed to acting in accordance with the directions, instructions or wishes of the directors, shareholders and/or unit holders of the principal employer, original member, participating employer or trustees or associates, or where the directors, shareholders, unit holders of the principal employer, original member, participating employer or trustees, together with other associates, if any, hold more than 50% of the votes that may be cast at a general meeting of the company. While this paragraph lists many of the situations to which section 26AAB (14) of the Tax Act applies, it is not an exhaustive list;
- 1.12 ATO** means the Australian Taxation Office;

- 1.13 Auditor** means, for a non-excluded superannuation fund with five or more members, the Auditor General of the Commonwealth, a State or a Territory; or a registered company auditor who is also a member of the Australian Society of Certified Practising Accountants; or the Institute of Chartered Accountants in Australia; or the National Institute of Accountants; or a Member or Fellow of the Association of Taxation and Management Accountants; or a Fellow of the National Tax and Accountants Association Ltd. For an excluded superannuation fund with less than five members an auditor; is either a registered company auditor or a Member of the Australian Society of Certified Practising Accountants, or the Institute of Chartered Accountants in Australia; or the National Institute of Accountants; or a Member or Fellow of the Association of Taxation and Management Accountants; or a Fellow of the National Tax and Accountants Association Ltd or the Auditor General of the Commonwealth, a State or a Territory;
- 1.14 Award Superannuation** means any productivity fund member who is entitled to superannuation benefits provided in accordance with any prescribed agreements, awards or the Act;
- 1.15 AWOTE** means Average Weekly Ordinary Time Earnings;
- 1.16 Beneficiary** means a person nominated as a beneficiary (recipient) of a member's benefit upon death;
- 1.17 Board of Trustees** means an equal number of employer or original member and member representatives on a board of trustees to satisfy the equal representation rules applying for non-excluded funds with five or more members. All members of the board of Trustees must be directors of the corporate Trustee;
- 1.18 Category Of Membership** means the category or categories to which each member belongs pursuant to these rules as contained in Rule 2.1;
- 1.19 Class Of Membership** means the class to which each member belongs within each category of membership as contained in Rule 2.2;
- 1.20 Commissioner** means and includes, according to context, the Commissioner of Insurance, Commissioner of Superannuation and Commissioner of Taxation;
- 1.21 Commuted** means the commutation or taking of a lump sum from a pension benefit;

- 1.22 Concessional Payments** means payments on behalf of a member which include bona-fide redundancy payments or payments under an early retirement scheme which are taxed on a concessional basis in accordance with the Act. Invalidation payments (the future service component between date of invalidity and normal retirement age) will until 30 June 1994 be included as a concessional payment and may be rolled over as is the case with other concessional payments. From 1 July 1994 an invalidity payment (future service component) is tax free and is the only concessional payment within the Fund that can be rolled over from that date. From 1st July 1994 approved early retirement scheme payments and bona fide redundancy payments cannot be made by superannuation funds. Provided that the taxable portion of an approved early retirement scheme or bona-fide redundancy paid directly by the employer is taxed as an ETP, it may, as such, be rolled over as an untaxed benefit or paid out as a lump sum;
- 1.23 Complying Superannuation Fund** means a superannuation fund which complies with the Act and includes, but is not limited to, superannuation funds, ADFs, allocated annuities, allocated pensions, deferred annuities, immediate annuities, immediate fixed-term annuities, pensions, retirement savings accounts (RSAs);
- 1.24 Compulsory Superannuation** means obligatory superannuation contributions required to be paid by either an employer or employee or member pursuant to any Federal or State Act or Regulation, or the Act;
- 1.25 Contributions** means an amount paid in cash or in specie by the principal employer, original member, participating employers or other persons permitted by the Act, or members of the Fund;
- 1.26 DA OR Deferred Annuity** means a regulated complying superannuation fund for the retention of an ETP, on behalf of a member, to be either preserved or unrestricted non-preserved in part, or full, in accordance with the Act and held on behalf of that member until approval for: early release of benefits, total and permanent disablement, invalidity, permanent departure from Australia or death (if no reversionary annuitant) or upon the member attaining age 65 at which time monies must be paid out or partially paid out with any remaining balance being utilised to provide an immediate (income) annuity or pension. The Trustees may accept roll overs from, or effect roll overs to a deferred annuity at the member's request, but cannot provide a deferred annuity internally pursuant to these rules;

- 1.27 **Deed** means the Deed as altered amended modified or varied from time to time of which the rules form part;
- 1.28 **Defined Benefits** (or benefit promise) means unallocated member's benefits, as defined by an actuarial certificate establishing a benefit formula being a multiple of the member's final average salary, usually over the last three years upon retirement at age 65 or 70, or the last three years of the Fund service or (if service is less than three years) the average of the member's service or such other multiple or formula, for either retirement, total and permanent disablement or invalidity or death, as determined by the Trustees in consultation with an actuary as stated in the actuarial certificate;
- 1.29 **Dependant** in relation to a former member means:
- 1.29.1 the spouse, former spouse or defacto spouse of a former member or the widow or widower or defacto spouse of a deceased member; or
- 1.29.2 any child of a member including any person who, in the opinion of the Trustees, is or was actually maintained by the member as his child; or
- 1.29.3 any other person who, in the opinion of the Trustees, was substantially financially dependent on the member at the relevant time;
- 1.30 **Designated Beneficiary** means a beneficiary specified in writing by a member to the Trustees;
- 1.31 **Disputes** include: Enquiries, Complaints and Fund Information as contained in Rule 9.51 and Rule 10.14, which is specifically on fund information;
- 1.32 **ERF (Eligible Rollover Fund)** means a fund which has satisfied the conditions as laid down in the regulations and is eligible to receive rolled over benefits between superannuation funds as per Section 241 of the SIS Act. The trustees of a superannuation fund are required under the Act to roll over benefits in certain circumstances to an ERF despite anything in the governing rules of the transferring superannuation fund;
- 1.33 **Early Release Of Benefits** means early release of benefits for financial hardship or or compassionate grounds, if granted by the Commissioner;
- 1.34 **Earnings** has the same meaning as "Salary" which is defined in Rule 1.96;
- 1.35 **Earnings Base** means the employee's earning base to which obligatory contributions apply to Award Superannuation and Superannuation Guarantee employer contributions;

- 1.36 Eligible Termination Payment OR ETP** means a superannuation benefit rolled over or paid to or received from a complying fund or member;
- 1.37 Employee** means a person who is in the employment of an employer and, in the case of an employer which is a company, includes a director of the company;
- 1.38 Employee Member** means a member who is employed by either the Principal Employer or Original Member or Participating Employers;
- 1.39 Employer** means and includes any one or more or all of the Principal Employer and/or Original Member or Participating Employer and means and refers to them jointly and each of them severally;
- 1.40 Equalisation Account** means an account established within the Fund, enabling the Trustees to stabilise the investment earnings of the Fund and to provide for such future contingencies as the Trustees consider reasonable;
- 1.41 Equal Representation** means an equal representation of employer and member representatives as individual trustees, or as directors on the board of a corporate trustee of a non-excluded regulated complying superannuation fund;
- 1.42 Excess Benefits** means member's benefit in excess of either the lump sum or pension RBL (Reasonable Benefit Limit);
- 1.43 Excluded Fund** means a regulated complying fund with less than five members;
- 1.44 Federal Government** means the Australian Federal Government;
- 1.45 Final Average Salary OR "FAS"** means the average salary of any member paid by the employer during the last three (3) years of fund service, or if fund service is less than three (3) years, the average salary of the member during the whole of his fund service, or as defined in Rule 1.28;
- 1.46 Financial Year** means the accounting period selected by the Trustees of the Fund, which shall not exceed 12 months and may be (but is not limited to) the period commencing from 1st of July to the 30th of June in the following year;
- 1.47 Fixed-term Annuity** means a fixed-term annuity (pension) provided internally within the Fund from the member's accumulation account or equity, or provided outside the Fund from another complying fund;

- 1.48 **Forfeited Benefits Account** means an account established within the Fund for the recording of forfeited benefits;
- 1.49 **Fully Commutable Pension** means a pension payable under these rules where the person entitled to the pension has the sole right to commute that pension in whole, or in part, to an equivalent lump sum and such right to commute the pension is exercisable at the time of entitlement;
- 1.50 **Fund** means the Fund established pursuant to the Deed;
- 1.51 **Fund Membership** means the period from which the member joined the Fund to the date of termination from the Fund. Provided that for the purpose of the Percentage Vesting Schedule, such period is defined as being completed whole years only, with no allowance for partially completed years;
- 1.52 **Fund Statement** means, for non-excluded funds with five or more members, a regular statement to be issued at least annually to members containing financial information being audited accounts or abridged financial information from accounts, specific detailed information pertaining to the management and compliance requirements of the Fund, disclosure of assets and investment performance and details of individual trustees or corporate trustee directors investment managers, reserves, including an outline of how, fees, charges, administrative and other costs, whether predetermined or fixed costs or not, are attributed either directly or indirectly to members, giving details of occasions or points on which they are levied;
- 1.53 **Highest Average Salary OR HAS** means, with effect from 1 July 1990, the highest average salary (up to 30 June 1994), over any three (3) consecutive years during the lifetime of the member including periods prior to 1 July 1990;
- 1.54 **Independent Investment Manager** means a corporation for a non-excluded fund or an individual or individuals or a corporation for an excluded fund, which has been appointed by the Trustees to administer the investments of the Fund. A written agreement must be in place to include the requirements of the Trustees, who can terminate such an agreement and are not under any liability to the independent investment manager should this action be taken;
- 1.55 **In-House Assets** means an asset of a superannuation fund that consists of a loan to or an investment in an associate being the employer sponsor or the original member or participating employer, or trustees of the Fund or associated trustees or an associate of the principal

employer or original member or participating employer or trustees of the Fund or associated trustees or a member of the Fund with the definition of associate having the same wide meaning as is defined in section 26 AAB (14) of the Income Tax Assessment Act 1936 which is considered in Rule 1.11. Provided that in the instance of a public offer fund or an investment by the trustees in a public offer fund (PST or managed investments 'etc') an "association" is only defined to be applicable where there is "a controlling interest" or "a direction of operations" by the before mentioned associates of the Fund;

- 1.56** **ISC** means the Insurance and Superannuation Commission constituted pursuant to the Occupational Superannuation Standards Act 1987;
- 1.57** **Invalidity Benefit** means any payment made to a member at the sole and absolute discretion of the Trustees by reason of the member's gainful employment being terminated or the member ceasing to be able to provide personal exertion income by reason of his physical or mental incapacity to engage in any gainful occupation to which the member is reasonably qualified by previous education, training and experience. Provided that should the total and permanent disablement benefit or invalidity benefit be provided by a registered insurer under the Life Insurance Act 1995, the determination of whether a claim is paid on that insured benefit, is solely determined by that registered insurer;
- 1.58** **Investment Strategy** means the current and future objectives of the Fund, which must by nature be individual, and consider the asset allocations, diversification and liquidity needs whilst maximising returns within the Fund's elected "Risk" Profile. The Trustees shall formulate and give effect to an Investment Strategy which is required to be monitored and reviewed and issued to the member's of the Fund;
- 1.59** **Lifetime Pension** has the same meaning as "pension";
- 1.60** **Lost Members** means a lost member of a non-excluded fund with five or more members unless permanently excluded as a lost member as per Rule 8.5.2.7.8. The Trustees of a fund with lost members must adhere to both the minimum protection standards and administration of unclaimed monies regulations in accordance with the Act as per Rules 8.5.2.7.5 and 8.5.2.7.6;
- 1.61** **Lump Sum Benefit** means a lump sum payable under these Rules;
- 1.62** **Member** means an individual approved by the Trustees as eligible for membership of the Fund and who has joined the Fund and including persons in receipt of an immediate fixed-term

annuity, allocated pension or lifetime pension from the Fund and former members and beneficiaries or dependants who continue to have rights or contingent rights to benefits under the Fund;

- 1.63 Member's Accumulation Account** means a member's individual allocated accumulation account defined by a category of membership beginning with the letter "A";
- 1.64 Member's Cessation Of Membership Statement** means a statement which is required to be issued to a departing member which contains a Discharge Statement which will differ with excluded or non-excluded funds with less than or more than five members;
- 1.65 Member's Equity** means a member's entitlement to the Fund as actuarially determined, defined by a category of membership beginning with the letter "U";
- 1.66 Member's Minimum Benefit** means member financed benefits and mandatory employer contributions such as superannuation guarantee and award plus member benefits rolled over to the Fund which are not designated as simply a transfer as described in Rule 8.5.5.4;
- 1.67 Member Protection Standards** means protection of members' account balances to a level as legislated for mandatory employer contributions pursuant to these Rules and the Act;
- 1.68 Member's Statement** means a member's statement that is required to be issued at least once in each twelve month period stating members' benefits, conditions and rights of members which will differ for excluded and non-excluded Funds;
- 1.69 Non-Employee Members** mean members who are not employees of either the principal employer or original member or participating employer and are not self-employed members;
- 1.70 Non-Excluded Fund** means a regulated complying fund with five or more members;
- 1.71 Normal Retirement Date** means the day of attaining age 65 or 70 for all members, both males and females. A member's minimum retirement date is age 55 or such later age as specified in Rule 4.8, which may be up to age 60 if legislated, or retirement, whichever date is the later, or such other minimum age as may be specified in the Act from time to time;
- 1.72 Notional Taxable Income** means a member's net taxable income plus the total of all employer sponsored superannuation contributions on behalf of the member plus, if applicable, the member's personal tax deductible superannuation contributions. Provided that, legislation has not been passed at the point of preparing this Deed and there is not a definition of net taxable income and a committee is reviewing this area, see also Rule 1.105;

- 1.73 **Ordinary Time Earnings (OTE)** has the same meaning as defined under the appropriate award Rule 3.7, with Rule 3.8 defining (OTE) for Superannuation Guarantee purposes;
- 1.74 **Original Member** (founder) means the original member or member's establishing the Fund;
- 1.75 **Partially Commutable Pension** means a pension payable under this Deed where the person entitled to the pension has the sole right to commute up to twenty-five percent (25%) of that pension to an equivalent lump sum and such right to commute the pension is exercisable at the time of entitlement;
- 1.76 **Participating Employer** means any employer or any incorporated body, company, trust, partnership or sole trader from time to time approved by the Principal Employer or Original Member to be a participating employer and who contributes on behalf of a member to the Fund;
- 1.77 **Pension** means a non-commutable lifetime pension with no residual balance providing an immediate income payable under these Rules which is required to comply with the Act. The provision within the Deed to provide internally managed lifetime pensions does not necessarily mean that trustees can, through this Deed, offer internally managed lifetime pension benefits to members. There are stringent rules that apply under the Act and trustees must seek qualified advice, which includes actuarial advice, prior to offering lifetime pension benefits to members through this Deed;
- 1.78 **Percentage Vesting Schedule** means the Schedule titled "Percentage Vesting Schedule" annexed hereto which defines the members' entitlement to employer contribution credits. All member contributions and accruals shall be fully vested in the member;
- 1.79 **Pooled Superannuation Trust or (PST)** means a type of investment available to the Trustees of the Fund in which the trustees of the (PST) may only invest superannuation monies received from regulated complying funds and are responsible for the calculation and payment of income (earnings) tax on such investments;
- 1.80 **Post-83** means a member's service date or Fund membership date expressed in days between the date of commencement and the retirement date or the termination date from the Fund occurring from 1 July 1983;
- 1.81 **Pre-83** means a member's service date or fund membership date expressed in days between the date of commencement and the retirement date or the date of termination from the Fund occurring prior to 1 July 1983;

- 1.82 Preservation Or Preserved Benefit** means member's benefits which are preserved until age 55 or such other age as specified in Rule 4.8, which could be up to age 60 if legislated, or retirement, whichever is the later or early release of benefits (if granted by the Commissioner) or total and permanent disablement, invalidity, permanently departing from Australia, death or as a non-commutable lifetime pension or annuity subject to cessation of employment from an employer who had, or an associate of an employer who had, contributed on behalf of the member to the Fund;
- 1.83 Primary Beneficiary** means the primary beneficiary (pensioner) to whom either immediate fixed-term annuity, allocated pension or lifetime pension benefits are being provided, or the primary beneficiary of, or person nominated by, the member;
- 1.84 Principal Employer** means the person described as the principal employer in the Deed;
- 1.85 Prospective (New) Member's** means prospective (or new) member's of the Fund who shall be issued with a member booklet or written advice describing the benefits and Rules of the Fund which will differ for excluded funds with less than five members and non-excluded funds with five or more members;
- 1.86 Public Offer Fund** means a company of substance (cannot be an individual) which is an approved regulated complying fund with at least 5 million dollars of net tangible assets or bank guarantee approved by the Commissioner. The Principal Employer or Original Member prior to a trustee being appointed or, where appointed, the Trustees of the Fund, may elect to appoint a professional trustee and become a public offer fund irrespective of anything in the governing rules of the Fund by written application to the Commissioner. Such election once granted is irrevocable other than to appoint another professional trustee after approval by the Commissioner, retaining the Fund as a public offer fund;
- 1.87 Reasonable Benefit Limit or RBL** means the AWOTE (average weekly ordinary time earnings) lump sum and pension indexed reasonable benefit limit specified from time to time by the Commissioner;
- 1.88 Regulated Fund** means that the Fund is a regulated superannuation fund within the meaning of the Act;
- 1.89 Regulations And Standards** means the Occupational Superannuation Standards ("OSS") Regulations made pursuant to the Occupational Superannuation Standards Act 1987 (OSS)

The legislative authority replacing OSSA is now the Superannuation Industry (Supervision) Act 1993 (SIS);

- 1.90 Residual Capital Value** means the lump sum value at the expiry of an immediate fixed-term annuity, if applicable, or the remaining value of a pension such as, but not inclusive of , an allocated pension;
- 1.91 Restricted Non-Preserved Benefits** means contributions and accruals by an existing employer or original member of the Fund and contributions and accruals by an employee of an existing employer or original member of the Fund, provided that the Fund had commenced prior to 22 December 1986. From 1 July 1997, restricted non-preserved benefits are further redefined under SIS (Superannuation Industry (Supervision) Act 1993) as being the greater of either the restricted non-preserved benefit payable had the member resigned or been retrenched as at 1 July 1997 recalculated and indexed thereafter in line with AWOTE (average weekly ordinary time earnings) or the total amount of the member's undeducted contributions (excluding accruals) including those made post 1 July 1997. Restricted non-preserved benefits from 1 July 1997 can become unrestricted non-preserved benefits provided that cessation of employment has occurred with an employer of the Fund who had, or whose associates had, contributed to the Fund in relation to the member;
- 1.92 Reversionary Beneficiary** means a person (or one of a number of such persons) nominated as beneficiary of either an immediate fixed-term annuity, allocated pension or lifetime pension upon death of the primary beneficiary;
- 1.93 Roll over** means any payment made by or received by the Trustees at the request of a member or former member to or from any one or more of the regulated complying funds following:
- 1.93.1** an allocated annuity;
 - 1.93.2** an allocated pension;
 - 1.93.3** an approved deposit fund (ADF);
 - 1.93.4** a deferred annuity;
 - 1.93.5** an immediate annuity;
 - 1.93.6** an immediate fixed-term annuity;
 - 1.93.7** a lifetime pension;
 - 1.93.8** a retirement savings account (RSA);

- 1.93.9 a superannuation fund;
- 1.93.10 any other fund or area approved by the Act;
- 1.94 **RSA (Retirement Savings Account)** means a capital guaranteed portable superannuation savings account to be legislated from 1 July 1997, which does not necessarily require a trust structure and must abide by the member protection standards. The regulatory body is the ISC together with the Superannuation Complaints Tribunal for member's of non-excluded funds, with preservation rules applying to all members;
- 1.95 **Rules** means the rules of the Fund as altered, amended, modified or varied from time to time;
- 1.96 **Salary** means and includes business profits received through personal exertion as an individual from a company, trust or partnership, or as a sole trader (but not including distributions from a trust or dividends from a company or fringe benefits) and includes salary, wages, commissions, bonuses, fees, allowances or gratuities (other than a "golden handshake") paid during any financial year, an individual's share of net profit after expenses from a business (as a sole trader or as a member of a partnership) plus amounts included within expenses pertaining to superannuation contributions or IED (income equalisation deposits) paid by that business if applicable. An IED may be included within the year of inception but not the year of withdrawal. The "salary" (in relation to earnings) is to be reduced by a person's share of net business losses within any financial year commencing from 1 July 1990 but business losses incurred prior to that date are excluded;
- 1.97 **Schedule** means the Schedule to these rules;
- 1.98 **Securities** means any investments such as, but not limited to: shares, managed investments (listed; equity, property, mortgage trusts, etc), PSTs (pooled superannuation trusts), bonds or debentures, a right or option, or any other security listed for quotation in the official list of a stock exchange in Australia, which "excludes" an unlisted trust;
- 1.99 **Self-Employed Members** means self-employed members of the Fund who are gainfully producing income from personal exertion for ten hours or more per week and who, if employed, do not earn more than 10% of their income from said employment;
- 1.100 **Service** means the total number of days of completed service from the date the member commenced service or recommenced service whichever is the latter, and the date on which the member left service;

- 1.101 Specie** means an asset which can be transferred in (rolled over) or contributed to the Fund or transferred out (rolled over) or paid out to, or on behalf of, a member;
- 1.102 Superannuation Complaints Tribunal** is an independent body set up by the Federal Government to assist members and dependants and beneficiaries of members of non-excluded funds with five or more members to resolve certain types of complaints with trustees of superannuation funds;
- 1.103 Superannuation Guarantee** means the Superannuation Guarantee (Administration) Act 1992;
- 1.104 Superannuation Fund** means an indefinitely continuing fund providing retirement, death, disability and certain other contingencies to members and includes any approved deposit fund, allocated annuity, deferred annuity, immediate annuity, immediate fixed-term annuity, allocated pension, lifetime pension, retirement savings account or any other fund approved from time to time by the Commissioner or the Act;
- 1.105 Superannuation Surcharge** means the individual surcharge, if applicable, payable by the Trustees which is dependant upon the notional taxable income of a member of the Fund (not legislated at point of preparing this Deed, see Rule 1.72);
- 1.106 Tax File Number** means a member's or beneficiaries Tax File Number as per Rule 11.10;
- 1.107 Temporary Disablement** means the continuous disability of a member due to physical or mental disability, bodily injury, illness, disease or infirmity rendering a member unable to perform his duties and not incurred or inflicted for the purpose of obtaining a benefit from the Fund. The definition of duties and the definition of temporary disablement is as defined by the terms of an insurance contract (if applicable) provided by a registered insurer under the Life Insurance Act 1995 or at the sole discretion of the Trustees if there is not an insured benefit provided for the member through a registered insurer;
- 1.108 Total And Permanent Disablement (TPD)** means:
- 1.108.1** The Trustees in their sole and absolute discretion are reasonably satisfied that the member is unlikely because of physical or mental ill-health, to ever again engage in a gainful occupation for which the member is reasonably qualified by previous education, training or experience. Provided that, should a total and permanent disablement benefit or invalidity benefit be provided by a registered insurer under the Life Insurance Act 1995, the determination of whether a

claim is paid or not paid on that insured benefit is solely determined by that registered insurer;

- 1.109 Transfer** means a benefit which is transferred (rolled over) to the Fund and which the Trustees have deemed to be a transfer, not a roll over for the purposes of member's minimum benefits as per Rule 8.5.5.4;
- 1.110 Trustees** means the Trustee or the Trustees for the time being of the Fund whether original, substituted or additional;
- 1.111 Unallocated Benefit** means a benefit payable to a member in the UF, UIF, UIYF, UIZF, UL, UIL, UIYL, UIZL, UP and/or UIP category of membership, Rule 1.28. This definition includes benefits payable to a member in more than one category and includes a lifetime pension member;
- 1.112 Unclaimed Benefits** means the benefits of: a member or the dependant or beneficiaries of a member or the legal representative of a member or a person or persons who are considered as potential beneficiaries of a member, who cannot be located by the Trustees, so that the benefit become unclaimed benefits. The unclaimed benefits are either rolled over to an ERF (Eligible Rollover Fund) or treated as unclaimed monies and remitted on the required statement to the ATO (Australian Taxation Office) as defined in Rule 8.5.6;
- 1.113 Undeducted Contributions** means the personal individual contributions of an employee member of the Principal Employer or Original Member or Participating Employer which have not been claimed as a deduction although they may have been subject to a rebate, also Rule 4;
- 1.114 Undeducted Purchase Price or UPP** means the amount of Pre-83 member's benefit concessional payments and undeducted contributions applied to purchase an allocated annuity, immediate fixed-term annuity, allocated pension or pension until 30 June 1994. The definition of UPP from 1 July 1994 will alter to the members Post-83 undeducted contributions and if applicable the future service component of an invalidity payment only;
- 1.115 Unrestricted Non-preserved Benefits** means non-preserved benefits which from 1st July 1997 are redefined as unrestricted non-preserved benefits which can be cashed in part or full at the request of the member irrespective of continuity of employment or contributions made by or on behalf of the member;
- 1.116 Unused Undeducted Purchase Price or UUPP** from 1 July 1994 will be included in the definition of an ETP (Eligible Termination Payment) and can upon commutation of an annuity

or pension, be rolled over to a complying regulated fund or another complying annuity or pension;

- 1.117 Vesting** means the member's entitlement to employer contribution credits as defined by the class of membership with appropriate percentage entitlements as shown in the percentage vesting schedule. Self-employed or non-employee or employee members' contributions are fully vested in the member. Both employer and member contributions for Award (Productivity) Fund and compulsory superannuation (Superannuation Guarantee) categories are fully vested in the member. Federal Government contributions and member contributions qualifying same (if legislated) from 1st July 1997 are fully vested in the member;

NOTES ON INTERPRETATION

- 1.118** Words importing the singular number or plural number shall include the singular number and plural number respectively;
- 1.119** Words importing any gender shall include any other gender or genders;
- 1.120** Words importing persons shall include corporations;
- 1.121** The headings, typographic styles, presentation formats and syntax of this document are designed for ease of reference only and shall not affect the construction or interpretation of these rules;
- 1.122** References to persons shall include their personal representatives;
- 1.123** References to statutes include all amendments thereto and statutes passed in substitution therefore or re-enactments thereof respectively;
- 1.124** Any covenant or agreement on the part of or in favour of any two (2) or more persons shall bind them or be in favour of them both jointly and severally.

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2. MEMBERSHIP (Employed, Self-employed and Non-Employee Members.)

2.1 CATEGORY OF MEMBERSHIP

2.1.1 There shall be twenty (20) categories of membership namely AF, AIF, AIYF, AIZF, AL, AIL, AIYL, AIZL, AP, AIP, UF, UIF, UIYF, UIZF, UL, UIL, UIYL, UIZL, UP and UIP;

2.1.2 The first letter in each category of membership shall be either "A" or "U" where "A" represents an Allocated Accumulation Benefit and "U" represents an Unallocated Benefit. The letter "I" represents a category of membership which entitles a member to benefit from more than one category. The letter "Y" represents a Compulsory Superannuation Fund Member (Superannuation Guarantee). The letter "Z" represents an Award (Productivity Fund) Member. The last letter in each category of membership shall be "F", "L" or "P" where "F" represents a Fully Commutable Pension, "L" represents a Lump Sum Benefit and "P" represents a Partially Commutable Pension of which no more than 25% of the member's equity or accumulation account can be commuted;

2.1.3 The Trustees, by resolution, may create a further category or categories of membership provided that a member's existing rights shall not be detrimentally affected upon a transfer to such new category or categories without the written consent of the Member provided that the conditions of Rule 8.5.3 have not been breached. Compulsory Superannuation members Category "Y" (Superannuation Guarantee), and Category "Z" Award (Productivity) Fund members' transfers cannot detrimentally affect members' rights unless obligated under the Act.

2.2 CLASS OF MEMBERSHIP

2.2.1 There shall be eight (8) classes of membership of the Fund which shall be designated alphabetically "A" class, "B" class, "C" class, "D" class, "E" class, "F" class, "G" class and "H" class. The class of membership is the vesting entitlement of the member to the member's Accumulation Account or Equity. The employer contribution credits for employee members are credited to the member's Accumulation account or member's Equity calculated on full

completed years of membership as per the Vesting Schedule in the Deed ranging from "A" Class respectively as: forty years, twenty-five years, twenty years, fifteen years, ten years, seven years and five years with full immediate vested entitlement for Class H which is the class or vesting entitlement that is applied to all member contributions, accruals and mandatory employer contributions and accruals such as Award (Productivity) and Superannuation Guarantee contributions;

- 2.2.2** All members of the Fund upon joining the Fund in accordance with the provisions herein shall be and become "A" class members and shall remain "A" class members of the Fund unless and until the status of the member is re-classified as hereinafter provided, with the exception of any member who is a "Y" or "Z" category member or a non-employee member or a self-employed member each of whom shall be an "H" Class member upon entry to the Fund;
- 2.2.3** Subject to Rule 2.2.4 the Principal Employer or Participating Employer or Original Member may at any time by notice in writing to the Trustees alter the status of an employee member to or from membership of any of the classes in the Fund provided that the status of a member of "D" class, "E" class, "F" class, "G" class and/or "H" class shall not be re-classified to membership of either a class that alphabetically precedes that member's class or to "A" class, "B" class and/or "C" class unless otherwise agreed to by the member in writing, provided that the conditions of Rule 8.5.3 have not been breached;
- 2.2.4** The reclassification of the status of an employee member shall be subject to the prior written consent of the Trustees and shall be deemed to take effect as and from the date of such consent;
- 2.2.5** Where a member's class of membership is re-classified the Trustee shall upon such reclassification issue to the member a signed certificate evidencing the class status of the member in the Fund;
- 2.2.6** The Trustees and the Principal Employer or Original Member or Participating Employer shall have absolute and unfettered discretion as to the reclassification

of any employee member (other than classification as an "A" class member on joining the Fund) and neither the Trustees nor the Principal Employer or Original Member or Participating Employer shall be required to give any reason for reclassifying or failing to reclassify the status of any member.

- 2.2.7 The Trustees, by resolution, may create a further class or classes of membership and all such additional classes shall be in alphabetical order commencing from the letter "I" provided that a member's existing rights shall not be detrimentally affected upon transfer to such new class or classes without the written consent of such member and that the conditions of Rule 8.5.3 have not been breached. Any reclassification shall not apply to an Award (Productivity Fund) or Compulsory Superannuation (Superannuation Guarantee) or Federal Government or Qualifying Member Contribution without the approval of the Commissioner and shall be in accordance with Prescribed Agreements, Awards, Compulsory Superannuation, and the Act.

2.3 APPLICATION FOR MEMBERSHIP

- 2.3.1 Every prospective (new) member who is invited by the Principal Employer or Original Member or Participating Employer to participate in the Fund shall apply in writing in a form approved by the Trustees, within 90 days, under section 153 of the SIS Act, for admission to Membership of the Fund and, on approval of the Trustees, shall become a Member of the Fund and shall receive a written statement of the existence of his rights to receive Benefits under the Deed;
- 2.3.2 All members with the exception of category AP, AIP, UP and UIP members have the right upon becoming members of the Fund (which shall include dependants, beneficiaries and reversionary beneficiaries of the member) to receive benefits from the Fund upon retirement or at such other time or under conditions in accordance with the Act, after the approval of the Trustees, in the form of: immediate fixed-term annuity, allocated pension or lifetime pension;
- 2.3.3 Any prospective (new) employee member or non-employee member or self-employed member who fails to apply for admission to membership of the Fund within ninety (90) days of first becoming invited to join the Fund shall

thereafter only be admitted upon a subsequent invitation by the Trustees. Provided that an eligible compulsory superannuation (Superannuation Guarantee) or Award (Productivity) Fund employee member (if applicable) shall be deemed to be a member of the Fund and automatically accepted at the sole discretion of the Trustees in accordance with the Act;

2.3.4 The completed and signed application of an employee or non-employee member or self-employed member shall constitute an agreement by that employee or member:

2.3.4.1 To become a member of the Fund; and

2.3.4.2 To be bound by the terms and conditions of this Deed;

2.3.5 Except in accordance with the Act or with the prior written consent of the Commissioner, no member shall be entitled to be paid a benefit other than a temporary disablement pension or an approved early release of benefits or withdrawal of an unrestricted non-preserved benefit whilst remaining a member of the Fund unless that member is in receipt of an immediate fixed-term annuity, allocated pension or lifetime pension benefit provided internally within the Fund;

2.3.6 "Fund Membership" is the period from the date member joined the Fund, to the date of the members cessation of membership of the Fund, expressed in day's. Fund membership for the purposes of the Vesting Schedule, is deemed to mean fully completed years of membership (not parts thereof) as a member of the Fund. One full year of Fund membership is defined as being a member of the Fund for 12 consecutive months inclusive, including all days thereof with no recognition for partially completed periods of Fund membership. The receipt of a roll over (transfer) of a member's benefit from another complying fund may enable an earlier Fund membership date for taxation purposes on behalf of the member. This earlier Fund membership date is not, unless agreed by the Trustees in their absolute discretion, recognised as Fund membership for the purposes of the Vesting Schedule.

2.4 MEMBER INFORMATION AND REQUIREMENTS

2.4.1 Every member or dependant or beneficiary of a member or a potential beneficiary of a member or the legal representative of a member, or person/s notified by the Trustees as potential recipients when requested by the Trustees, shall furnish any information or requirements that the Trustees request for the purposes of any investigation or otherwise in connection with the Fund and without limiting the generality of the foregoing. Such information may include:

- 2.4.1.1 the member's address;
- 2.4.1.2 the members', dependants and/or beneficiaries' or person/s tax file numbers, as applicable, as per Rule 11.10;
- 2.4.1.3 evidence of the age of any member or dependant or beneficiary or potential beneficiary or person/s;
- 2.4.1.4 in the case of a member, medical evidence at the commencement of his membership of the Fund and/or medical evidence required by an insurer for benefits to be provided for that member at any subsequent date;
- 2.4.1.5 in the case of a member or dependant or beneficiary receiving pension, evidence of existence;
- 2.4.1.6 in the case of a member or dependant or beneficiary, person/s evidence of the existence or death of the member dependant or beneficiary or person and/or of any other dependant or beneficiary or person/s;
- 2.4.1.7 any information deemed necessary by the Trustees in their sole and absolute discretion pertaining to the Member, Member's address and, as applicable, to all possible dependants or beneficiaries or person/s including substantial or minor financial dependence, "care" as a form of dependence and capability of the member or dependant or beneficiary or person to manage their own affairs;

- 2.4.1.8** the requirement for a member or dependants or beneficiaries of a member or the legal representative of a member or person/s or person/s to complete and sign a discharge of the members rights, interests and entitlements under the Deed and the Fund, prior to the Trustees paying the benefit, as contained in Rule 10.8 for excluded funds and Rule 10.11 for non-excluded Funds;
- 2.4.1.9** In the case of self-employed members, an annual notice in writing stating the total amount of contributions to be claimed as a deduction in that year, as shown in Rule 3.3.2;
- 2.4.2** If any member or dependant or beneficiary or potential beneficiary or the members legal representative or person fails to comply with the terms of Rule 2.4.1:
- 2.4.2.1** the Trustees may suspend the payment of any benefits or pensions provided that such suspension shall be made with the approval of the Commissioner in accordance with the Act;
- 2.4.3** Where the information furnished by, or in respect of, a member or dependant in any statement submitted to the Trustees is fraudulently incorrect in any material particular (as determined by the Trustees in their absolute discretion), the Trustees may cease or suspend payments of the Benefits payable to or in respect of such member or dependant or may adjust such amounts as shall be determined by the Trustees in their absolute discretion;
- 2.4.4** The Trustees shall provide to any member or former member or dependant or beneficiary or person/s or potential beneficiaries notified by the Trustees, such information in relation to the Fund as shall be required under the Act. The Trustees shall make, and continue to make, every effort to locate a member or dependants or beneficiaries of a member or the potential beneficiaries of a member or the legal representative of a member or person/s notified by the Trustees. The Trustees are required to issue at least two consecutive notices to attempt to locate the member or dependant or beneficiaries of the member or

the potential beneficiaries of a member or the legal representative of the member or notified person/s and must declare and treat the member's benefits as unclaimed benefits after six months of the date of the last correspondence. The member's Benefit shall then be forfeited to the Forfeited Benefits Account under specific Rule 8.5.6.

2.5 TEMPORARY ABSENCE FROM EMPLOYMENT

Where the Trustees are satisfied that an employee member who leaves his employment for any reason whatsoever is likely to return to that employment within a reasonable period, the Trustees may, with the consent of the Principal Employer or Original member, make such arrangements in regard to the benefit entitlement of the member as it considers appropriate and, without limiting the generality of the foregoing, the Trustees may recognise the period of service for which the member has temporarily withdrawn from employment for the purpose of, but not limited to, calculating Fund membership which determines the member's entitlement to the Percentage Vesting Schedule.

2.6 MEMBER ADVICE TO THE TRUSTEES

2.6.1 The Principal Employer or Original member or Participating Employer shall advise the Trustees of the following requirements in respect of each prospective (new) employee-member who makes an application to join the Fund. A prospective (new) non-employee member or a self-employed member who makes an application to join the Fund shall request the Trustees to consider the member's elected requirements:

2.6.1.1 the eligibility requirements (if any);

2.6.1.2 the category of membership;

2.6.1.3 the level of the contributions to be made by that member (if any);

2.6.1.4 the level of benefits and/or the formula by which the member's benefits are to be calculated (if any);

2.6.2 The Principal Employer or Participating Employer or Original member shall advise the Trustees of the category of membership for each employee member at the time of inviting his application for membership. A non-employee member or a self-employed member shall advise the Trustees of the elected category of

membership at the time of submitting an application for membership. Provided that if such advice is not given the member shall be deemed to be a category AF member, or in the case of a compulsory Superannuation (Superannuation Guarantee) member, Category AIYF, or Category AIZF if an Award (Productivity Fund) member upon the approval by the Trustees of the member's application;

- 2.6.3** Upon becoming a member of the Fund each member shall be a Class "A" member of the category of membership in which he has been nominated or deemed to be a member (as the case may be) with the exception of Compulsory Superannuation (Superannuation Guarantee) or an Award (Productivity Fund) (Categories "Y" and "Z") or a non-employee member or self-employed member who will be Class "H" members;
- 2.6.4** The Principal Employer, or Original member or Participating Employer shall advise the Trustees in writing:
- 2.6.4.1** when an employee member changes his category of membership or class of membership;
- 2.6.5** A non-employee member or a self-employed member shall request the Trustees in writing:
- 2.6.5.1** to alter the member's category of membership;
- 2.6.6** A member may at any one time be:
- 2.6.6.1** a member of more than one category or class of membership;
and
- 2.6.6.2** entitled to benefits from more than one category and/or class of membership.

2.7 TRUSTEES ADVICE TO MEMBERS

The Trustees shall comply with the financial reports and disclosure of information standards and ensure that:

PROSPECTIVE (NEW) MEMBER'S ADVICE

- 2.7.1** A prospective (new) member's booklet or written Advice is to be issued to a prospective (new) member as soon as practicable. The requirements

for excluded funds (less than five members) are shown in Rule 10.6. The requirements for non-excluded funds (five or more members) are shown in Rule 10.9;

MEMBER'S BENEFIT STATEMENT

- 2.7.2** A member's benefit statement is to be issued at least once in each twelve month period which will differ between excluded funds with less than five members Rule 10.7 and non-excluded funds with five or more members Rule 10.10;

CESSATION OF MEMBERSHIP STATEMENT

- 2.7.3** A Cessation of membership statement is to be issued as soon as practicable to a departing member which may need to include a statement from the Trustees of the application of a Net Interim Earning Rate as per Rule 8.10 (if applicable) and the member's rights, if applicable, to continue with an ancillary benefit (insured benefit) currently provided by the fund. A possible exception could be members rolling over (transferring) from the fund. A Discharge of member's benefit Statement is also required to be completed and signed. The requirements will differ between an excluded fund with less than five members, Rule 10.8, and a non-excluded fund with five or more members, Rule 10.11;

2.7.4 FUND STATEMENT (FIVE OR MORE MEMBERS)

A fund statement is to be prepared and issued to members of non-excluded funds with five or more members which includes sub-plans within the fund, as applicable, as defined in Rule 10.12.

3. CONTRIBUTIONS

3.1 EMPLOYER CONTRIBUTIONS

An employer or any other party authorised by the Act may contribute to the fund from time to time:

- 3.1.1** For the provision of any unallocated benefit, such amount as determined by the Trustees (after obtaining the advice of an actuary prior to making such determination) as is required to provide such benefits under this deed;

- 3.1.2 For the provision of any accumulation benefit in respect of each member, such amount as it determines and in accordance with the Act;
- 3.1.3 For the provision of any prescribed agreements, awards, superannuation guarantee or compulsory superannuation (if applicable, and to form part of this fund) in accordance with the Act ;
- 3.1.4 For the benefit of full-time employees' defined as being gainfully employed for 30 hours or more per week, or part-time employees gainfully employed for a minimum of 10 hours per week, and invalidated members as per Rule 3.1.8. Contributions may be made for an employee working less than 10 hours per week provided that the employee's contributions are subject to any prescribed agreements, awards or compulsory superannuation in accordance with the Act. Provided further that from 1 January 1996 an employee can issue an irrevocable statement, which must be supported by documentary evidence, to the Trustees stating that employer contributions for the purpose of the Superannuation Guarantee would cause the members vested benefits that are counted to exceed the pension RBL. This election obligates the employer to cease contributions on behalf of the member and prohibits the member who is now not receiving employer support from subsequently claiming personal superannuation contributions as a deduction. The pension RBL referred to is the flat dollar indexed amount, not the possibly higher Transitional RBL;
- 3.1.5 No contributions shall be made on behalf of a Member who attains the age of 65, including award and Superannuation Guarantee mandatory employer contributions as stated in the Act until 1 July 1997, with the exception of awards requiring contributions past age 65. Provided that until 30th June 1997 should a Member have obtained age 60 before 1 July 1990, contributions may be continued until age 70. From 1st July 1997 contributions can be made until a member's age of 70. From 1 July 1997 mandatory employer contributions for Award and Superannuation Guarantee members are required to be made until the member's age of 70;
- 3.1.6 Such amount (if any) as determined by the employer for members under the age of 65 until 30 June 1997, then to age 70 from 1 July 1997, for a period

not exceeding Two-Years after the cessation of employment as an employee with any employer provided that the Member has at any time in the Two-Year period preceding the date of contribution been gainfully Employed for at least 10 hours per week;

- 3.1.7 Such amount (if any) as determined by the employer for members on Parental leave under the age of 65 until 30 June 1997, then to age 70 from 1 July 1997, for a period not exceeding Seven Years from commencement of leave. Provided that the Member has at any time in the Seven-Year period preceding the date of contribution, been gainfully employed for at least 10 hours per week by an employer Sponsor of the fund and has a Statutory or Contractual right to return to employment at the end of the Parental leave period;
- 3.1.8 The employer can make a contribution for a Member until a member's age of 65 until 30 June 1997, then to age 70 from 1 July 1997, for members who have ceased employment or ceased producing Personal Exertion Income as a result of Invalidity (mental or physical). Such contributions and accruals are to be preserved until such time as a trigger event occurs such as cessation of employment with an employer of the Fund who had, or whose associates had, contributed to the Fund in relation to the member; or until such time as the Trustees decide that the member is Permanently invalided and is incapable of engaging in gainful employment or producing personal exertion income for which the member is reasonably qualified by previous education, training or experience. Provided that the member's benefit may be able to be released under the "severe financial hardship" or "compassionate grounds rules", after approval from the Commissioner;
- 3.1.9 The employer can make a contribution in specie provided that an actual transfer occurs not just a Journal entry;
- 3.1.10 The employer may at any time vary, suspend or terminate its contributions as long as to do so shall not constitute a breach of the Act;
- 3.1.11 Where a member's employer suspends or reduces the contributions payable by it, the Trustees may after first obtaining the advice of an actuary in the case of

unallocated benefits, vary the benefits payable pursuant to the terms of this Deed and the Act from the date on which such suspension or reduction takes place, provided that each member shall be notified of the reduction or alteration of benefits.

3.1.12 COMPULSORY EMPLOYER CONTRIBUTIONS

Where at any time an obligation is imposed upon an employer to make compulsory contributions to a superannuation fund providing retirement, death or disablement benefits in respect of members of the Fund, the employer may forthwith reduce its contributions to the Fund, by the amount of the compulsory contribution being made to the other Fund, in respect of those members. Should the Trustees decide to make such compulsory contributions through the Fund, then the employer may forthwith apply existing contributions towards meeting these requirements. Members are to be advised of the amount of such compulsory contributions and actions taken by the Trustees pertaining to members' Accumulation Accounts or Equity, after taking advice from an actuary in the instance of unallocated benefits.

3.2 EMPLOYEE CONTRIBUTIONS

Each member with the consent of the Trustees' whose decision shall be final, may contribute to the Fund such amount (if any) as the member shall nominate. Provided that the member is under age 65, prior to 1 July 1997, and is gainfully working at least 10 hours per week or if turned age 60 by 1 July 1990 may contribute up to age 70 until 30th June 1997. From 1 July 1997 contributions can be made up to a members age of 70, provided that the member is gainfully working for at least 10 hours per week. The employer may deduct the member's elected contributions from his remuneration until such time as otherwise agreed between the member and the Trustees. All members under age 65 until 30 June 1997, or under age 70 from 1 July 1997, with the consent of the Trustees, may continue to contribute to the Fund for a period of up to two years after cessation of gainful employment (or up to seven years after cessation of gainful employment for non-working parents) without requiring qualification of any earned income from any source. Provided that the member had at any time in the two-year period and seven-year period respectively preceding the date of contribution, been gainfully employed for at least 10 hours per week; and for non-working parents there exists a

statutory right to return to employment by an Employer Sponsor of the Fund at the end of the parental leave period. All member's individual personal contributions are to be Fully Vested up to 30 June 1987 with both members personal individual contributions plus the net earnings on same to be fully vested from 1 July 1987. A member may make a contribution in specie provided that such contribution does not contravene Rule 5.8. Members who have ceased employment, or ceased producing personal exertion income, as a result of invalidity (mental or physical) can make a contribution up to age 65 until 30 June 1996, then to age 70 from 1 July 1997. Such contributions and accruals are to be preserved until such time as a trigger event occurs such as cessation of employment with an employer of the Fund who had, or whose associates had, contributed to the Fund in relation to the member; or the Trustees, in their sole and absolute discretion, decide that the member is permanently incapacitated and is incapable of engaging in gainful employment or producing personal exertion Income for which the member is reasonably qualified by previous education, training or experience. Provided that the members benefit may be able to be released under the Severe Financial Hardship or Compassionate Grounds rules, after approval from the Commissioner.

3.3 SELF-EMPLOYED AND NON-EMPLOYEE MEMBER CONTRIBUTIONS

Each member with the consent of the Trustees, whose decision shall be final, may contribute to the Fund such amount (if any) as the member shall nominate. Provided that the member is under the age of 65, up until 1 July 1997, and is gainfully working at least 10 hours per week, or, if turned age 60 by 1 July 1990, may contribute up to age 70, until 30th June 1997. From 1 July 1997 contributions can be made until a member's age of 70, provided that the member is gainfully working for at least 10 hours per week. Contributions can be made for a period of up to two years after cessation of gainful employment or producing personal exertion income, without qualification of any earned income from any source. Provided that the member had at any time in the two Year period preceding the date of acceptance, been gainfully producing income for at least 10 hours per week. Members who have ceased employment, or ceased producing personal exertion income as a result of invalidity (mental or physical) can make a contribution up to age 65 until 30 June 1996, then to age 70 from 1 July 1997. Such contributions and accruals are to be preserved until such time as a trigger event occurs such as cessation of employment with an employer of the Fund who had, or whose associates had, contributed to the Fund in relation to the member; or until such time as the Trustees in their sole and absolute discretion, decide that the member is permanently incapacitated and is

incapable of engaging in gainful employment or producing personal exertion income for which the member is reasonably qualified by previous education, training or experience. Provided that the member's benefits may be able to be released under the Severe Financial Hardship or Compassionate Grounds rules, after approval from the Commissioner;

- 3.3.1** A member may make a contribution in specie provided that such contribution does not contravene Rule 5.8 and that an actual transfer occurs, not just a journal entry;
- 3.3.2** A self-employed member is required to advise the Trustees in writing each year, in accordance with Taxation Definition TD 93/224 under section 82AAT of the income Tax Assessment Act, the following information:
- 3.3.2.1** the name and residential address of the person giving the notice;
 - 3.3.2.2** the regulated Fund number;
 - 3.3.2.3** the name of the Fund to which the contributions are made;
 - 3.3.2.4** the financial year in which the contributions are made;
 - 3.3.2.5** the amount of contributions made so far during the financial year to which the notice relates;
 - 3.3.2.6** the amount of those contributions nominated as income tax deductions in previous notices of that particular financial year;
 - 3.3.2.7** the amount of those contributions nominated as an income tax deduction in this notice;
 - 3.3.2.8** the signature of the person giving the notice; and
 - 3.3.2.9** the date on which the notice is given;

Upon receipt of the required notification from a self-employed member the Trustees shall deduct and remit the appropriate amount of contributions tax. The Trustees are also required to consider the member's notional taxable income and remit the superannuation surcharge amount to the A.T.O (Australian Taxation Office), as and if applicable.

3.4 LIMITATIONS ON CONTRIBUTIONS

- 3.4.1** Contributions cannot be accepted by the Trustees if the member is not gainfully employed or earning personal exertion income. A further requirement is that a member must be gainfully working for at least 10 hours per week. Exceptions to these rules are contained in Rules 3.1.4 to 3.1.8 and 3.2 and 3.3. Provided that should legislation be introduced that such contributions are required through prescribed agreements, awards or compulsory superannuation or in accordance with the Act, then this restriction does not apply;
- 3.4.2** No contributions are to be accepted by the Trustees for a member aged over 65 until 1 July 1997, unless said member attained age 60 by 1 July 1990, in which case contributions may be continued until 30 June 1997. Provided that some awards may require superannuation contributions to continue past age 65. From 1st July 1997 contributions can be accepted in respect of a member up to age 70, provided that the member is gainfully working for at least 10 hours per week. From 1 July 1997 mandatory employer Contributions for the purpose of Award (Productivity), and SG (Superannuation Guarantee), are required to be made up to a member's age of 70;
- 3.4.3** Contributions can be accepted by the Trustees in respect of, or by, members of the Fund including the provision of death or total and permanent disablement benefits which may exceed the members RBL.

3.5 PAYMENT OF CONTRIBUTIONS

The Employer shall pay employer and employee member contributions to the Trustees in such a manner and at such times as are agreed upon between the Employer and the Trustees from time to time. Any payment by the employer direct to any investment manager, life Insurance office or other entity shall be deemed to be both a payment by the employer into the Fund and a payment by the Trustees of the Fund. Any such contribution may be paid by cheque, Cash, assignment, or in specie or transfer of ownership of any benefits or asset (including insurance policies). All non-employee and

self-employed members contributions made are to be paid directly to the Trustees for application on behalf of that member or to a designated investment manager, life Insurance office or other entity as decided between the member and the Trustees whose decision shall be final.

3.6

MEMBER PROTECTION STANDARDS

From the 1st of July 1995, legislated member protection standards apply to mandatory employer contributions (Award or Superannuation Guarantee) for non-excluded funds with Five or more members. Member protection standards do not apply, according to SIS Regulation 5.14 (3), if all of the administration costs of the Fund are applied in direct proportion to: The investment returns credited to, or debited against, the members' or the member's benefits. This is likely to mean that the member protection rules will only apply to the large public offer funds and not to most other funds:

3.6.1 Member account balances or equity under \$1,000 (one thousand dollars) cannot be debited with administration costs in excess of interest credited. Provided that should the fund's investment earnings within a member reporting period be insufficient to meet the total Fund administration costs, each Fund member's account or equity can be debited in proportion to the member's benefit. Contributions tax, earnings tax and the cost of death, total and permanent disablement and temporary disablement benefits can be debited to the member's Account or Equity;

3.6.1.1 any administration charges not able to be debited may be charged against the Fund's investment earnings;

3.6.1.2 if the Fund cannot meet the member protection standards, no contributions can be accepted for new members in which case the employer may pay all mandatory contributions to an eligible rollover fund (ERF) or, if the member chooses, to another complying fund which complies with the member protection standards. All existing members' accounts of less than \$1,000 must be closed to new contributions and benefits transferred to an eligible rollover fund (ERF) or, if the member

chooses, to another complying fund including from 1 July 1997 a retirement savings account (RSA);

3.6.2

Exclusions to member protection standards:

3.6.2.1 Members of Excluded Funds (less than five members)

3.6.2.2 Defined benefit fund members (unallocated members) to whom benefits are determined by the members salary at a given date; or the member's salary averaged over a given period; or a specified amount;

3.6.2.3 A unitised fund in which the unit price reflects all the administration costs of the fund; or whose costs are reflected in the buy/sell price differential; or which utilises a method in which the member's benefits are protected in a similar way to the member protection standards;

3.6.2.4 Pension fund members (immediate fixed-term annuity, allocated pension and lifetime pension members) ; or member's benefits which are solely determined by " traditional" life insurance policies (providing a set sum insured with no separation or definition of costs, investment returns or insured costs), such as an endowment or whole of life policy;

3.6.2.5 A fund in which all of the administration costs are applied to each member in direct proportion to the investment return credited or debited against the members; or the member's benefits;

3.6.2.6 A member to whom the Trustees have a reasonable expectation that the member's withdrawal benefit

will be at least \$1,500 within twelve months of the end of the current Fund statement period;

- 3.6.2.7** A lost member (Rule 8.5.2.6) on or after 30 June 1996, in respect of whom 90 days have elapsed since the member became lost, becomes subject to the member protection standards from the expiry of the said 90 days;

Trustees must be aware that, if charges are applied to a member's Account or Equity which are in the form of, eg, a membership fee, account fee, administration fee or exit fee or any fee which is clearly discernible as an individual fee to the member, then the member protection standards will apply.

3.7 AWARD (PRODUCTIVITY) EARNINGS BASE

- 3.7.1** An Award Superannuation (productivity) Fund employee's earnings base is OTE (ordinary time earnings) defined within that particular award. The specific OTE for the union classification is required as the earnings base of the award fund;

- 3.7.2** OTE will vary according to the applicable award and may include supplementary payments, regular over award payments and all other purpose allowances or penalty payments including, as applicable, tool allowance, leading hand allowance and shift loading including week-end, public holidays, district or location allowances, late trading where the shift worked is part of the employee's ordinary hours of work; and shall include in respect of casual employees the appropriate casual loadings prescribed by the award but shall exclude any payments for worker's compensation, overtime worked, vehicle allowances, fares or travelling time allowances (including payments made for travelling relating to distance work) commission or bonus. Trustees will need to ascertain whether or not an award fund applies to each individual member and whether the award states that particular fund's apply or simply any complying fund, prior to making award contributions on behalf of the member.

3.8**SUPERANNUATION GUARANTEE (EARNINGS BASE):**

- 3.8.1** The employee's earnings base applicable for existing superannuation fund contributions prior to 21 August 1991, provided that a realistic earnings base existed and was applied to the Fund. If the employer reduces the earnings base, or is not contributing to a superannuation fund with a realistic earnings base, then the following applies;
- 3.8.2** A complying fund established after 21 August 1991 which has an earnings base equal to or above OTE or;
- 3.8.3** If the employer is not required to contribute to an award fund then the earnings base shall be OTE;
- 3.8.4** If the employer is required to contribute to an award fund with an earnings base and the earnings base of that fund is equal to or more than OTE then that earnings base applies. If the earnings base is less than OTE and an award fund applies, then the appropriate industrial award shall become the earnings base or, if there is no award fund, then OTE shall be the earnings base;
- 3.8.5** The definition of OTE for the purposes of the superannuation guarantee is the total of the employee's ordinary hours of work including salary, wages, over award payments, shift loadings, remuneration whilst on annual or long service leave, lump sum payments accrued for long service leave or accrued sick leave or termination of employment, sickness pay, allowances (not being reimbursement of expenses), casual loadings, commissions and bonuses, with the exclusion of ; christmas bonus payments , worker's compensation, payment by way of restraint of trade, reimbursement of expenses incurred by the employee on behalf of the employer, leave loading, distributions from a trust or dividends from a company, overtime, employer sponsored superannuation contributions and fringe benefits.

3.9 FEDERAL GOVERNMENT QUALIFYING MEMBER CONTRIBUTIONS PROPOSED TO TAKE EFFECT FROM 1 JULY 1997 (IF LEGISLATED)

- 3.9.1** From 1st July 1997 a member may voluntarily contribute an undeducted contribution or possibly in the case of some award members, a compulsory member's contribution amount may be introduced based upon a percentage of award ordinary time earnings commencing at one percent as at 1 July 1997, increasing to three percent as at 1 July 1999;
- 3.9.2** The Federal Government will match the member's undeducted contribution on a means test basis which was announced to be full Federal Government matching contributions up to 1.4 times AWOTE (Average Weekly Ordinary Time Earnings) with a sliding scale reducing contributions to nil at two (2) times AWOTE provided that a self-employed members undeducted contributions paid must be at least four (4) times the eligible government subsidy, ie; the government subsidy amount cannot exceed twenty five (25) percent of undeducted contributions made;
- 3.9.3** Members' undeducted contributions are not proposed to be legislated as compulsory and is likely that enterprise agreements and awards, may introduce a member rate of contributions in order for those applicable members to qualify for the Federal Government subsidy;
- 3.9.4** Employer's are directed to apply members' undeducted contributions solely to the award fund (if applicable) or to the employer's fund providing superannuation guarantee benefits and to no other fund. Provided that legislation may be issued by the Federal Government to enable a choice of up to five (5) funds. Self-employed members can make undeducted contributions to any complying fund, with twenty five (25) percent of all self-employed persons contributions, in excess of three thousand dollars annually, qualifying as undeducted contributions, all undeducted member contributions are to be fully preserved;
- 3.9.5** The Federal Government contribution is claimed by the member through his/her tax return and is payable to any complying fund nominated by the

member. The Government contribution will be net of the fifteen percent contributions tax and is required to be fully preserved;

- 3.9.6** The Federal Government will, unless instructed by the member, pay its contributions on behalf of the member to the fund to which member contributions were made. There can be one fund only;

This is the proposed legislation to commence from 1 July 1997 which may be subject to amendment prior to the point of introduction and could be withdrawn or deferred.

3.10 ADMINISTRATION COSTS

All costs, charges and expenses incurred in connection with preparation, establishment, maintenance, administration, operation or winding up the fund, shall be borne and paid by the Trustees of the fund and the Trustees shall indemnify the principal employer or original member or participating employer in respect of any costs which are properly incurred by the principal employer or original member or participating employer in connection with the above expenses of the fund. Provided that the Trustees are authorised to accept contributions in respect of the costs of the conduct of the fund from the principal employer or original member or participating employer.

3.11 PARTICIPATING EMPLOYERS

3.11.1 ADMISSION OF PARTICIPATING EMPLOYER

The Trustees may admit to the fund any participating employer which has agreed in writing to be bound by these rules. On such admission the Trustees shall make arrangements with the participating employer so admitted regarding the terms on which the employees of the participating employer are to be admitted to membership of the Fund.

3.12 RETIREMENT OF PARTICIPATING EMPLOYER

The participation in the fund of a participating employer may be terminated:

3.12.1 By the participating employer by notice in writing to the Trustees; or

3.12.2 By the Trustees by notice in writing to the participating employer;

3.13 On termination of participation in the fund as aforesaid:

- 3.13.1** The Trustees after consultation with the participating employer shall specify a date (hereinafter called " the retirement date") upon which the participating employer (hereinafter called " the retiring employer") shall retire;
- 3.13.2** The retiring employer shall forthwith pay all arrears (if any) of contributions up to retirement date;
- 3.13.3** Benefits which have become payable on or before the retirement date shall continue to be payable out of the fund;
- 3.13.4** The Trustees shall determine what proportion of the assets of the fund (including arrears if any) of the contributions still to be made pursuant to Rule 3.13.2 is properly attributable to members who were in the employ of the retiring employer at the retirement date; and
- 3.13.5** The Trustees in their absolute discretion may make such arrangements as they think proper for the provision of the benefits which would otherwise be payable out of the fund for employees of the retiring employer and the dependants or beneficiaries of such employees;

Provision of benefits in conformity with Rule 3.13.5 shall be made by application of the proportion of the assets of the fund, certified under Rule 3.13.4 in accordance with Rule 3.12 hereof , as if the proportion of the assets so certified had comprised a separate fund of which the retiring employer was the employer and the persons in its employ at the retirement date and their dependants or beneficiaries were the only persons interested, and as if such separate fund had been wound up by notice made under Rule 3.12 hereof, having effect from the retiring date.

4 ROLLOVERS TO THE FUND

- 4.1** The Trustees may, in their sole and absolute discretion, accept a roll over (transfer) of a member benefit, and make such arrangements as it thinks proper with any previous employer or trustee of any complying superannuation fund with which the member was associated including but not limited to, retirement savings accounts, approved deposit funds, deferred annuities, allocated annuities, immediate fixed-term annuities, allocated pensions and lifetime pensions for any roll over (transfer) of assets (including cash or benefits in specie) to the fund in

accordance with the act and may make arrangements about any other matter including (but not limited to) past service of the member with the employer or an previous employer of the member, or fund entry date which in its opinion is incidental to or consequent on the admission of such member to the fund, including any amount recorded as being member's contribution credits, undeducted contribution amount, preserved benefits, restricted non-preserved benefits or unrestricted non-preserved benefits and vested entitlement, provided that if such transfer is from a fund containing preserved benefits or restricted non-preserved benefits or preservation conditions then that amount of said roll over (transfer) must be held in trust until:

- 4.1.1 the Commissioner approves early release of benefits, partial disablement, total and permanent disablement, invalidity, permanent departure from Australia, death or, for restricted non-preserved benefits, termination of gainful employment with an employer who had, or any of whose associates had, contributed to the fund in relation to the member, or members benefits are applied to a non-commutable lifetime annuity or pension; or
- 4.1.2 the member retires at age 55 or such other age as shown in Rule 4.8, which could be up to age 60 if legislated, or to the minimum age specified in the Superannuation Fund from which the member has transferred pursuant to this Sub-Rule in accordance with the Act; or
- 4.1.3 the occurrence of such other event that is approved by the Commissioner or is specified in the Act;
- 4.1.4 if the Trustees, after considering Rule 2.4, fail to locate the member after two consecutive notices and six months have elapsed since the date of the last notice issued, the member's Accumulation Account or Equity is forfeited to the Forfeited

Benefits account as an unclaimed benefit under specific Rule 8.5.6;

The Trustees are required to retain the triplicate copy of the RPN (rollover payment notification). The member is required to include the original RPN with his ensuing personal tax return, or remit the RPN directly to the ATO (Australian Taxation Office), if a personal tax return is not required, and retain the duplicate copy of the RPN. The member would have also received a STP (Statement of Termination Payment). The STP original is to be included with the ensuing member's tax return or remit directly to the ATO with the member retaining the duplicate copy of the STP. The issuing trustee would have retained the triplicate copy of the STP.

4.2 ROLLOVERS FROM THE FUND

The Trustees may in their own right, or at the request of the member or the beneficiaries of the member or the dependants of a deceased member or the legal representative of a member or the principal employer or original member or the participating employer roll over (transfer) a member's accumulation benefit or members equity, including benefits in specie, in part or full, including all categories or one or more categories only pertaining to that member, to any complying fund irrespective of whether or not that member is employed or not by any employer, and such right of transfer by the trustees is to apply to both employee members and non-employee members and self-employed members of the fund in accordance with the Act provided that:

- 4.2.1** No roll over (transfer) can take place without the agreement of the member other than as stated in Rules 4.2.7, 8.5.6 and 9.5. The member is to receive a Cessation of Membership and Discharge Statement as contained in Rule 10.8 for excluded funds with less than five members and Rule 10.11 for non-excluded funds with five or more members. If the Trustees, after considering Rule 2.4, fail to locate the member after two consecutive notices, and six months have elapsed since the date of the last notice issued, the members Accumulation Account or Equity is forfeited to the Forfeited Benefit Account as an unclaimed benefit under specific Rule 8.5.6;

- 4.2.2** Upon request by the member the Trustees shall roll over (transfer) member's benefits for such amount or amounts requested, which can include, but is not limited to, benefits in cash or specie for such category or categories as requested and may constitute a single or multiple number of rollovers (transfers):
- 4.2.2.1** Provided that the total of such rollovers (transfers) shall not exceed the member's vested Accumulation Account or member's vested equity;
- 4.2.2.2** Provided that in the case of employee members the said vested employer contribution credit amount or amounts rolled over (transferred) shall be recorded as a payment made by the employer being a full or partial discharge as appropriate of the member's then current vested entitlement with such amount or amounts so recorded being offset against any future vested entitlement of employer contribution credits for that member, as and if applicable;
- 4.2.2.3** Provided that an actuary must calculate and ascertain in the case of category "U" members (unallocated fund members), the effect of any partial rollovers (transfers) on behalf of a member who is to remain a member of the Fund. This will result in an adjustment of the member's future benefit entitlement, thus requiring the actuary to calculate the said adjustment, with costs of same to be debited to the said member's vested equity and deducted, if applicable, from such rollovers (transfers). The before mentioned calculations and adjustments performed by the actuary and advised by the Trustees, shall be final and binding and replace any previously stated member's equity benefit entitlement;
- 4.2.3** The roll over (transfer) shall satisfy the member's entitlement to any benefit in respect of the member's Accumulation Account or Equity and be a full discharge by the Trustees, from the Fund, in relation to the amount so

transferred, being either a total or partial roll over (transfer) of the member's Accumulation Account or Equity. The Trustees are not responsible for the manner in which the trustees of the other fund deals with the amounts so rolled over (transferred);

- 4.2.4** From 1 July 1992 all rollovers (transfers) shall retain both the pre - 83 and post - 83 amounts, as applicable, in accordance with calculations performed by the days between, commencement of service or original fund membership as applicable, and date of roll over (transfer) and as such cannot be individually selected within a particular roll over. Undeducted contributions and concessional amounts (if applicable), can be individually or jointly selected within a particular roll over;
- 4.2.5** Until 30 June 1994 concessional components can be rolled over and the trustee can at their discretion, after 30 days from the termination date of the member from the fund, request the said member to make an election to roll over benefits or the trustees shall deduct the appropriate tax and pay the net amount to the employee with advice as to any preserved amounts. The member then has 90 days from receipt of the benefit to roll over the benefit and recoup the deducted amount in proportion to the amount subsequently rolled over;
- 4.2.6** From 1 July 1994 a roll over can only occur by the direct roll over (transfer) from one complying fund to another complying fund and not via the member. The Trustees cannot obligate the member to withdraw or roll over (transfer) the fund's for a period of 90 days from termination from the fund and the Trustees at their sole and absolute discretion, can retain a member's benefit in the fund awaiting the member's decision until normal retirement age, or for such period as is specified in Rule 8.3. Provided that, should a payment be made to a member and the Trustees have paid the tax, the member is unable from 1 July 1994 to subsequently roll over said monies and/or apply for the ETP tax paid by the Trustees on the member's behalf;
- 4.2.7** The Trustees are empowered to roll over a members benefit to an ERF, (Eligible Rollover Fund) , if 90 days have elapsed since the benefit became

payable and the member, after at least two requests, has not given instructions to cash out or roll over monies. The Trustees are obligated to state the name and address of the ERF in the notices to the member and in the last notice, stating that unless advice is received from the member within 28 days of this notice, the members benefits will be rolled over to the ERF nominated;

- 4.2.8** Until 30 June 1994, the Pre-83 content, undeducted contributions and concessional payments (including bona-fide redundancy payments or payments under an early retirement scheme) or invalidity (total and permanent disablement) can be rolled over and be treated as UPP (Undeducted Purchase Price);
- 4.2.9** From 1 July 1994, no superannuation concessional payments may be rolled over other than an invalidity payment, with undeducted purchase price being restricted to the member's post-83 undeducted contributions and the future service component of an invalidity payment if applicable;
- 4.2.10** From 1 July 1994 a commuted fixed-term annuity, immediate annuity, allocated annuity, or allocated pension or lifetime pension or pension benefit shall retain any UPP, which may then be referred to as UUPP (unused undeducted purchase price) and is able to be rolled over.
- 4.2.11** The Trustees shall provide to the member, or provide at the request of the member or the receiving trustees of the receiving fund, all relevant information as required by the act pertaining to the roll over (transfer) including, but not limited to, a completed statement of termination payment form (STP) and a rollover payment notification form (RPN), both of which require the signature of the member prior to the trustees rolling over (transferring) the member's benefits;
- 4.2.12** Neither the employee member's service date or fund date with the principal or participating employer or the non-employee or self-employed member's service date or Fund date shall be affected by either the partial or full roll over (transfer) of a member's Accumulation Account or member's Equity;

4.2.13 From 1st July 1994 approved early retirement schemes and bona-fide redundancy payments cannot be made by superannuation funds, provided that, the taxable portion of an approved early retirement scheme or bona-fide redundancy payment paid direct by the employer is taxed as an ETP and as such can be rolled over as an untaxed benefit;

4.2.14 The Trustees shall adhere to the preservation rules in accordance with the Act and state required information in a STP (statement of termination payment) and a RPN (rollover payment notification) for departing members, which shall include but is not limited to; preserved , restricted and unrestricted non-preserved benefits and pre-83 and post-83 days;

The Trustees shall prepare a STP (Statement of Termination Payment) together with a RPN (Rollover Payment Notification) and issue to the member. The Trustees are required to retain the completed signed triplicate of the STP. The member is required to include the original STP with the members ensuing personal tax return or remit it directly to the ATO (Australian Taxation Office) if a personal tax return is not required, and retain the duplicate copy. The member is also required to sign and complete the RPN and include the original with the members ensuing personal tax return, or post direct to the ATO if a personal tax return is not required and retain the duplicate. The triplicate RPN is retained by the receiving Trustees.

4.3 PRESERVATION

THE RULES UP TO 30 JUNE 1997 (INCLUDING LIMITED NOTIFICATION OF CHANGES)

4.3.1 Neither employer contributions and accruals and/or employee contributions and accruals are subject to preservation rules for funds established prior to 22 December 1986 and as such are restricted non-preserved benefits. If any employer-financed benefit is improved over and above any relevant arrangements and agreements in place prior to 22 December 1986, then that increase in benefit (which includes improvements in accelerated vesting entitlements) is then subject to preservation rules and is a preserved benefit. All employer contributions and accruals are preserved for funds established from 22 December 1986 together with all member contributions and

accruals, with the exception of undeducted contributions (not accruals) contributed by an employee member of either the principal employer, or participating employer or original member which are restricted non-preserved and cannot be released until a trigger event occurs such as cessation of employment with an employer of the fund who had, or whose associates had, contributed to the fund in relation to the member;

- 4.3.2 All contributions made by employers or members, including accruals, for compulsory superannuation, Award (Productivity) or Superannuation Guarantee or Federal Government or qualifying member's contributions for same (proposed to come into effect from 1 July 1997, if legislated) plus all non-employee members contributions including self-employed members contributions shall be preserved, subject to Rule 4.5.3, in relation to superannuation guarantee benefits;
- 4.3.3 All members preserved benefits rolled into the fund shall remain preserved benefits. From 1 July 1983 undeducted contributions (being the actual contributions made, not accruals) either previously paid or continuing to be paid by employee members of either the principal employer or participating employer or original member of the fund, to which a tax deduction has not applied,(irrespective of rebates granted) shall continue to remain as undeducted contributions and are restricted non-preserved benefits until 1 July 1997. From 1 July 1997 such undeducted contributions could be classified as either restricted non-preserved, preserved or unrestricted non-preserved benefits as hereafter described in these Rules;
- 4.3.4 "Preservation" means member's preserved benefits and accruals are to be preserved until age 55 or such age, as shown in Rule 4.8, which could be up to age 60 if legislated, or retirement, whichever is the latter, unless payable earlier due to: approved early release of benefits, temporary disablement, total and permanent disablement, invalidity, death, permanently departing from Australia or as a non-commutable lifetime pension or annuity. The members benefit cannot be applied to a non-commutable lifetime pension or annuity unless a cessation of employment has occurred with an employer who had, or an

associate of an employer who had, contributed to the fund in relation to the member;

- 4.3.5** Member's non-preserved vested benefits rolled into the fund shall remain non-preserved benefits until 30th June 1997. From 1 July 1997 non-preserved vested benefits are redefined under SIS (The Superannuation Industry (Supervision) Act 1993), as unrestricted non-preserved vested benefits and such benefits shall remain as unrestricted non-preserved vested benefits.

THE RULES (FORMULAS) (THESE RULES WILL TAKE EFFECT FROM 1 JULY 1997 AND MAY BE SUBJECT TO AMENDMENT)

- 4.3.6** " Preserved Benefits Formula" all benefits are to be preserved less the greater of :

4.3.6.1 the amount of the members' restricted non-preserved benefits at 1 July 1997 (had the member resigned or been retrenched at that time), indexed in line thereafter with Average Weekly Ordinary Time Earnings (AWOTE) ; or

4.3.6.2 the member's undeducted contributions (not accruals, and excluding any such contributions required to be preserved as per Rule 4.5.1;

- 4.3.7** " Restricted Non-preserved Benefits Formula" restricted non-preserved benefits are calculated as the greater of :

4.3.7.1 the restricted non-preserved benefits payable had the member resigned or been retrenched on 1 July 1997, indexed in line thereafter with AWOTE; or

4.3.7.2 the amount of the member's undeducted contributions (excluding accruals, and any such contributions required to be preserved as per Rule 4.5.1) including member's undeducted contributions (excluding accruals) made after 1 July 1997;

- 4.3.8** “Unrestricted Non-preserved Benefits Formula” the unrestricted non-preserved benefits are:
- 4.3.8.1** Member’s non-preserved benefits rolled into the fund prior to 1 July 1997;
 - 4.3.8.2** Member’s unrestricted non-preserved benefits rolled into the fund after 1 July 1997;
 - 4.3.8.3** Member’s unrestricted non-preserved benefits arising from the release of restricted non-preserved benefits through a trigger event defined as cessation of employment with an employer who had, or whose associates had, contributed to the fund in relation to the member;
- 4.3.9** “Preservation” a member’s preserved benefit is:
- 4.3.9.1** A member’s preserved benefit is therefore calculated as the member’s total vested benefits reduced by the restricted non-preserved vested benefits and the unrestricted non-preserved vested benefits; and
 - 4.3.9.2** It therefore follows that the trustees of the fund will need to consider and calculate appropriate amounts of unrestricted non-preserved vested benefits and restricted non-preserved vested benefits and preserved vested benefits to be shown on the member’s statement of benefits each year commencing from the financial year ending 30th June 1998 and recalculate thereafter to define the restricted non-preserved, unrestricted non-preserved and preserved vested benefit amounts; and
 - 4.3.9.3** Considering the formula for restricted non-preserved vested benefits applying from 1 July 1997, it is possible that a

member's total undeducted contributions may become preserved vested benefits. Should a member's future undeducted contributions be contributed to a second fund to which the employer made at least one contribution together with, if applicable, a roll over of member's existing undeducted contributions, this would then isolate member's undeducted contributions and allow a subsequent trigger event (cessation of employment with an employer of the fund who had, or whose associates had, contributed to that second fund in relation to the member) to subsequently release benefits as unrestricted non-preserved vested benefits from that second fund.

4.4 UNDEDUCTED CONTRIBUTIONS

4.4.1 All contributions made by employee members of the principal employer or participating employer or original member of the fund, from and subsequent to 1 July 1983 to which a tax deduction has not applied (rebates claimed on the contributions do not alter the nature of such undeducted contributions) shall remain undeducted contributions irrespective of classification within the fund as; preserved, restricted non-preserved or unrestricted non-preserved benefits.

4.5 PRESERVED BENEFITS

4.5.1 All employer and employee compulsory superannuation contributions and accruals made as a result of: prescribed agreements (award funds), superannuation guarantee, federal government contributions and employee undeducted contributions qualifying same (if legislated) shall be preserved. Provided that superannuation guarantee benefits are subject to Rules 4.5.2 and 4.5.3 and award funds are subject to Rule 4.5.3;

4.5.2 Superannuation guarantee contributions are subject to preservation from 1 July 1994;

- 4.5.3 Amounts under \$500 accrued within a complying superannuation fund including Award (Productivity Fund) or Superannuation Guarantee benefits are not subject to preservation and may be paid to a departing member;
- 4.5.4 Preserved benefits rolled over to the fund shall be preserved;
- 4.5.5 All contributions made by self-employed members and non-employee members shall be fully preserved irrespective of date of fund membership;
- 4.5.6 All vested employer contributions and member contributions paid from 1 July 1997 shall be fully preserved, provided that:
- 4.5.6.1 a member's preserved benefit from 1 July 1997 is subject to a formula and calculated as the member's total vested benefit, reduced by the restricted non-preserved vested benefits and unrestricted non-preserved vested benefits.

4.6 RESTRICTED NON-PRESERVED BENEFITS

- 4.6.1 From 1 July 1997, a member's restricted non-preserved benefit cannot be released unless through: the commissioner granting early release of benefits on grounds of invalidity, temporary disablement, total and permanent disablement, invalidity, permanently leaving Australia, death, retirement or as a non-commutal lifetime pension or annuity: or
- 4.6.1.1 cessation of employment from the principal employer or participating employer or original member of the fund who has or whose associates had, contributed to the fund in relation to the member shall become a trigger event and cause a restricted non-preserved vested benefit to become an unrestricted non-preserved vested benefit;
- 4.6.2 From 1 July 1997 the restricted non-preserved vested benefit is subject to a formula which shall be recalculated as the greater of:
- 4.6.2.1 the restricted non-preserved vested benefit payable had the member resigned or been retrenched commencing on 1 July 1997, recalculated annually thereafter, indexed in line with AWOTE; or

- 4.6.2.2** the amount of the member's undeducted contributions excluding accruals from 1 July 1983 to which a tax deduction has not applied, excluding rebates and including all subsequent undeducted contributions (not accruals).

4.7 UNRESTRICTED NON-PRESERVED BENEFITS

4.7.1 From 1 July 1994, certain non-preserved vested benefits shall be redefined as unrestricted non-preserved vested benefits in accordance with the Act:

4.7.1.1 member's non-preserved vested benefits or members unrestricted non-preserved vested benefits rolled in to the fund shall remain unrestricted non-preserved benefits;

4.7.1.2 concessional amounts (if applicable) such as golden handshakes, early retirement schemes, or invalidity amounts included within or rolled over to the fund which are non-preserved or unrestricted non-preserved vested benefits shall remain unrestricted non-preserved benefits;

4.7.1.3 unrestricted non-preserved vested benefits arise from a trigger event defined as (cessation of employment from a principal employer or participating employer or original member of the fund who had, or whose associates had, contributed to the fund in relation to the member) redefining benefits as unrestricted non-preserved vested benefits;

The trustees shall upon request of the member pay out, in part or full, the members unrestricted non-preserved vested benefit irrespective of continuity of employment or contributions made by, or on behalf of, the member of the fund.

4.8 RETIREMENT AGE

4.8.1 The definition of retirement age is the attainment of age 55 for both males and females or retirement whichever is the latter. Members Accumulation Account or Equity can be paid out at age 65 whether working or not and irrespective of amount of hours worked. However legislation has been proposed, which by its own definition cannot

take effect until the year 2015 (*1960 + 55 = 2015) as hereinafter described, which is designed to extend retirement age up to age 60;

Persons Born	Preservation Age
* before July 1960	55
July 1960 - June 1961	56
June 1961 - July 1962	57
July 1962 - June 1963	58
June 1963 - July 1964	59
after July 1964	60

Members who have not attained their required preservation age and are aged 55 or over and are retired, will have limited access to a lump sum benefit as stated in following scale;

Age	Lump Sum limit (\$) as at 1 July 1992 to be indexed at AWOTE thereafter
55	\$30,000
56	\$40,000
57	\$50,000
58	\$60,000
59	\$76,949

Provided further that the balance of, or a proportion of, member's benefits may be payable prior to attaining said minimum preservation age provided that all benefits are taken as an indexed non-commutable complying lifetime pension or an indexed non-commutable lifetime annuity in accordance with Act. The members benefit cannot be applied to a non-commutable lifetime pension or annuity unless a cessation of employment has occurred with an employer who had, or an associate of an employer who had, contributed to the fund in relation to the member.

5. INVESTMENT STRATEGY

All funds are subject to the Investment Strategy Covenant from 1 July 1994. Excluded funds (less the five members) however were not included in the operating standards, thus the Commissioner would

not have a direct role in enforcing excluded funds to have an investment strategy. The position therefore is that non-excluded funds with five (5) or more members are required under the Act to have an investment strategy from 1 July 1994. Excluded funds with four (4) or less members under Superannuation Circular III.E.1 (26 & 27), are required to have an investment strategy from 1 July 1996;

The ISC considers all of the operations of the fund, not just one area or transaction before arriving at a decision of non-compliance. The formulation and effect of an investment strategy is an integral part of the considerations and is likely to be the focal point of an audit from the ISC;

Failure by the Trustees to formulate and give effect to an investment strategy can also result in liability claims from members who suffer a perceived loss as a result of the trustees failing to observe this requirement. Funds which have an investment strategy whose Trustees have minuted same and advised members throughout, can take some comfort that it is a protection, in part, against claims by members. Should, however, the Trustees fail to advise members of a change in investment strategy, or having implemented changes, fail to notify members such of changes, could result in a claim being lodged against the trustees for a members perceived loss due to said non- notification;

Severe penalties apply to the fund, should the fund become non-complying resulting in the fund earnings and the fund assets being taxed at the top marginal tax rate plus medicare levy, plus substantial fines to the Trustees;

5.1 INVESTMENT STRATEGY CONSIDERATIONS

The Trustees shall exercise, in relation to all matters affecting the Investment Strategy of the Fund the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the Trustees felt morally obligated to provide. The investment strategy considerations apply to both pre-and post-retirement members which shall include:

- 5.1.1** member ages and respective periods of future investment;
- 5.1.2** need to maximise earnings of Fund to meet retirement needs weighted to member's risk profiles;
- 5.1.3** asset allocation of investment areas, considering timing to economic conditions prevailing from time to time;
- 5.1.4** diversification of both asset types and investment managers;
- 5.1.5** investment standards under SIS as per Rule 5.2;

- 5.1.6 seeking advice from qualified advisers, with regular reviews of portfolios;
- 5.1.7 the core purposes and one or more ancillary purposes, under the sole purpose test of SIS as per Rule 5.4;
- 5.1.8 member investment choice (if granted) as per Rule 5.5;
- 5.1.9 member protection standards for non-excluded funds as per Rule 3.6 (if applicable);

The Investment Strategy is to be minuted and a copy of the Investment Strategy or a written statement of the investment strategy (including the investment objectives) is to be issued to members within the fund accounting period each year;

Amendments to the investment strategy are to be issued in written form to the member within a reasonable period of time and are to be included in a prospective (new) member's advice at the members annual benefit statement and the fund statement for non-excluded funds, where applicable;

The Investment Strategy of the Fund, must by nature, be individual and should reflect the before mentioned considerations, and state the current and future objectives of the fund, the investment sectors, cash, fixed interest, shares, managed investments, property etc, including the proportion of the Fund assets allocated to each sector;

Special considerations can apply within a closely held fund eg; a single member or member and spouse or family members within a fund; or a specific category or categories of members or sub-plan within the Fund, in such cases, the existing individual assets or classes of assets or personal investments held by the members or category or categories of members or sub-plan or members may be a factor when considering an appropriate investment strategy for those members of the Fund. Provided that such assets are likely to be utilised for the purpose of the said members retirement needs;

State the risk profile eg, passive, conservative, moderate, active, aggressive, etc, which could apply to the Fund in total or differ for varying categories or sub-plan of members within the fund. State the anticipated timing of investment of Fund monies (if applicable) to achieve the future objectives of the Fund;

Example: (of timing only) "Fund investments to consist of cash, fixed interest and managed investments until such time as sufficient capital is accumulated to purchase a direct real estate asset at which point the majority of Fund assets would consist of direct real estate and the Trustees will ensure that rent received and future contributions will then be applied to increase liquidity and diversification of both assets classes and investment managers;"

Specify the availability of the advice of qualified investment advisers to both maximise returns and minimise risk. Indicate dates of review of the Funds investment portfolio (to be at least annually). The Investment Strategy is able to be altered at any time (as applicable) and must reflect the actual and future perceived position of the Fund.

5.2 INVESTMENT STANDARDS

5.2.1. RISK AND RETURN

The risk involved in making, holding and realising the likely return from investments;

5.2.2 DIVERSIFICATION

The composition of the Fund's investments as a whole including the extent to which the investments are diverse or involve the Fund in being exposed to risks from inadequate diversification;

5.2.3 LIQUIDITY

The liquidity of the Fund's investments having regard to its expected cash flow requirements;

5.2.4 RELATIONSHIP TO LIABILITY

5.2.4.1 the likely return from the Fund's investments having regard to its objectives and its expected cash flow requirements;

5.2.4.2 the ability of the Fund to discharge its existing and prospective liabilities.

5.3 QUALIFIED INDEPENDENT ADVICE

5.3.1 The Trustees should seek qualified independent advice on investments, actuarial, legal, accounting and the tax implications of making such investments where it is appropriate, cost effective and prudent to do so.

5.4 SOLE PURPOSE TEST

The Trustees of the fund must ensure that the Fund is maintained solely for:

- 5.4.1 The core purpose of providing benefits for members' on or after retirement whether the member's retirement occurred before, or occurred after, the member joined the fund; or
- 5.4.2 The core purpose of providing benefits for each member of the Fund on or after the member's attainment of an age not less than the age specified in the current legislation; or
- 5.4.3 The core purpose of providing benefits in respect of each member of the Fund on or after the member's death to any or all of the dependants, beneficiaries or both; and
- 5.4.4 The provision of ancillary benefits such as a death benefit or a total or permanent disablement benefit or a temporary disablement benefit for the member and/or dependants whether funded internally or purchased as an insurance benefit through a registered insurer; and
- 5.4.5 The provision of such other benefits as the Commissioner approves in writing.

5.5 MEMBER INVESTMENT CHOICE

Member investment choice exists for excluded and non-excluded funds, where the Trustees, in their absolute discretion, decide to give a member or category or sub-plan of members a choice of two or more investment strategies from which the member or category or sub-plan of members may choose a strategy or combination of strategies which must include a default strategy should member choice not be forthcoming. Due to the ongoing administrative problems associated with multiple investment strategy choices it may be prudent to limit the number of investment strategy choices offered. If member investment choice is offered, the Trustees must provide sufficient information that a person would reasonably need for the purpose of understanding the effect of, and any risk involved in, each of those strategies. Trustees are not obliged to offer member investment choice. The decision of choice will be made by the Trustees in their absolute discretion and is likely to depend on the individual circumstances of the fund and fund membership when formulating the investment strategy. A decision not to offer member investment choice does not preclude the trustees from developing

a strategy for the fund or differing investment strategies for a category or sub-plan of membership within the fund. Where choice is available, members may build their own portfolio by selecting from the range of investment strategy choices offered by the trustees. Trustees who offer investment strategy choices are required to advise the ISC of the number of investment strategy choices offered. Where members are taking advantage of any right to give direction on investment strategies, they may seek advice from, for example, licensed securities dealers or their authorised representatives or registered and accredited insurance agents or multi-agents. Regardless of the source of advice sought by a member, the responsibility to formulate and give effect to an investment strategy (which may include strategy choices) remains solely with the trustees. The role of the advisers, therefore, may be limited to making recommendations regarding the appropriate mix of strategies that a member or category or sub-plan of members should adopt. The regulations regarding member investment choice do not allow members of a non-excluded fund (5 or more members) to direct trustees to purchase individual investments on their behalf and the trustees would be in breach of the Act to permit member-directed investments. The regulations only allow member directed investments for a non-excluded fund to relate to the investment strategy choices that have been formulated by the Trustees. The Trustees of an excluded fund (less than 5 members) is empowered by these governing rules to accept member-directed investments, in accordance with the Act, provided that the member-directed investments:

- 5.5.1 apply to members of excluded funds only; and
- 5.5.2 the member directed investments are in accordance with the investment strategy of the fund;

The Trustees have the sole and absolute discretion to accept or reject the member's application for member-directed investment choice in accordance with Rule 5.5.2.

5.6 INVESTMENTS

Subject to the Act, all monies belonging to the fund but not required to meet current payments may be invested by the Trustees in or upon investments, whether secured or unsecured, of any kind (not limited to investments of trust funds) and in any country of the world as the Trustees in their absolute discretion shall think fit and without limiting the generality of the foregoing either directly or indirectly in:

- 5.6.1 any one or more of the investments authorised by law for the investment of trust funds;
- 5.6.2 pooled superannuation trusts and managed investments;
- 5.6.3 any share, stock, debenture stock, unsecured note, promissory note, bill of exchange, unit trust or deposits with a dealer in the official or unofficial short term money market acceptable to the Trustees;
- 5.6.4 banks, building societies, friendly societies or other deposit-taking institutions acceptable to the Trustees;
- 5.6.5 real or leasehold property;
- 5.6.6 life insurance policies, accident and sickness or disability policies, either alone or jointly with any other person, institution or corporation;
- 5.6.7 deposits at call or for fixed-terms with the employer up to the maximum amount permitted under the act from time to time;
- 5.6.8 loans to members secured by first mortgage on real property; and
- 5.6.9 loans to members to the extent of the member's own contributions and earnings in the fund, either:
 - 5.6.9.1 secured on personal property; or
 - 5.6.9.2 unsecured where the member is suffering financial hardship and is unable to obtain a loan from normal borrowing sources;

With full power to vary, replace, encumber and otherwise deal with such investments as fully and effectively and with the same unrestricted powers in all respects as a person absolutely and beneficially entitled dealing with his own property may do. Provided that, where the Fund's Trust Deed permits such loans and had that provision prior to 16 December 1985, the Trustees may continue to operate according to the deed and consider loans to existing and new members, but the power to lend to members shall not be amended so as to enlarge the scope of that power by removing or altering any limitation or restriction to which that power was subject immediately before that date. (Data Plan Superannuation Trust Deeds included provisions for loans to members prior to 16 December 1985). If the Fund is established after 16 December 1985 the Trustees shall not lend monies to any member directly or under a

general power to invest Fund assets;

5.6.10 Investments may be placed in such name or names, as the Trustees shall from time to time determine provided that the ownership of such investments is held by the Trustees on behalf of the Fund. Notwithstanding any other provision of this deed (with the exception of Rule 5.7), no member or dependant or beneficiary shall have or acquire any beneficial or other interest in a specific asset of the Fund or the assets of the Fund as a whole whilst such assets remain subject to the provisions of this deed.

5.7 SPECIFIC INVESTMENTS

The Trustees may in their sole and absolute discretion considering Rule 5.5, undertake to invest separately in respect of a member or category or sub plan of membership of the Fund as determined by the Trustees from time to time. The Trustees shall record on whose behalf such specific investments are made for the purposes of a member's individual Accumulation Account or Equity or categories or sub-plans of membership. The income and profit (if any) arising from the specific investments applicable to the member's individual Accumulation Account or Equity or categories or sub-plans of membership shall also be debited with the appropriate proportion of any costs or charges applicable to such investments.

5.8 THE PURCHASE OF A FUND ASSET FROM A MEMBER OR A RELATIVE OF A MEMBER

The Trustees are prohibited from acquiring an asset from a member or a relative of a member effective from 27th may 1993 with the following exceptions:

5.8.1 Where for excluded funds with less than five members or for non-excluded funds with five or more members, the asset is a listed security acquired at current value being defined as a share or a unit or a bond or debenture or a right or option or any other security listed for quotation in the official list of a stock exchange in Australia;

5.8.2 Where for funds of less than five members only (excluded funds) the asset is business real property, being defined as any freehold or leasehold interest in real property which is used wholly and exclusively in the business of the Original

Member or Principal Employer or Participating Employer, and is acquired at the current market value by the Trustees of the Fund and that the real business property represents, together with any existing real business property in the Fund (previously purchased from a member or relative of a member since 30th November 1993), is less than 40% of the gross assets of the Fund at the point of purchase. This rule also includes the situation where the real business property is owned by individual members of the Fund who hold 51% or more of the control of the corporation running the business and the said business property is used wholly and exclusively in that corporation's business;

Provided that the Trustees must not enter into or commence to carry out a scheme with the intention that the scheme would result, or be likely to result, in the acquisition of an asset which was previously owned by a member or relative of a member from either a non-associated or associated entity or individual or individuals. The only possible exception to this rule is when an asset which was previously owned by a member or relative of a member was acquired by a non-associated entity or individual or individuals and that a reasonable period of time had transpired and that there is a sound commercial reason why the Trustees of the fund would consider purchasing that particular asset. Provided further that if the fund had consisted of five or more members at any point from 27 May 1993 then the Fund is prohibited from acquiring real business property from a member or relative of a member.

5.9 BORROWING AND LENDING POWERS

5.9.1 The Trustees shall have the power to borrow and raise monies and to advance and lend monies in accordance with the Act; and to secure by mortgage, charge or otherwise howsoever the payment of money to any person and upon such terms as they think fit and to join with any person in executing any mortgage or other security for the purpose of securing the payment of money to any person. Provided that the Trustees shall not lend monies or invest monies or increase an existing loan in or to the employer or a person or corporation associated with the Employer, of more than 5% of the Fund's assets being defined as In-House assets, as described in Rule 1.55, which is based upon historical values until July 1995, then market values from 1 July 1998, reducing to 5% of fund market values from 1 July 2000. Provided that a fund which had an in-house

asset prior to 21 October 92, has until 1 July 1995, to reduce said in house assets to 10% of historical values and cannot increase loan to above 5% of market values from 21 October 1992;

- 5.9.2** The Trustees shall not borrow money, otherwise than to secure temporary finance in the form of a bank overdraft for the purpose of paying a beneficiary or financing the settlement of a securities transaction, which must be repaid within 90 days and cannot exceed 10% of the gross value of the fund assets. Provided that this shall not apply to monies borrowed by the Trustees on or before 11 June 1986, but such borrowing's shall be repaid as soon as practicable and in any event no later than 30 June 1995. Any roll over of an existing loan borrowed prior to 11 June 1986 shall not be regarded as a new loan for the purposes of this rule.

5.10 POWER TO GUARANTEE

- 5.10.1** The Trustees shall have the power to charge or encumber the interest of any member in the fund (in the case of an unallocated benefit, as determined by an actuary) for the purposes of giving collateral security for the repayment of, or in relation to, any loan advanced to that member;

- 5.10.2** The following standard is prescribed in relation to the exercise of liens over benefits vesting in members of, or preserved by, the fund, namely, an employer or any other person who contributes to the fund shall not:

5.10.2.1 exercise a lien over any benefits that are required by the Act to be vested in a member of the fund or to be preserved by the fund; and

5.10.2.2 where, as at 1 July 1986, such a lien has been exercised over such benefits, to enlarge the scope of that lien in any way or otherwise vary it, except by way of limitation or removal of that lien;

5.10.2.3 the Trustees shall not exercise a lien over fund assets to secure a loan from an outside source to the Employer, Trustee or a member of the fund, other than in accordance with Rules 5.6.8, 5.6.9, 5.9.1, 5.9.2, 5.10.1 and 5.10.2; and should the Trustees

disregard this rule and sign such a lien, it shall be void and hold no application in law.

5.11 EXPENSES

All costs, charges and expenses incurred in the management and administration of the fund incurred from time to time which are not paid by the principal employer or participating employer or original member shall be paid out of the fund.

6. CESSATION OF EMPLOYMENT (EMPLOYEE MEMBERS)

If any employee member ceases to be employed by the employer for any reason other than death, total and permanent disablement, invalidity or upon his reaching the normal retirement age whilst in the employ of the employer, the Trustees will pay to the member, subject to the rules of preservation, the member's Accumulation Account or member's Equity as at the date upon which he ceases to be employed by the employer. Such percentage shall be equal to the percentage specified in the Percentage Vesting Schedule applicable to the class to which the member belongs, in respect of the number of fully completed years in which the member has been a member of the Fund, as at the date upon which he ceases to be employed by the Employer. Should payment or roll over of the member's benefits be in excess of one month from the date of cessation of service, or Fund membership, whichever is the latter, the Trustees in their sole and absolute discretion can either recalculate the member's entitlement or declare Net Interim Earning Rate as per Rule 8.10 and adjust the member's entitlement as appropriate. Provided, however, the Trustees with the agreement of the Employer may pay such further percentage to that member as it shall determine in their absolute discretion. The member is to receive a Cessation of Membership Statement as contained in Rule 10.8 for excluded funds with less than five members and Rule 10.11 for non-excluded funds with five or more members, together with a Discharge of Benefit Statement as defined in the above Rules. If the Trustees, after considering Rule 2.4, fail to locate the member after two consecutive notices, and six months have elapsed since the date of the last notice issued, the members Accumulation Account or Equity is forfeited to the Forfeited Benefit Account as an unclaimed benefit under specific Rule 8.5.6.

6.1 EARLY RELEASE OF BENEFITS

A member's benefit may only be released on severe financial hardship or compassionate grounds if a determination has been received from the Commissioner. Application forms are available from the ISC which will include both a statutory declaration to be signed by the member and a request for completion and submission of financial statements. Should the member's application be granted by the Commissioner, the Trustees shall commence withdrawal of the agreed amount commencing with unrestricted non-preserved benefits followed by restricted non-preserved benefits and preserved benefits. (A financial statement is required for both severe financial hardship and compassionate grounds for early release of benefit). The member is to receive a Cessation of Membership Statement as per Rule 10.8 for excluded funds with less than five members and Rule 10.11 for non-excluded funds with five or more members, together with a Discharge of Benefit Statement as defined in the above rules. If the trustees, after considering Rule 2.4, fail to locate the member after two consecutive notices, and six months have elapsed since the date of the last notice issued, the member's Accumulation Account or Equity is Forfeited to the Forfeited Benefits Account as an unclaimed benefit under specific Rule 8.5.6.

6.2 TEMPORARY DISABLEMENT BENEFIT

If a member is absent from work for a period of not less than two (2) weeks on the grounds of temporary disablement he may be entitled to a temporary disablement pension of such an amount (if any) as shall be determined by the Trustees in their absolute discretion. The amount of the temporary disablement pension shall not exceed 75% of the member's earnings or salary and shall not be indexed by more than 5% or the CPI (consumer price index) measured over the preceding 12-month period to the nearest quarter. In all cases, such benefits payable shall cease at the time the member recovers from his temporary disablement and shall not be payable for a period in excess of two (2) years from the date of commencement, unless with the consent of the Commissioner and provided that, should the Employer also pay benefit's, then such combined benefit's shall not exceed 100% of the member's AWOTE indexed salary. The temporary disablement pension can consist of an insured benefit or member's Accumulation Account or Equity and can exclude unrestricted non-preserved vested benefits. The Trustees must make reasonable efforts within one month of notification of a claim, to advise the member

in writing regarding the acceptance or rejection of the claim, the amount of the claim, and the actions taken to process the claim, particularly in the instance of an insured benefit, and shall attach thereto the Fund information specified in Rule 6.2.2 for disclosure in response to members' enquiries or complaints;

6.2.1 Where temporary disablement benefits are provided by a registered insurer under the Life Insurance Act 1995, the determination as to whether or not a claim is paid on that insured benefit is solely determined by the said registered insurer. Provided that the Trustees have an obligation to actively pursue the interests of the member against the insurer where the Trustees consider that the member is entitled under the terms of the governing rules of the fund and the insurance policy to a temporary disablement benefit;

6.2.2 The Trustees will, in accordance with the Rules of the Fund and the Act, answer enquiries or complaints from, and provide Fund information to members of the Fund or dependants or beneficiaries of members or dependants of a deceased member or the legal personal representative of a member or persons notified by the Trustees in the event of a member's death, or an Employer Sponsor or an Original Member or an associate of an Employer Sponsor or an Original Member, either verbally or in writing within one month. The Trustees will disclose such information, as requested, in accordance with the Act, pertaining to the Fund which may include; copies of the governing rules of the Fund pertaining to the request, copy of, or an abridged statement of, the Fund accounts and audit, notices issued by the Commissioner, the member's Benefit Statement or other statements, if applicable, issued by the Trustees relating to the request and a copy of actuarial certificate information requested (if applicable). A copy of the Fund's Superannuation Trust Deed is available through the Fund's Contact Person which is available for members to peruse at the following address and at times stated. The contact person for the Fund is (name, or enquiries officer) who can be contacted (times, address, fax and phone number). If any information appears incorrect or you would like to question any matter relating to the Fund, please write or fax or telephone the

Contact Person or Enquiries Officer. The Trustees of a non-excluded Fund with five or more members will, if unable to satisfy said complaint, establish within a reasonable amount of time and within ninety days, a Disputes Committee, following the procedure contained in Rule 9.51. Should the Disputes Committee not be able to resolve the dispute then it is the right of all parties of a non-excluded fund to call upon the Superannuation Complaints Tribunal for adjudication. The Tribunal is an independent body set up by the Federal Government to assist members or beneficiaries of non-excluded funds with five or more members to resolve certain types of complaints with fund Trustees. The Superannuation Complaints Tribunal can be contacted by phoning 13 14 34 and the Insurance and Superannuation Commission (ISC) can be contacted by phoning 13 10 60 (for the cost of a local call). If the Tribunal accepts the complaint it will attempt to resolve the matter through conciliation, which involves assisting the complainant and the fund Trustees to come to a mutual agreement. If conciliation is unsuccessful, the complaint is referred to the Tribunal for a determination which is binding;

6.2.3

A complaint could be lodged with the Superannuation Complaints Tribunal (The Tribunal) by the complainant against the Trustees of the Fund should the complainant be dissatisfied with the non-acceptance of a claim. The Tribunal is not able to deal with complaints if the Trustees decision to which the complaint relates to was made:

6.2.3.1 Prior to 1 November 1994; or

6.2.3.2 It was made on or after 1 November 1994, but the complaint was not made within a period of one year from the Trustees' decision; or

6.2.3.3 The temporary disablement claim was lodged with the Trustee more than one year after the person temporarily ceased employment because of the disablement;

The temporary cessation of employment requirement means that the one-year time limit does not commence for those who are, for example, on sick leave or on a salary continuance benefit and therefore retain a right to resume employment. The Trustees are advised for the protection

of the Fund, the Members, and the Trustees, to record both the enquiries made and the action taken, which, in summary form, are also required to be minuted, and to seek qualified advice prior to paying out or refusing a claim, where deemed necessary. If the Trustees after considering rule 2.4 fail to locate the member within six months of the date of entitlement or the date on which the Trustees commence enquiries, whichever date is the latter, then all such entitlements shall be forfeited to the Forfeited Benefits Account as an unclaimed benefit under specific Rule 8.5.6.

6.3 TOTAL AND PERMANENT DISABLEMENT BENEFIT (INVALIDITY)

The Trustees must carefully consider a total and permanent disablement or invalidity claim must be reasonably satisfied that the member is unlikely, because of physical or mental health, to ever again engage in a gainful occupation for which the member is reasonably qualified by previous education, training or experience, prior to granting approval on grounds of total and permanent disablement or invalidity. If a member retires from the service on the grounds of total and permanent disablement or invalidity he may be entitled to a total and permanent disablement or invalidity benefit of such an amount as shall be determined by the Trustees in their sole and absolute discretion provided that the value of the said benefit shall not exceed the amount:

- 6.3.1** Where the benefit is an unallocated benefit, an amount which is determined by the Trustees in their absolute discretion, after obtaining the advice of an actuary prior to making such determination, to be the member's vested equitable share of the Fund at the date of the total and permanent disablement or invalidity;
- 6.3.2** Where the benefit is an accumulation benefit, the amount of the member's vested Accumulation Account. Provided that a non-employee member's or self-employed member's Accumulation Account is to be credited with any insured benefits payable plus the member's vested Accumulation Account;
- 6.3.3** Where total and permanent disablement benefits are provided by a registered insurer under the Life Insurance Act 1995, the determination to whether or not a claim is paid on that insured benefit is solely determined by the said registered insurer. Provided that the Trustees have no obligation to actively pursue the interests of member against the insurer where the Trustees consider that the member is entitled under the terms

the governing rules of the Fund and the insurance policy to a total and permanent disablement benefit;

The Trustees must make reasonable efforts within one month of notification of a claim to advise to the member in writing, regarding the acceptance or rejection of the claim, the amount of the claim, and the actions taken to process the claim, particularly in the instance of an insured benefit and attach the relevant Fund information content as prescribed in Rule 6.3.4;

6.3.4 The Trustees will, in accordance with the Rules of the Fund and the Act, answer enquiries or complaints from, and provide Fund information to members of the Fund or dependants or beneficiaries of members or dependants of a deceased member or the legal personal representative of a member or persons notified by the Trustees in the event of a member's death or an Employer Sponsor or an Original Member or an associate of an Employer Sponsor or an Original Member, either verbally or in writing within one month. The Trustees will disclose such information, as requested, in accordance with the Act, pertaining to the Fund which may include: copies of the governing rules of the Fund pertaining to the request, copy of, or an abridged statement of, the Fund accounts and audit, notices issued by the Commissioner, the member's Benefit Statement or other statements, if applicable, issued by the Trustees relating to the request, and a copy of actuarial certificate information requested (if applicable). A copy of the Fund's Superannuation Trust Deed is available through the Fund's Contact Person which is available for members to peruse at the following address and at times stated. the Contact Person for the Fund is (name, or enquiries Officer) who can be contacted; (times, address, fax and phone number). If any information appears incorrect or you would like to question any matter relating to the Fund, please write or fax or telephone the Contact Person or enquiries officer). The Trustees of a non-excluded fund with five or more members will, if unable to satisfy said complaint, establish within a reasonable amount of time and within ninety days, a Disputes Committee, following the procedure contained in Rule 9.51. Should the Disputes Committee not be able to resolve the dispute then it is the right of all

parties to call upon the Superannuation Complaints Tribunal for adjudication. The Tribunal is an independent body set up by the Federal Government to assist Members or Beneficiaries of non-excluded funds with five or more members to resolve certain types of complaints with Fund Trustees. The Superannuation Complaints Tribunal can be contacted by phoning 13 14 34 and the Insurance and Superannuation Commission (ISC) can be contacted by phoning 13 10 60 (for the cost of a local call). If the Tribunal accepts the complaint it will attempt to resolve the matter through conciliation, which involves assisting the Complainant and the Fund Trustees to come to a mutual agreement. If conciliation is unsuccessful, the complaint is referred to the Tribunal for a determination which is binding;

6.3.5 A complaint could be lodged with the Superannuation Complaints Tribunal by the complainant against the Trustees of the Fund should the complainant be dissatisfied with the non-acceptance of a claim. The Tribunal is not able to deal with complaints if the Trustees' decision to which the complaint relates to was made:

- 6.3.5.1** Prior to 1 November 1994; or
- 6.3.5.2** It was made on or after 1 November 1994, but the complaint was not made within a period of one year from the Trustees' decision; or
- 6.3.5.3** The total and permanent disablement claim was lodged with the Trustees more than one year after the person permanently ceased employment because of the disablement;

The permanent cessation of employment requirement means that the one year time limit does not commence for those who are, for example, on sick leave or on a salary continuance benefit and therefore retain a right to resume employment. The Trustees are advised, for the protection of the Fund, the Members, and the Trustees, to record both the enquiries made, and the actions taken, which, in summary form, are also required to be minuted, and to seek qualified advice prior to paying out or refusing a claim, where deemed necessary. The member is to receive a Cessation of Membership Statement as per Rule 10.8 for excluded funds with less than five

members and Rule 10.11 for non-excluded funds with five or more members, together with a Discharge of Benefit statement as defined within the above rules. If the Trustees, after considering rule 2.4, fail to locate the member after two consecutive notices, and six months have elapsed since the date of the last notice issued, the member's Accumulation Account or Equity, is to be forfeited to the Forfeited Benefits Account as an unclaimed benefit under specific Rule 8.5.6.

6.4 DEATH BENEFIT

If a member dies before being entitled to a retirement benefit, a death benefit will be payable in such an amount and form as shall be determined by the Trustees in their absolute discretion provided that the value of the death benefit shall not exceed:

6.4.1 If an unallocated benefit, the amount determined by the Trustees in their absolute discretion, after obtaining the advice of an actuary prior to making such determination, to be the member's vested Equity at the date of death; or

6.4.2 If an accumulation benefit, the amount credited to the member's vested Accumulation Account at the date of death;

Provided that, if a member dies whilst entitled to a deferred benefit, whether or not the member shall have been paid part thereof, a death benefit shall be payable in such an amount as shall be determined by the Trustees in their absolute discretion provided that the amount of the death benefit shall not exceed that amount determined pursuant to Rules 6.4.1 and 6.4.2. Provided further that the Trustees shall have the absolute discretion to pay an amount in excess of a member's vested Accumulation Account or Equity. Non-employee and self-employed Accumulation Account members are to be credited with any insured benefits payable plus the member's vested Accumulation Account balance. The entitlement to the death benefit may be paid to any one or more of the following potential recipients (hereinafter referred to as recipients) in such proportions as the Trustees in their absolute discretion thinks fit, usually in the order of:

6.4.3 all or any of the deceased member's dependants;

6.4.4 the legal personal representative of the deceased member; or

6.4.5 the designated beneficiaries; or, if failing to locate any of the above,

6.4.6 a person or person/s who are not dependants;

The Trustees shall determine within a reasonable time after the death of a member, and after making inquiries pursuant to Rule 2.4, the eligible recipients and shall notify all such potential recipients in writing of the Trustees' decision as to whom benefits are payable. The notification is to state the amount of the benefits payable to each person, advising that any complaint relating to the Trustees' decision needs to be lodged with the Trustees within 28 days of the receipt of the notification. The Trustees are also required to include the information content of Rule 6.4.9 with said notification. Where recipients object, the Trustees are required to reconsider and notify all recipients of the reconsidered decision. Such notification is to advise that, (for non-excluded fund members) if a further complaint is to be made, it must be made within 28 days, directly to the Superannuation Complaints Tribunal. The notification is to further advise that recipients who have not already lodged a complaint with to the Tribunal, must do so within 28 days, or they will have no further right to complain. Notification is required on the statutory form available from the Tribunal;

6.4.7 The member is to receive a Cessation of Membership Statement as per Rule 10.8 for excluded funds and Rule 10.11 for non-excluded funds, together with a Discharge of Benefit Statement as defined in the above rules;

6.4.8 If the Trustees, after making reasonable inquiries, fail to determine a dependant or personal representative or beneficiary or persons, after making enquiries pursuant to Rule 2.4, within six (6) months from the date of death, or such other period as may be required in accordance with the Act, then all entitlements of the deceased member from the Fund shall be forfeited to the Forfeited Benefits Account as an unclaimed benefit under specific Rule 8.5.6;

6.4.9 **ENQUIRIES OR COMPLAINTS AND FUND INFORMATION:**

The Trustees will, in accordance with the Rules of the Fund and the Act, answer enquiries or complaints from, and provide Fund information to members of the Fund or dependants or beneficiaries of members or dependants of a deceased member or the legal representative of a member or persons notified by the Trustees in the event of a member's death, or an Employer Sponsor or an Original Member, or an associate of an Employer Sponsor or an Original Member, either verbally or in writing within one month. The Trustees will disclose such information, as requested, in accordance with the Act, pertaining to the Fund which may include; copies of the governing rules of the

Fund pertaining to the request, copy of, or an abridged statement of, the Fund accounts and audit, notices issued by the Commissioner, the member's Benefit Statement or other statements, if applicable, issued by the Trustees relating to the request, and a copy of actuarial certificate information requested (if applicable). A copy of the Fund's Superannuation Trust Deed is available through the Fund's Contact person for members to pursue at the following address and at times stated. The Contact Person for the fund is (name, or enquiries officer) who can be contacted (times, address, fax and phone number). If any information appears incorrect or you would like to question any matter relating to the Fund, please write or fax or telephone the Contact Person or Enquiries Officer. The Trustees of a non-excluded fund with five or more members will, if unable to satisfy a member's complaint, establish within a reasonable amount of time and within ninety days, a Disputes Committee, following the procedure contained in Rule 9.51. Should the Disputes Committee not be able to resolve the dispute then it is the right of all parties to call upon the Superannuation Complaints Tribunal for adjudication. The Tribunal is an independent body set up by the Federal Government to assist members or beneficiaries of non-excluded funds of five or more members to resolve certain types of complaints with fund trustees. The Superannuation Complaints Tribunal can be contacted by phoning 13 14 34 and the Insurance and Superannuation Commission (ISC) can be contacted on 13 10 60 (for the cost of a local call). If the Tribunal accepts the complaint it will attempt to resolve the matter through conciliation, which involves assisting the Complainant and the Fund Trustees to come to a mutual agreement. If conciliation is unsuccessful, the complaint is referred to the Tribunal for a determination which is binding. The Superannuation Complaints Tribunal is not able to deal with complaints pertaining to a death claim unless notification is made on the required statutory form within 28 days of failing to resolve matters with the Trustees of the Fund;

The Trustees are advised, for the protection of the Fund, the Members and the Trustees, to record both the enquiries made and the actions taken, which, in summary form, are also

required to be minuted, and to seek qualified advice prior to paying out or refusing a claim, where deemed necessary.

6.5 RETIREMENT BENEFIT

A member who retires from employment with his employer on or after his normal retirement date or a self-employed member or non-employee member who attains his normal retirement age shall be entitled to a retirement benefit:

The retirement benefit shall be;

- 6.5.1** In the case of a Category AP or AIP member, a partially commutable pension which has an actuarial value equivalent to the amount recorded in the member's individual account;
- 6.5.2** In the case of a Category AF, AIF, AIYF or AIZF member, a fully commutable pension which has a value equivalent to the amount recorded in the member's individual account; and
- 6.5.3** In the case of a Category AL, AIL, AIYL or AIZL member, a lump sum equal to the amount recorded in the member's individual account;
- 6.5.4** In the case of a Category UP or UIP member, a partially commutable pension in an amount equal to the member's equity as determined by the Trustees in their absolute discretion after obtaining the advice of an actuary prior to making such determination;
- 6.5.5** In the case of a Category UF, UIF, UIYF or UIZF member, a fully commutable pension in an amount equal to the member's equity as determined by the Trustees in their absolute discretion after obtaining the advice of an actuary prior to making such determination;
- 6.5.6** In the case of a Category UL, UIL, UIYL or UIZL member, a lump sum amount equal to the member's equity as determined by the trustees in their absolute discretion after obtaining the advice of an actuary prior to making such determination;
- 6.5.7** The Trustees are required to comply with the Rules of the Fund and the "significant event" requirements under the Act which includes the payment of a member's retirement benefit. The requirements are:

- 6.5.7.1** The Trustees are to consider, if applicable, specific investments as per Rule 5.7; and
- 6.5.7.2** The member's vested retirement benefit accumulation account or equity is calculated at the retirement date elected by the member, in accordance with the Act. Provided that, should the payment to the member be in excess of one month from the retirement date, the Trustees, in their sole and absolute discretion, can either recalculate that members benefit, or declare a net interim earning rate as per Rule 8.10, and adjust the members entitlement as appropriate. The Trustees, in their sole and absolute discretion, can pay a retirement benefit in excess of the member's vested accumulation account or equity; and
- 6.5.7.3** The member is to receive a written advice showing revised benefits or a revised or initial member benefit statement showing current benefits up to the date of cessation of membership. Such advice would include the enquiries or complaints and fund information requirements, which will differ between excluded and non-excluded funds as per Rules 10.7 and 10.10 respectively. Such advice is to include any significant event which has, or is likely to have, an effect on the members retirement benefit entitlement; and
- 6.5.7.4** the right, and conditions of continuance of any ancillary benefits for the member must be advised, if applicable; and
- 6.5.7.5** the Trustees are required to obtain a signed Discharge of Benefit Statement from the member as per Rule 10.8 for excluded funds and Rule 10.11 for non-excluded funds;
- 6.5.8** If the Trustees, after considering Rule 2.4, fail to locate the member after two consecutive notices, and six months have elapsed since the date of the last notice issued, the member's Accumulation Account or Equity is to be

forfeited to the Forfeited Benefit Account as an unclaimed benefit under specific Rule 8.5.6.

6.6 RETIREMENT BENEFIT PAYMENT DATE

Benefits must be paid or commence to be paid when the member attains age 65 up to 1 July 1997, unless the member is working 10 hours or more per week and had turned 60 by 1 July 1990, in which case benefits can remain in the fund until age 70. From 1 July 1997 all benefits must be paid out at member's age of 70, provided that the member was either gainfully employed or producing personal exertion income for at least 10 hours per week from age 65. The requirement to be gainfully employed or producing personal exertion income for at least 10 hours per week does not apply to a member who has ceased gainfully working as a result of invalidity. A further exclusion to the minimum of a 10-hour-per-week-gainful-working-rule is an employee who is in receipt of mandatory employer contributions for the purpose of the award or the superannuation guarantee. Provided further that, should a member continue to be employed for 30 hours or more per week, benefits can remain in the fund indefinitely;

6.6.1 For a member aged from 55 to 59 inclusive, retirement is taken to occur if:

6.6.1.1 An arrangement under which the member was gainfully employed and or engaged in earning personal exertion income has come to an end; and

6.6.1.2 The Trustees are reasonably satisfied that the member does not intend to ever again become gainfully employed or to engage in earning personal exertion income for ten hours or more per week;

It is up to the Trustees to obtain suitable evidence in order to be satisfied that retirement has occurred. This may include: proof of age, documentation indicating cessation of gainful employment or personal exertion income; and a statement from the member that he or she does not intend ever again to become gainfully employed or to earn income from personal exertion for ten hours or more per week:

6.6.2 For a member aged 60 or more, retirement is taken to have occurred if:

- 6.6.2.1** An arrangement under which the member was gainfully employed or engaged in earning personal exertion income has come to an end;

It is the trustees responsibility to obtain satisfactory evidence from a member that the arrangement under which the member was employed and/or was earning personal exertion income has ceased, and to obtain proof of age. If the trustees, after considering Rule 2.4, fail to locate the member after two consecutive notices, and six months have elapsed since the date of the last notice issued, the members Accumulation Account or Equity is forfeited to the Forfeited Benefit Account as an unclaimed benefit under specific Rule 8.5.6.

6.7 VESTING:

All member's individual personal contributions shall be fully vested up to 30 June 1987 and both a member's personal individual contributions plus the net earnings thereon shall be fully vested from 1 July 1987. Employer's contribution credits shall be vested in the member pursuant to the class allocation as shown in the percentage vesting schedule and cannot be reduced without the written consent of the member, provided that the conditions of Rule 8.5.3 have not been breached. Further to the provisions of Rule 2.2.1, both employer and member contributions made to Award, Superannuation Guarantee funds and Federal Government contributions including members undeducted contributions qualifying for same, shall be fully vested in the member.

6.8 EXCESS BENEFIT

Excess benefits held within an unallocated fund shall be applied as decided by the Trustees in their absolute discretion upon advice from an actuary. Excess benefits held within an allocated fund on behalf of an individual member shall be retained within that member's account. Excess benefits can be transferred to any other eligible complying superannuation fund being either a proportion or full amount of the member's Accumulation Account or Equity. The Trustees can accept contributions including death and/or total and total and permanent disablement benefit premiums within the contribution limits which may exceed the member's RBL. The fund can include excess benefits within all payments to the member or rolled over on behalf of the

member without the Fund losing its complying status for either type of transactions on behalf of the member. The Trustees shall deduct tax at the top marginal rate plus the medicare levy from all lump sum excess benefit payments to members. Excess benefits may be applied on behalf of the member within the Fund to an internally managed immediate fixed-term annuity, allocated pension or lifetime pension without deducting tax, with resulting income from the said excess benefit amount being ineligible for the fifteen percent rebate.

6.9 BENEFITS IN SPECIE

The Trustees may, with the agreement of the member or beneficiary to whom a benefit is payable, transfer investments of the Fund of equivalent value up to the member's Accumulation Account or Equity to such member or beneficiary in lieu of paying the whole or part of the amount otherwise payable. Provided that the restricted commutability of a partially commutable pension is unaltered and should such benefit in specie be included in a member's benefit pursuant to Rule 5.7, then that specific benefit shall be paid to that member, unless otherwise agreed by that member. Contributions to the Fund may, at the discretion of the Trustees, be accepted in specie provided that an actual transfer occurs, not just a journal entry.

6.10 LUMP SUM, ANNUITY OR PENSION

Where any benefits or any part thereof are payable hereunder to a member or a dependant or a beneficiary of a member or the legal representative of a member as a cessation of membership benefit, or a total and permanent disablement or invalidity benefit or a retirement benefit or a death benefit:

6.10.1 Provided that the limitations of a Category "P" member are not breached, the Trustees may request the member to, or the member and/or the beneficiary or dependant of the member or the legal representative of the member may upon written notice to the Trustees, request the Trustees to apply such benefit as a lump sum or direct that the benefits be rolled over (transferred) to other complying funds, or for the purchase of an approved deposit fund (ADF), deferred annuity, immediate fixed-term annuity, allocated annuity, allocated pension, pension or any other eligible area of the member's choice in accordance with the Act and shall, in such request or notice, stipulate the names of the appropriate eligible financial institutions;

- 6.10.2** Upon receipt of such notice the Trustees must apply such benefit as requested provided that :
- 6.10.3** The Trustees, in their sole and absolute discretion, can offer to accept or decline to provide, a fixed-term annuity, allocated pension or lifetime pension benefit provided internally through the fund;
- 6.10.4** Payment to the member of such benefit as provided under this deed or the application of such benefit shall be deemed to fully satisfy the obligations of the Trustees to the member, the member and any person claiming through the member or in any way entitled to such benefit, shall not make, and shall not be entitled to make, any claim or demand whatsoever, or howsoever, arising on the Trustees in relation to the payment or application of such benefit including, but not limited to, the obligation by the trustees to pay the benefit hereunder in a particular form;
- 6.10.5** For the purposes of this Rule the amount of such benefit shall be equal to:
- 6.10.5.1** if an unallocated benefit, the amount determined by the Trustees in their absolute discretion, acting on the advice of an actuary, prior to making such determination, shall be the member's equitable share of the Fund at the date of the entitlement of the member to such benefit; and
 - 6.10.5.2** if an accumulation benefit the amount of the balance of the member's individual Accumulation Account at the date of the member's entitlement thereto; and
 - 6.10.5.3** non-employee members and self-employed members are to be credited with any insured benefits payable plus the balance of the member's Accumulation Account.

6.11 SERVICE (SERVICE PERIOD MEANS THE SUM IN COMPLETED DAYS OF THE FOLLOWING)

6.11.1 The continuous period of service between:

- 6.11.1.1** the date the member commenced or recommenced employment with the Principal Employer or Original Member or Participating Employer, whichever is the latter ; and

- 6.11.1.2 the member's last day of service;
- 6.11.1.3 any period of service recognised by the Trustees in accordance with rules 2.3.6 and 4 hereof, including date of entry to the Fund.

6.12 MEMBER'S DEBT

If required by the Principal Employer or Original Member or Participating Employer or the Fund, the Trustees shall deduct from any payment to a member, excluding vested or preserved benefits or member contribution credits or member's minimum benefits, any debt (including contributions paid in advance) due from the member to the Principal Employer or Original Member or Participating Employer or the Fund, whether on account of dishonesty, fraud or defalcation or for any other reason whatsoever and shall pay the amount so deducted to the Principal Employer or Original Member or Participating Employer or the Fund as the case may be.

6.13 BANKRUPTCY

The member's Accumulation Account or Equity within a regulated complying fund, from 1 July 1994, is immune from creditors up to the members' then current Pension RBL limit under the Superannuation Industry (Supervision) Consequential Amendment Act 1993, being Act no 82 of 1993 and part 3 of the Act effective from 1 July 1994.

6.14 PAYMENT OF BENEFITS

All questions as to whether any person is entitled to a payment out of the Fund and the amount of such payment (if any) shall be determined by the Trustees in their absolute discretion, whose decision shall be final:

- 6.14.1 No benefit shall be paid to a member or his dependants or beneficiaries or legal representative, while the member is employed by an employer except as specifically provided in this deed or with the prior consent of the Commissioner;
- 6.14.2 A member's benefit is calculated at either the date of cessation of employment or membership of the Fund, whichever is the latter. Provided that the payment, or roll over (transfer), of the said member's benefit occurs within one month of the latter of the cessation of service or membership date, as applicable. Should the payment or roll over (transfer) of the said member's benefit occur after one month, then the Trustees in their sole and absolute discretion shall either

recalculate the member's benefit, or declare a Net Interim Earning Rate, as per Rule 8.10, and adjust the member's Accumulation Account or Equity;

- 6.14.3** If any person entitled to a benefit is under the age of eighteen (18) years, the Trustees may pay all or part of any benefit to any other person, to be held in trust for application on behalf of the person entitled to a benefit or his dependants and the receipt of the person to whom the benefit is paid shall be a complete discharge to the Trustees for the payment in respect of the person entitled to a benefit;
- 6.14.4** The member is to receive a Cessation of Membership Statement as contained in Rule 10.8 for excluded funds with less than five members and Rule 10.11 for non-excluded funds with five or more members, together with a Discharge of Member's Benefit Statement as defined in the above rules;
- 6.14.5** If the Trustees, after considering Rule 2.4, fail to locate the member after two consecutive notices, and six months have elapsed since the date of the last notice issued, the member's Accumulation Account or Equity is to be forfeited to the Forfeited Benefit Account as an unclaimed benefit under specific Rule 8.5.6;

Unless otherwise provided in these Rules, any benefit entitlement of the member or his dependants may be paid by cheque, cash, in specie or transfer of ownership of life insurance policies as the Trustees in their absolute discretion shall think fit:

- 6.14.6** Pensions shall be payable monthly unless the person entitled to receive the pension and the Trustees in their absolute discretion agree that the pension shall be payable in another manner;
- 6.14.7** The first instalment of any pension shall fall due for payment on the last day of the month next following the month in which the member's Fund membership ceases;
- 6.14.8** The last instalment of any pension shall fall due for payment upon the last day of the month immediately preceding the month in which the member died. Or, if the member is survived by a dependant, or nominated reversionary person, to whom pension payments will be continued, at the date of death of the said dependant or reversionary person as the case may be, provided that, should a

guaranteed payment term be included in said pension, then payments shall continue to be made to the appropriate beneficiaries or estate, as applicable, until the expiry of the guaranteed period;

All amounts payable shall be calculated in Australian currency according to the current rate of exchange at the date of payment.

6.15 INCREASE IN PENSION

Pensions in the course of payment may be increased annually up to the then current CPI figure or by an amount not exceeding the percentage specified in the guidelines published from time to time by the ISC. The Trustees, after consultation with an actuary, may increase the pension considering the minimum indexed figure of 5% or CPI, whichever is the lesser, as stated in the Act. Provided that, if the fund is suffering financial strain, the Trustees, after consultation with an actuary, may reduce the amount of such pension by decreasing or suspending the amount of such annual increase.

6.16 VARIATION OF BENEFITS

Where the report by an actuary (if any) discloses that the Fund is more than or less than sufficient to provide the benefits under this deed or where the Trustees are of the view that the Fund is more than or less than sufficient to provide the benefits under this Deed, the Trustees after obtaining the advice of an actuary and in a manner which in the opinion of the Trustees is equitable to all persons concerned, may change in accordance with the Act:

- 6.16.1** The contributions payable by the Employer or by any one or more of them;
- 6.16.2** the contributions payable by any members individually or by any particular category of members, provided that agreement is obtained from the affected members; or
- 6.16.3** The amount of benefits including benefits in the course of payment either to members or beneficiaries generally or to any category of members or beneficiaries provided that the conditions of Rule 8.5.3 have not been breached
- 6.16.4** Such change to be notified to the members after taking advice from an actuary in the instance of an immediate fixed-term annuity, allocated pension, or an unallocated benefit which includes a lifetime pension;

Provided that the requirement by an Employer to contribute to compulsory superannuation shall be continued in accordance with the Act.

6.17 BENEFIT FORMULA

The Trustees may decide to determine the amount of any benefit provided under this deed by way of a predetermined formula and, if so, shall advise the members of such formula in writing. The Trustees may vary or dispense with any such formula, after advising the members, provided that the amount of any benefit, calculated in accordance with any such formula in respect of a member's fund membership or vesting entitlement or member's vested Accumulation Account or Equity or member's minimum benefit, prior to the date of variation or dispensation, is not reduced and that the conditions of Rule 8.5.3 have not been breached.

7 IMMEDIATE FIXED-TERM ANNUITIES (PROVIDED INTERNALLY WITHIN THE FUND)

All members, at the sole and absolute discretion of the Trustees, with the exception of category AP, AIP, UP and UIP members, shall have the right upon becoming members of the Fund to receive benefits upon retirement or at such other time or conditions in accordance with the Act, which shall include dependants, beneficiaries and reversionary beneficiaries, in the form of an immediate fixed-term annuity. A members Equity or Accumulation Account may be applied to purchase an immediate fixed-term annuity of at least a one year duration with or without indexation, right of commutation, residual value or a beneficiary or a reversionary beneficiary, provided that an actuarial certificate or certificates, as applicable, are obtained from an actuary in accordance with Taxation Ruling 2617. The capital value of the immediate fixed-term annuity, and the income from it, cannot be used as security for a borrowing. The Trustees have absolute discretion upon death of the primary or reversionary beneficiary, where a reversionary beneficiary has not been nominated, to pay the remaining benefits to a dependants or beneficiaries estate, as applicable, as a lump sum or as an immediate fixed-term annuity for the remaining term of the said immediate fixed-term annuity. It is not a requirement to produce a Statement of Termination Payment Form or a Rollover Payment Notification Form as is the case for an immediate fixed-term annuity purchased outside the Fund. The provision within this deed for an immediate fixed-term annuity does not mean that an immediate fixed-term annuity is either effected or appropriate to a member and is not available without the Trustees approval in their sole and absolute discretion. There are numerous requirements in formulating and giving effect to an immediate fixed-term annuity, and variations within a fixed-term annuity which require the Trustees to seek qualified advice including, but not limited to, actuarial and legal advice prior to offering immediate fixed-term annuity benefits to members and, as such, the Trustees can not rely solely on this Deed and are required to seek advice:

- 7.1 The member's Accumulation Account or Equity applied to purchase an immediate fixed-term annuity becomes a tax-exempt section of the fund and is exempted from liability to pay tax on earnings or capital gains upon commencement of payment of immediate fixed-term annuity benefits to a member. Provided that the Fund retains its status as a regulated complying fund in accordance with the Act;
- 7.2 Until 30 June 1994 a member's excess benefit must be commuted with the Trustees deducting and remitting tax at the current top marginal rate including medicare;
- 7.3 From 1 July 1994 the Trustees may accept an excess benefit and use it to provide an immediate fixed-term annuity benefit with no rebate being applicable to such immediate fixed-term annuity benefit pension produced by the excess benefit, provided that, should said immediate fixed-term annuity be commuted then the excess benefit amount remaining is taxed at the top marginal rate plus the medicare levy;
- 7.4 The Trustees are not required to advise the Commissioner upon commencement of payment of the immediate fixed-term annuity benefit. Notification of the commencement of a fixed-term annuity benefit is contained within the annual ISC/Tax/Audit requirements of the Fund;

The Trustees may in their absolute discretion in lieu of providing immediate fixed-term annuity benefits internally within the Fund, request that the member roll over (transfer) benefits to purchase a complying immediate fixed-term annuity of the member's choice from an eligible institution in accordance with the Act for the purpose of providing member's immediate fixed-term annuity benefits.

7.5 ALLOCATED PENSION BENEFITS (PROVIDED INTERNALLY WITHIN THE FUND)

All members, at the sole and absolute discretion of the Trustees, with the exception of Category AP, AIP, UP and UIP members, shall have the right upon becoming members of the Fund to receive benefits upon retirement or at such other time in accordance with the Act in the form of an allocated pension, which shall include dependants, beneficiaries and reversionary beneficiaries of the member. Allocated pension benefits may be provided internally within the Fund in accordance with the Act at the discretion of the Trustees. Provided that an actuarial certificate

is obtained from an actuary prior to commencement of the allocated pension. Although an actuarial certificate usually has a term of three years in accordance with Taxation Ruling 2617, it is advisable that the Trustees seek advice from the actuary upon inclusion of each new member. It is not a requirement, as is the case with members purchasing allocated pensions outside the Fund, to produce a Statement of Termination Payment or a Rollover Payment Notification form. The provision within this Deed for an allocated pension does not mean that an allocated pension is either effected or appropriate to a member, and an allocated pension is not available to a member without the Trustees approval in their sole and absolute discretion. It is the responsibility of the Trustees to seek qualified advice including actuarial advice prior to offering allocated pension benefits to members and, as such, the Trustees should not rely solely on this Deed:

- 7.5.1** the Trustees are not required to advise the Commissioner upon commencement of payment of an allocated pension. Notification of the commencement of an allocated pension benefit is contained within the annual ISC/Tax/Audit requirements of the Fund;
- 7.5.2** until 30 June 1994, all excess lump sum benefits must be paid out to the member after applying and deducting the current top marginal tax rate including the medicare levy from such excess lump sum benefit:
- 7.5.2.1** provided that from 1 July 1994 a member's excess benefits (excess over lump sum RBL limits) can be included in the allocated pension but such pension generated from the excess benefit amount will not be subject to the 15% rebate and is taxed at the current member's marginal tax rate plus the medicare levy;
- 7.5.3** The Trustees are required to establish an allocated pension account for that member, which becomes a tax-exempt account within the Fund and is exempted from liability to pay earnings tax or capital gains tax upon commencement of payment of an allocated pension to a member, provided that the Fund retains its status as a regulated complying Fund in accordance with the Act;

- 7.5.4 Payments of the allocated pension must be made at least annually and subject to a minimum and maximum annual payment rule, with or without indexation calculated as follows:
- 7.5.4.1 $\frac{AB}{PVF}$
where:
- 7.5.4.2 AB is the account balance at the first day of July in each year and
- 7.5.4.3 PVF is the current pension valuation factor published by the ISC, for the member's age as at 1 July in each year;
- 7.5.4.4 Income streams that are subject to the Annual Minimum Pension Payment Rules outlined above will also be subject to Maximum Pension Payment where the account balance at 1 July in any given year is divided by the pension valuation factor for an annuity payable to age 80 based upon the member's age at that time. After age 80, there will be no Maximum Pension Payment Rule. The ISC will publish a list of factors to use in calculating Minimum and Maximum Pension Payments, within which factors the member can vary his pension payments year by year;
- 7.5.4.5 The capital value of the pension, and the income from it cannot be used as security for a borrowing;
- 7.5.5 Full or partial commutations may occur at the request of the member in accordance with the Act, which are taxed as an ETP with the exception of any excess amount which shall be taxed at the top marginal rate plus the medicare levy;
- 7.5.6 Allocated pension benefits shall continue to be made to the member (primary beneficiary) until the member's allocated Pension Account is exhausted or death occurs, provided that the Trustees have absolute discretion, where a reversionary beneficiary has not been nominated, to determine, whether upon the death of the primary beneficiary, the residuary benefit (being the balance of the deceased primary beneficiary's account) is paid as a lump sum or as a

reversionary allocated pension. If the trustees exercise their discretion to pay a reversionary allocated pension, the deductible amount and the minimum and maximum pension amounts will need to be recalculated taking into account the reversionary beneficiaries respective Life expectancies, as applicable. It therefore follows that the life expectancy factor of the primary or reversionary beneficiary or beneficiaries, as applicable, is the factor to be used in calculating the deductible amount in relation to the allocated pension. Should, upon the death of the primary beneficiary, a lump sum payment be made, then such lump sum amount is treated as an ETP payment with the exception of any excess benefit which shall be taxed at the top marginal rate plus the medicare levy;

- 7.5.7 Allocated pension payments may be based upon a fixed or indexed payment and either with or without profits, provided that the method adopted shall be in accordance with the Act;
- 7.5.8 Until 30 June 1994, the undeducted purchase price can include pre-83 components, undeducted contributions and concessional payments. From 1 July 1994 the undeducted purchase price shall only consist of post-83 undeducted contributions and the future service component of an invalidity payment (if applicable);
- 7.5.9 Until 30 June 1994 a rebate will apply to the post 83 component calculated from 30 June 1988 for members aged 55 and over at a base rate of 3% increasing by 3% per annum to a maximum of 15%. Such rebate percentage to be fixed at the year to which the member commenced receipt of the allocated pension;
- 7.5.10 From 1 July 1994 the rebate will be 15% of the taxable component of the allocated pension amount excluding excess benefit pension payment amounts if applicable. Drawdowns will be taxed at ETP rates, provided that should the allocated pension contain an excess benefit then that excess amount will attract tax at the top marginal rate plus the medicare levy;

The Trustees may, in their absolute discretion, in lieu of providing allocated pension benefits internally within the fund, request that the member roll over (transfer) benefits, to purchase a

complying allocated pension of the members choice from an eligible institution in accordance with the Act, for the purpose of providing member's allocated pension benefits.

7.6 LIFETIME PENSION BENEFITS (PROVIDED INTERNALLY WITHIN THE FUND)

All members, at the sole and absolute discretion of the Trustees, with the exception of category AP, AIP, UP and UIP members, shall have the right upon becoming members of the Fund to receive lifetime pension benefits upon retirement or at such other time or conditions in accordance with the Act. Which shall include dependants, beneficiaries and reversionary beneficiaries. Lifetime pension benefits, hereafter referred to as pension benefits, will form part of the unallocated section of the Fund which shall not have a residual value and cannot be commuted other than as stated in Rules 7.6.10 to 7.6.11 and may be provided internally within the Fund, in accordance with the Act, at the discretion of the Trustees and after consultation with an actuary. It is not a requirement to produce a Statement of Termination Payment form or a Rollover Payment Notification form. The provision within this deed to provide lifetime pensions does not mean that a lifetime pension is either effected or appropriate to a member and a lifetime pension is not available to a member without the approval of the Trustees in their sole and absolute discretion. There are stringent conditions and proper structures that apply to a lifetime pension and it is a requirement that the Trustees seek qualified advice, and in particular actuarial advice, prior to offering lifetime pension benefits to members, and as such the Trustees should not rely solely on this Deed:

7.6.1 The member's Accumulation Account or Equity applied to provide a pension becomes a tax-exempt section of the Fund and is exempted from liability to pay tax on earnings or on capital gains upon commencement of payment of the pension to the member, provided that the Fund retains its status as a regulated complying fund in accordance with the Act;

When a member's Accumulation Account or Equity exceeds the lump sum RBL limit, it may be a consideration, but an not obligation, that at least 50% of the member's Accumulation Account or Equity is applied to provide a complying lifetime pension. This action would ensure that excess benefits could not apply up to the members pension RBL. The Trustees of the Fund are obligated under the Act to treat a lump sum withdrawal which is above the lump sum RBL limit, as an excess benefit and deduct tax at the top marginal rate, plus the medicare levy, from said amount. Should the excess amount above

the lump sum RBL limit be rolled over, or applied internally, to, say, an immediate fixed-term annuity or allocated pension then the Trustees are not obligated to deduct tax. Provided that income produced from the Excess amount is not subject to the 15% rebate and any subsequent drawdown of the excess amount will attract the top marginal tax rate including the medicare levy. Members benefits up to the pension RBL limit can be applied to a lifetime pension together with any excess benefits with income produced from such excess benefit amount not being subject to the 15% rebate;

- 7.6.2** The Trustees shall obtain an actuarial certificate or actuarial certificates as applicable from a qualified registered actuary prior to commencing pension payments for each new pension member. The actuarial certificate must be renewed every three years at least, in accordance with the Act, as per Rule 9.46;
- 7.6.3** Until 30 June 1994 a member's excess benefit must be commuted with the Trustees deducting and remitting tax at the current top marginal rate including medicare;
- 7.6.4** From 1 July 1994 the Trustees may accept an excess benefit and use it to provide pension benefits with no rebate being applicable to such pension produced by the excess benefit;
- 7.6.5** The Trustees are not required to advise the Commissioner upon commencement of payment of the pension. Notification of the commencement of a lifetime pension is contained within the annual ISC/Tax/Audit requirements of the Fund;
- 7.6.6** The pension is to be paid at least annually throughout the life of the primary beneficiary in accordance with Rules 7.6.7 and 7.6.8 to 7.6.8.2; and if there is a reversionary beneficiary, payment shall continue:
- 7.6.6.1** throughout the reversionary beneficiaries life; or
 - 7.6.6.2** 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

- 7.6.6.3** if the person referred to in rule 7.6.6.2 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); and
- 7.6.7** The size of the payments of pension benefits in a year is fixed, allowing for variation only as specified in the rules; and will be calculated at the commencement of the pension as the member's equity in the fund divided by the Commissioner's current pension valuation factor appropriate to the pension conditions;
- 7.6.8** Unless the commissioner otherwise approves, the pension benefit payable to the primary beneficiary or to the reversionary beneficiary, as the case may be, shall increase year by year by an amount that is at least the lesser of:
- 7.6.8.1** 5% ; or
- 7.6.8.2** a rate equal to the rate of increase (if any) determined by comparing the quarterly CPI first published by the Australian Statistician for the second last quarter preceding the date on which payment is to be made with the quarterly CPI first published by the Australian Statistician for that quarter in the preceding year; and
- 7.6.9** The pension does not have a residual capital value;
- 7.6.10** The pension cannot be commuted except:
- 7.6.10.1** if the commutation is made within six months after the commencement day of the pension; or
- 7.6.10.2** if the commutation is made within ten years after the commencement day of the pension to the benefit of a reversionary beneficiary on the death of the primary beneficiary; or
- 7.6.10.3** if the eligible termination payment resulting from the commutation is transferred directly to the purchase of

another benefit provided under rules that meet the standards as defined in these Rules or in accordance with Regulations 1.06 (2) and 1.06 (3) of the Act; and

7.6.10.4 if the pension reverts or is commuted, it does not have a reversionary component greater than 100% of the benefit that was payable before the reversion or the commutation; and

7.6.10.5 the pension is not able to be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another beneficiary;

7.6.10.6 the capital value of the pension and the income from it, cannot be used as security for a borrowing;

7.6.11 Commutation of benefits within the ten-year guaranteed pension period:

7.6.11.1 if the primary beneficiary dies within ten years after the commencement day of the pension, a surviving reversionary beneficiary may obtain a payment equal to the total payments that the primary beneficiary would have received, if the primary beneficiary had not died, from the day of the death until the end of the period of ten years; and

7.6.11.2 if the primary beneficiary dies within ten years after the commencement day of the pension and there is no surviving reversionary beneficiary, an amount, not exceeding the difference between the sum of the amounts paid to the primary beneficiary and the sum of the amount that would have been so payable in the period of ten years, shall be paid to the primary beneficiary's estate; and

7.6.11.3 if the primary beneficiary dies within ten years after the commencement day of the pension and there is a surviving reversionary beneficiary who also dies within that period, there shall be payable to the reversionary beneficiaries estate an

amount determined as described in Rule 7.6.11.2 as if that rule applied to the reversionary beneficiary;

7.6.12 The Trustees may in their absolute discretion in lieu of providing pension benefits within the Fund, request that the member roll over (transfer) benefits to purchase a complying immediate pension of the member's choice from an eligible institution in accordance with the Act for the purpose of providing member's pension benefits.

7.7 EXTERNAL: IMMEDIATE ANNUITIES, ALLOCATED PENSIONS, LIFETIME PENSIONS

7.7.1 Provided that the limitations in the case of a Category "P" member are not breached, the Trustees may request the member to, or the member and/or the beneficiaries may upon written notice to the Trustees, request the Trustees to roll over (transfer) such benefit for the purchase of an allocated annuity, immediate fixed-term annuity, allocated pension or lifetime pension or other benefits permitted by the Act, of the member's and or beneficiaries choice, who shall, in such notice, stipulate the name/s of the eligible complying funds and determine the conditions of such benefits, provided that, it is in accordance with the Act. Payment by the Trustees of the Fund to the complying fund's so nominated in such written notice, shall be deemed to fully satisfy the obligations of the Trustees to the member or beneficiaries; and any person claiming though the member or beneficiaries, or in any way entitled to such benefits. The member or dependant or beneficiaries shall not make and shall not be entitled to make, any claim or demands whatsoever or howsoever arising or the Trustees in relation to the payment or application of such benefit, including but not limited to, the obligation by the Trustees to pay the benefit in a particular form;

7.7.2 Upon receipt of such notice the Trustees must apply such benefits as requested

8. THE FUND

8.1 REGULATED FUND

The Trustees of the Fund shall complete and issue to the Commissioner an "Election to become a Regulated Superannuation Fund" application form, signed by the Trustees containing an irrevocable election that the Superannuation Industry (Supervision) Act

1993 shall apply in relation to the Fund. Such notice of election Must be received by the Commissioner of Taxation within 60 days of the commencement of the Fund. The commencement date of the Fund is the later of the date of execution of the Trust Deed and the date property or income is set aside for the members of the Fund. The SIS Act requires that the governing rules of the Fund must state that the Trustees of the Fund shall be a constitutional corporation or, if individual Trustees/s, that the sole or primary purpose of the Fund is the provision of old-age pensions (which does not preclude members receiving full benefits subsequently as a lump sum). An amendment to the Trust Deed is required in accordance with the Act should the Trusteeship of the Fund change from individual to corporate or corporate to individual. This requirement ensures that the Fund remains regulated, and thus complying, and that the Corporations power and the Pensions power, can be applied by the Federal Government through the Commissioner to both regulate the Fund in accordance with the Act and individually apply penalties, if incurred by directors of corporate trustees and individual trustees, of regulated complying superannuation funds who contravene the Act. Confirmation that the Fund is registered as a complying regulated Fund will be sent by the ISC to the Trustees' registered address stating the Regulated Fund number. Failure by the Trustees to comply with requirements within the 60-day notification period shall cause the Fund to be non-complying and would result in the Fund's earnings and the Fund's balance being taxed at the top marginal tax rate, including the medicare levy.

8.2 COMPOSITION OF THE FUND

The Fund may comprise the following:

- 8.2.1** Contributions by members;
- 8.2.2** Contributions by the Employer;
- 8.2.3** Federal Government contribution; (if any)
- 8.2.4** The net interest, dividends and other proceeds arising from any investments, including the accumulation and capital appreciation thereof, and monies, investments and other assets transferred to the Fund;

- 8.2.5 The preserved, restricted non-preserved, unrestricted non-preserved, vested and non-vested benefits within the member's accumulation account or equity, equalisation account, forfeited benefits account, immediate fixed-term annuity, allocated pension and lifetime pension benefit provisions on behalf of members of the Fund.

8.3 RETENTION OF BENEFIT IN THE FUND

The Trustees of an excluded fund or a non-excluded fund, in their absolute discretion, may retain all or part of any benefit payable in the Fund subject to Rule 8.5.2.7.8 with the exception of unclaimed benefits, Rule 8.5.6, in accordance with the Act, until:

- 8.3.1 The former member or beneficiary entitled requests that it be paid to him;
- 8.3.2 The member requests that benefits be applied to purchase an immediate fixed-term annuity, allocated pension or lifetime pension internally within the fund;
- 8.3.3 The member requests that the benefits be rolled over (transferred) to an eligible institution;
- 8.3.4 The member dies;
- 8.3.5 The member retires;
- 8.3.6 The member attains age 65, until 1 July 1997, or age 70, up until 30th June 1997, if the member had attained age 60 by 1 July 1990, and the member is gainfully working at least 10 hours per week either as an employee or is producing personal exertion income for at least 10 hours per week. From 1st of July 1997 a member's benefit can remain in the fund until age 70, provided that the member is gainfully working for at least 10 hours per week. The requirement to be gainfully employed or producing personal exertion income for at least 10 hours per week does not apply to a member who has ceased gainfully working as a result of invalidity. A further Exclusion to the minimum of a 10 hour-per-week-gainful-working-rule is an employee whom is in receipt of mandatory employer contributions for the purpose of an Award or the Superannuation Guarantee. Provided further, that should the member remain employed for 30 hours or more per week, the member's balance may be retained in the Fund indefinitely. Benefits, in total or part thereof can, upon request, be cashed, rolled over or applied to purchase an immediate fixed-term

annuity, allocated pension or lifetime pension internally within the fund past age 65 whether working or not;

- 8.3.7 The member is partially disabled or totally and permanently disabled, invalided or permanently departs from Australia;
- 8.3.8 The Commissioner has made a determination in writing that early release of benefits is granted for severe financial hardship or on compassionate grounds;
- 8.3.9 The Trustees decide in their sole and absolute discretion not to retain the member's benefit in the Fund;

Excluded funds with less than five members can retain current ex-employee member's benefits or non-employee member's benefits or self-employed member's benefits in the Fund, provided that the said member is associated with either the Principal Employer, Original Member, Participating Employer, or Trustees. Non-excluded Funds with five or more members which have a member who is not an employee or an ex-employee of either the Principal Employer or Original Member or Participating Employer shall, unless the said member is removed from the Fund, or exemption is granted by the Commissioner, cause the Trustees to apply and become a Public Offer Fund as required by the Act, and appoint a professional trustee.

8.4 MEMBER'S INDIVIDUAL ACCOUNT

An individual account shall be maintained for each member in categories AF, AIF, AIYF, AIZF, AL, AIL, AIYL, AIZL, AP or AIP which shall record the following:

- 8.4.1 The contributions (if any) by the member for each year of his membership;
- 8.4.2 The contributions by the Employer (if any) in respect of the member for each year of his membership;
- 8.4.3 The contributions made by the Federal Government (if any) in respect of the member for each year or his membership at the sole discretion of the Trustees or as required by the Act, if legislated;
- 8.4.4 The surcharge amount, if applicable, dependant upon the individual member's notional taxable income; if legislated
- 8.4.5 The amount of contributions tax, for each individual member, as applicable;

- 8.4.6 Credit or debit in proportion to the member's Accumulation Account, the income and expenditure of the Fund, which includes the tax payable on the net earnings of the Fund;
- 8.4.7 Any assets or allocations from the Forfeited Benefits Account (as defined in Rule 8.7) made from time to time by the Trustees;
- 8.4.8 Allocations from the Equalisation Account if applicable;
- 8.4.9 Any allocation from rollovers (transfers) to the fund including records of whether or not the full amount from the previous fund was rolled over, including the fund service date, vested entitlement, restricted or unrestricted, non-preserved benefits and preserved benefits, etc, taken from the statement of termination payment form;
- 8.4.10 The vested entitlement of net-earnings allocated to members' accounts;
- 8.4.11 The member's vested entitlement to employer contribution credits;
- 8.4.12 The member's undeducted contributions;
- 8.4.13 The preserved benefits as applicable;
- 8.4.14 The restricted and unrestricted non-preserved benefits;
- 8.4.15 The total vested entitlement of the member's Accumulation Account;
- 8.4.16 The temporary disablement or total and permanent disablement or death benefits for each member.

8.5 FORFEITURE OF BENEFITS

- 8.5.1 All member's unclaimed benefits from both excluded funds and non-excluded funds shall be treated as a forfeited benefit subject to Rule 8.5.6. Any employee member or former employee member who has been paid all benefits which the Trustees considers should be paid to him, pursuant to the provisions of this Deed, and who still has a residual amount standing to the credit of his Accumulation Account or member's Equity, shall forfeit such amount forthwith to the Forfeited Benefits Account and such amount shall be dealt with as a forfeited benefit;
- 8.5.2 Benefits payable out of the Fund shall be forfeited to the Forfeited Benefits Account or suspended at the option of the Trustees (and, if an accumulation

benefit, the amount recorded in the Forfeited Benefits Register) if the member entitled thereto:

- 8.5.2.1 without the consent of the Trustees assigns, alienates or charges such benefits or part thereof;
- 8.5.2.2 becomes bankrupt or insolvent;
- 8.5.2.3 owing to mental illness requires care, treatment or control for his own good or in the public interest and is in the opinion of the Trustees incapable of managing his affairs;
- 8.5.2.4 in the opinion of the Trustees commits fraud or is guilty of dishonesty, defalcation or serious misconduct;
- 8.5.2.5 provided that the member's vested Accumulation Account or vested member's Equity or member's minimum benefits are excluded from Rule 8.5.2.4;

8.5.2.6 LOST MEMBERS: (NON-EXCLUDED FUNDS) WITH FIVE OR MORE MEMBERS

A member is taken to be a lost member if :

- 8.5.2.6.1 The Fund has never had an address for the member; or
- 8.5.2.6.2 Two written notifications have been sent to the member's last known address and returned unclaimed; or

The member is an inactive member, that is if, and only if:

- 8.5.2.6.3 The Member has been a member of the Fund for two years; and
- 8.5.2.6.4 The member was a standard Employer Sponsor member to whom an Employer Sponsor contributes, or would contribute as per Rule 16 (1) (5) of the SIS Act; and

8.5.2.6.5 The Fund has not received a roll over in respect of the member within the last two years of membership in the Fund; or

The member joined the Fund as a lost member unless:

8.5.2.6.6 Within the last two years of the member's membership, the Trustees of the Fund have verified that the member's address is correct and have no reason to believe that the address is now incorrect; or

8.5.2.6.7 The member is permanently excluded from being a lost member as per Rule 8.5.2.7, "Permanent Exclusion" ;

8.5.2.7

PERMANENT EXCLUSION:

For the purpose of Rules 8.5.2.6.1 to 8.6.2.6.5 a member is permanently excluded from being a lost member if:

8.5.2.7.1 The member is an inactive member who has indicated by a positive act (for example, deferring a benefit in the fund) that the member wishes to continue to be a member of the Fund; or

8.5.2.7.2 The member has contacted the Fund after the time of joining the Fund stating that he or she wishes to continue being a member of the fund; or

8.5.2.7.3 The member is a member of an excluded fund (less than five members) ; or

8.5.2.7.4 The Trustees of the Fund may decide that a member or a category of members or a sub-plan of members or all members of the Fund are permanently excluded from becoming lost members of the Fund;

The Trustees have the sole and absolute discretion to decide by resolution whether a member or a category of members or a sub-plan of members or all members shall or shall not be classified as lost members. The consequences of a member becoming a lost member are:

8.5.2.7.5 The Trustees of the Fund must protect the benefit of the member in accordance with the Member Protection Standards as contained in the Act; and

If a member's benefit is not rolled over to an ERF within the prescribed six month period:

8.5.2.7.6 The Trustees must adhere to the administration of unclaimed monies effective from the 4th of April 1996 and lodge a statement with the Commissioner (ATO) together with the unclaimed benefit amount; in relation to the half year ending on 30th June 1997, by the 31st of October 1997 and for the half year ending on 31 December, by the 30th of April in the following year. (the ATO is proposed to be appointed to deal with unclaimed monies from 31 November 1996) and a modification declaration is due prior to 31 October 1996; and

8.5.2.7.7 If the member's benefit is transferred to an ERF, the Trustees must advise the receiving trustee and supply sufficient information to confirm the status of a lost member;

Trustees of non-excluded funds (five or more members) who are not a public offer fund, are advised to decide the Fund's Rule's pertaining to lost members and formulate same by resolution (minuted). Should a resolution be passed by the Trustees that, for example: "All members of the Fund shall be permanently

excluded as lost members,” then all ex-employee member’s benefits can be retained in the fund as per Rule 8.3, until the Trustees decide otherwise by further resolution;

THE RULES OF THIS DEED RELATING TO LOST MEMBERS ARE:

8.5.2.7.8 All members of the Fund shall be permanently excluded as lost members;

8.5.2.7.9 All unclaimed benefits are to be forfeited to the Forfeited Benefits Account and are subject to specific Rule 8.5.6;

The Trustees can override Rules 8.5.2.7.8 and 8.5.2.7.9 by resolution.(minute)

8.5.3 VOLUNTARY FORFEITURE OF A MEMBER’S BENEFIT:

The Trustees cannot sanction the voluntary forfeiture of member’s vested benefit or non-vested benefits in accordance with regulation 13.12 of the Act, applying to Trustees, which at the time of preparing this deed was under review by the ISC;

8.5.4 A member cannot voluntarily forfeit vested benefits described as the member’s minimum benefits as defined in Regulations 5.04 to 5.06 of the SIS Act;

8.5.5 Member’s minimum benefits are defined as:

8.5.5.1 Member-financed benefits within a member’s Accumulation Account or equity being member’s undeducted contributions and member’s deductible contributions which are either unrestricted non-preserved, restricted non-preserved or preserved and accruals;

8.5.5.2 Member’s mandated employer-financed benefits, being Award (Productivity) contributions, Superannuation Guarantee and including all compulsory employer contributions and accruals or Federal Government contributions (if any) ;

Provided that for unallocated members the member’s minimum benefit is determined by the relevant benefit certificates stating the member’s minimum requisite benefit:

8.5.5.3 Member's benefits rolled over to the Fund, whether unrestricted non-preserved, restricted non-preserved or preserved. Provided that, should the said benefit be treated by the Trustees as a transfer from one fund to another, then the said transfer benefit is not included in a member's minimum benefit;

8.5.5.4 A "transfer" is defined at the sole discretion of the Trustees as a payment from one fund to the other without the benefits being payable to the member. An illustration of a "transfer benefit" is a benefit paid from one regulated fund to another otherwise than upon the member satisfying a condition of release such as a cessation of employment from an employer who had, or whose associates had, contributed to the Fund in relation to the member;

SIS Sub Regulation 13.16 (1) "No Adverse Alterations", states that a beneficiaries rights must not be altered adversely by amending the governing rules of the Fund or by any act carried out, or consented to, by the Trustees. Sub Regulation 13.16 (2) "allowable Adverse Alterations", states that the above Sub Regulation 13.16 (1) does not apply if the said alteration does not apply to "member's minimum benefits." Trustees are advised that Regulation 13.12 of the SIS Act states that the trustees of a fund must not recognise, in any way encourage or sanction, an assignment of a superannuation interest of a member or beneficiary. There is, then, a deliberation between Regulations 13.12 and 13.16 (2) with the ISC interpretation leaning towards 13.12. As such, the Trustees cannot sanction the voluntary forfeiture of a member's vested benefits. Trustees considering voluntary forfeiture of member's vested benefits over and above a member's minimum benefit or the forfeiture of non-vested benefits should seek advice and, if deemed necessary, seek permission from the commissioner prior to arriving at a decision. The ISC was reviewing the Act at the point of preparing this Deed. The Trustees face substantial fines for a breach of this operating standard and the said breach may cause the Fund to become non-complying with the earnings of the Fund and the Fund assets being taxed at the top marginal tax rate plus the Medicare Levy.

8.5.6**UNCLAIMED BENEFITS**

The Trustees of an excluded fund or a non-excluded fund, can retain a non-retiring member's benefit in the Fund, under the Act, in accordance with the provisions of Rule 8.3; and for non-excluded Funds, Rules 8.5.2.7.8 and 8.5.2.7.9, which permanently excludes lost members and obligates unclaimed benefits to be treated as forfeited benefits subject to specific rule 8.5.6. The Trustees in their sole and absolute discretion can by resolution (minuted) override the before mentioned rules. Should this action occur, Trustees are requested to seek advice and consider, but not limit considerations to, in the instance of a non-excluded Fund, the lost member requirements of Rule 8.5.2.6, and for all Funds, that the post-retirement unclaimed member's benefits must be treated as unclaimed monies and remitted on the appropriate statement to the Commissioner. Should the Trustees of a non-excluded Fund, by resolution, override Rules 8.5.2.7.8 and 8.5.2.7.9, it is deemed a "significant event" and all Fund members must be notified immediately and no action can be taken until the respective notices have been received. Consideration may also need to be given to all of the Fund reporting requirements such as: Prospective (New) Member's Advice, Member's Benefit Statement, Cessation of Membership Statement and the Fund Statement, as applicable. It is recommended that non-excluded Fund Trustees consider retaining Rules 8.5.2.7.8 and 8.5.2.7.9. If the Trustees of an excluded fund or a non-excluded fund, after considering Rule 2.4, fail to locate the member or, as applicable, the dependants or beneficiaries of a member or the legal representative of a member or a person or persons who are considered as potential beneficiaries of a member; and

FOR ALL MEMBERS OTHER THAN RETIRING MEMBERS:

8.5.6.1 Two consecutive notices have been sent to the respective recipients with no reply; and

- 8.5.6.2 Six months have elapsed since the last notice issued; and
- 8.5.6.3 For members of non-excluded funds with five or more members, Rules 8.5.2.7.8 and 8.5.2.7.9 have not been overridden by resolution (minute) of the Trustees; and
- 8.5.6.4 With the exception of members or beneficiaries in receipt of a pension whose unclaimed benefits shall become unclaimed monies and must be remitted to the ATO within the periods stated in Rule 8.5.2.7.6;

The member's benefit shall forthwith be rolled over to an ERF (eligible roll over fund), and the Trustees must advise the receiving trustees that the member is not able to be located and to supply all information requested by the receiving ERF trustees.

FOR RETIRING MEMBERS:

- 8.5.6.5 the member of an excluded fund or a non-excluded fund has attained the required retirement age; and
 - 8.5.6.6 The Trustees determine that the member's benefit is an unclaimed benefit in accordance with Rules 8.5.6.1 and 8.5.6.2;
- The unclaimed retiring member's benefit, in accordance with the Act, must be declared as unclaimed money and must be remitted to the ATO on the required statement, within the periods stated in Rule 8.5.2.7.6.

8.6 FORFEITED BENEFITS REGISTER

A Forfeited Benefits Register shall be maintained for the allocated part of the Fund which provides accumulation benefits, and shall record where accumulation benefits are forfeited, in respect of any particular member:

- 8.6.1 The amount of benefit forfeited, or the extent that a benefit paid, or payable to, or in respect of a member, is less than the balance in his individual account under this Deed; and
- 8.6.2 The manner in which the Trustees have applied this amount in accordance with Rule 8.7;

8.7 FORFEITED BENEFITS ACCOUNT

The Trustees may in their absolute discretion, on the basis that it is reasonable, apply any benefits forfeited by members or remaining in the Fund by virtue of the provisions of this Deed towards any one or more of the following purposes:

- 8.7.1 The provision of grants to one or more members of the Fund or dependants by way of welfare benefits, sickness benefits or benefits to meet individual cases of hardship;
- 8.7.2 The provision of supplementary benefits for retired members of the Fund;
- 8.7.3 The provision of additional benefits for any existing member or members on a reasonably equal basis including, but not limited to, the crediting of assets to a member's Accumulation Account or Equity;
- 8.7.4 The payment to a second Fund (if applicable) which the Employer may have established for employees;
- 8.7.5 The payment to the Employer of a member by way of recompense for losses suffered by the Employer due to misconduct or defalcation by the member;
- 8.7.6 Payment to the Employer in accordance with Rule 8.7.12 for non-excluded funds;
- 8.7.7 The payment of contributions to the Fund which an Employer may have undertaken to make in respect of any member;
- 8.7.8 Payment to the Equalisation Account;
- 8.7.9 Any other purpose approved by the Commissioner;
- 8.7.10 Forfeited benefits, with the exclusion of unclaimed benefits, which have differing periods applying as per Rule 8.5.6, must be applied within two months of the end of each financial year or, such longer period as may be granted by the Commissioner, upon application, as per the Rules and in accordance with the Act. Provided that a member's accumulation account or equity which is subject to Rules 8.5.2.2 and 8.5.2.3, shall be retained within the Fund as provided for in Rule 8.3;
- 8.7.11 Member's unclaimed benefits Rules are contained in Rule 8.5.6;

8.7.12 Payments to Employers for non-excluded funds (five or more members) or excluded funds which from 21 October 1992 had, at some point, consisted of five or more members, are only permissible if:

- 8.7.12.1** They are reasonable payment for services rendered; or
- 8.7.12.2** They are in the nature of an investment or a loan (within the in-house asset limit); or
- 8.7.12.3** Payment is in accordance with Rule 8.7.5; or

All of the following conditions are satisfied:

- 8.7.12.4** The Trust Deed requires or permits the payment to be made (Rule 8.7.6 of this Deed);
- 8.7.12.5** There is equal representation at Trustee level;
- 8.7.12.6** An actuary has certified that the Fund would remain in a satisfactory financial position if the payment were made;
- 8.7.12.7** The Trustees were satisfied that the payment of the amount and the making of changes (if any) to the governing rules were reasonable having regard to the interests of the employer sponsor and of the member and beneficiaries in the Fund; and
- 8.7.12.8** The Trustees gave the members three months, notice of the intention to make the payment, and the Trustees passed a resolution agreeing to pay the amount to an Employer Sponsor;

Provided that the Trustees may in their absolute discretion pay or apply any part of the benefits which have, in accordance with Rules 8.5.2.2 and 8.5.2.3, been forfeited or suspended, to or for, the benefit of the member or any one or more of his dependants, in such shares and proportions and in such a 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 rule, except for the maintenance or support of the member or his dependants, and for the purpose of relieving hardship. Provided further in the case of Rule 8.5.2.3, if a declaration is made by the court or if the Trustees are satisfied that the member is no longer mentally ill or of unsound mind

and is capable of managing his own affairs, all benefits remaining can be paid to the member or dependants in accordance with the Rules, the Commissioner and the Act.

8.8 EQUALISATION ACCOUNT

- 8.8.1** The Trustees shall have power at any time to establish or close an Equalisation Account of the Fund and may transfer to the credit of the Equalisation Account forfeited benefits plus a proportion of Fund earnings not exceeding 15% (or such other figure as may be determined by the Act from time to time) of such annualised earnings for the purpose of establishing an Equalisation Account;
- 8.8.2** Whilst any funds are held in the Equalisation Account, they shall not form part of any Accumulation Account or Member's Equity and any income derived by the fund on the moneys held in the Equalisation Account shall be credited to the Equalisation Account;
- 8.8.3** The Equalisation Account shall be used by the Trustees to stabilise the investment earnings of the Fund and to provide for such future contingencies as the Trustees consider reasonable and, accordingly, the Trustees shall have the sole and absolute discretion to deal with the assets of the Equalisation Account. The Trustees shall formulate and give effect to an Equalisation Account investment strategy and objectives which must be regularly reviewed;
- 8.8.4** Total assets held in the Equalisation Account shall not exceed 15% of gross Fund assets (or such other figure as may be determined by the Act from time to time). If the amount of 15% of gross Fund assets is exceeded such excess shall be distributed within 6 months from the end of the following financial year at the sole discretion of the Trustees;
- 8.8.5** If the Equalisation Account or the Fund is wound up then such monies are to be applied to Forfeited Benefits and dealt with in accordance with those provisions.

8.9 FUND ACCOUNT

The Trustees shall cause a Fund Account to be maintained in which shall be recorded:

- 8.9.1** The total annual contributions (if any) by the members;
- 8.9.2** The total annual contributions (if any) by the Employer;

8.9.3 The Federal Government contributions made (if any) on behalf of a member;
and

8.9.4 All those other items comprised in the Fund as specified in Rule 8.4 hereof,
considering, where appropriate, the Members' Equity for Unallocated Fund
Members.

8.10 NET INTERIM EARNING RATE

The Net Interim Earning Rate should reflect the anticipated earning rates of all Fund investments including capital appreciation less costs to be incurred. These calculations may produce a negative return for that particular year and as such no Interim Rate is applicable and may result in a reduction of the member's balance. If the Trustees consider that the negative position is temporary and an appropriate crediting rate could be applied to the member's balance without affecting the remaining members, then such decision shall be at the sole discretion of the Trustees. The trustees in their absolute discretion may apportion an interim rate for net earnings for any financial year to be applied equally to all members who terminate from the Fund within that financial year. The Net Interim Earning Rate, once struck, shall apply until the end of that financial year unless circumstances arise which are sufficient to warrant the Trustees in their absolute discretion to adjust the interim rate.

9. TRUSTEE/S OF THE FUND

(Including differing rules for excluded funds with up to four members and non-excluded funds with five or more members)

9.1 OPTIONS OF TRUSTEESHIP OF THE FUND:

(Rules for all Funds-from 1 July 1995)

Any constitutional corporation can apply to the ISC for approval as a Trustee for the purposes of the SIS Act (section 23). The Principal Employer or Original Member, prior to Trustees being appointed or, where appointed, the Trustees have the sole and absolute discretion to make an election to become a Public Offer Fund irrespective of anything in the governing rules of the Fund. Such election is to be made on the approved form to the Commissioner and is irrevocable once granted, other than to appoint another Professional Trustee and retain the fund as a Public Offer Fund. The Trustee of the Public Offer Fund cannot be an individual and must be a company of substance with at least five million dollars of net tangible assets or a bank guarantee for a similar amount approved by the

Commissioner. Trustees are advised to consider Rules 9.7 and 10.13 prior to electing to become a Public Offer Fund;

All individual Trustees and directors of corporate Trustees for both excluded and non-excluded funds, including director members of a board of trustees and additional independent trustees or additional trustee directors or an Independent Trustee appointed including, if applicable, the Trustee of a Public Offer Fund, must sign a "Consent to Appointment and Declaration as to Status" as per Rule 9.6;

Excluded Funds: (Funds with less than five members not electing to become a Public Offer Fund) the Principal Employer or Original Member of an excluded Fund has the sole and absolute discretion to appoint or dismiss the Trustee or Trustees of the Fund;

Non-excluded Funds with more than four but less than fifty members: The Principal Employer or Original Member initially has the sole and absolute discretion to elect the method by which the Fund complies with the Act including, but not limited to, the choice of trustee options. The Fund must comply with either the Equal Representation Rules or have a single Independent Corporate Trustee which is subject initially to the agreement of the Principal Employer or Original Member and Members or, once appointed, the Trustee and the Members, plus approval by the Commissioner as per Rule 9.24 or elect to become a Public Offer Fund. The Trustees of a non-excluded Fund, not electing to become a Public Offer Fund or appointing an independent Trustee must comply with the Equal Representation Rules, and the two-thirds voting rule, which thereafter determines the appointment or dismissal of Trustees and individual Employer or Member representatives as individual Trustees or as directors on a board of Trustees;

A non-excluded Fund with fifty or more members: (not electing to become a Public Offer fund). The Principal Employer or Original Member has the sole and absolute discretion to initially elect the method by which the Fund complies with the Act including, but not limited to, the choice of Trustees and the choice of the Equal Representation Rules applying to the Fund, in accordance with the Act. The Trustees, once appointed, must comply with the Equal Representation Rules, and the two-third voting rule which thereafter determine the appointment or dismissal of Trustees and individual Employer or Member representatives as individual Trustees or as directors on a board of Trustees. T

Fund must comply with the Equal Representation Rules if not electing to become a Public Offer Fund.

THE FOLLOWING RULES CONTAIN REQUIREMENTS UNDER THE ACT IN ORDER OF LOGICAL SEQUENCE OF DECISIONS AND OR RELEVANT CONSIDERATIONS

9.2 ONE TRUSTEE MAY ACT AS TRUSTEE

The provisions of Section 7 (2) (c) of the Trustees Act 1962 as amended (Western Australia) shall not apply to the Trusts constituted by the Deed and a sole Trustee may act as Trustee of the Fund irrespective of the number of Trustees appointed from time to time whether or not originally appointed at the time of creation of the Fund. Provided that the sole individual trustee cannot also be the sole individual member of the Fund.

9.3 CORPORATE TRUSTEE WITH ONE DIRECTOR

A company which was incorporated under the Act with a single director is permitted to act as a corporate trustee for a complying superannuation fund.

9.4 EXCLUDED FUNDS WITH LESS THAN FIVE MEMBERS

For Funds with less than five members, the Trustees shall be appointed or dismissed by the Principal Employer or Original Member and all individual Trustees, or directors of the corporate Trustee, shall sign a Consent to Act and a Declaration as to Status as per Rule 9.6.

9.5 FUNDS WITH SELF-EMPLOYED OR NON-EMPLOYEE MEMBERS

Excluded superannuation funds with less than five members who have a self-employed member or a non-employee member who is associated with the Principal Employer or Participating Employer or Original Member or Trustees will not cause the Trustees to apply to become a Public Offer Fund. Non-excluded funds with five or more members with self-employed or non-employee members, or excluded funds with non-associated self-employed or non-employee members shall, unless these members are removed from the fund, or exemption is granted by the Commissioner, cause the Trustees to apply and become a Public Offer Fund, as required by the Act, and appoint a professional trustee. A circumstance in which the Commissioner may grant exemption is a Fund operated by a professional practice (eg, a legal firm) where membership could be likened to an employer- sponsored fund should membership of the fund be a condition of becoming a partner in the firm. Should the retention of a member's benefit in the Fund cause the Trustees to apply to become a Public Offer Fund, and

the Trustees, in their sole and absolute discretion, elect not to become a Public Offer Fund, the Trustees must immediately notify the member in writing that under the Rules of the Fund, the member's benefit can no longer remain in the Fund. The notice to the member shall request the member to roll over (transfer) benefits to another fund and advise that, unless advice is received from the member within 28 days, the member's benefit will be rolled over to the ERF (Eligible Roll Over Fund) nominated. The Trustees are required to state the name and address of the ERF in the notice. Notwithstanding anything contained in the Rules, the Trustees are empowered under this governing rule to roll over (transfer) the member's benefit to the ERF (Eligible Roll Over Fund) nominated.

9.6 NOMINATION AND ACCEPTANCE IN WRITING OF TRUSTEES

All Trustees shall be nominated in writing and are required to agree in writing to be bound by the terms and conditions of the Rules of the Fund and shall sign a Consent to Act and Declaration as to Status. The Declaration is to contain, as appropriate:

9.6.1 To: The Trustees of (name of fund) Superannuation Fund;

9.6.2 I hereby consent to my appointment as a Trustee or Director of the Trustee Company of (name of Trustee) of the (name of the Fund) Superannuation Fund and I agree to be bound by the terms and conditions of the Fund and the Trust Deed and Rules Governing the Fund;

9.6.3 I am not a disqualified person as set out in the Superannuation Industry (Supervision) Act 1993, as I have not at any time:

9.6.3.1 I have not been convicted of any offence relating to dishonest conduct under any Law of any State or any Country; or

9.6.3.2 I have not had a Civil Penalty order under the Act made against me; and

9.6.3.3 I am not an undischarged bankrupt under any Law of any State or any Country; and

9.6.3.4 my property is not subject to control in a bankruptcy context by any person under the Law of any State or any Country; or

9.6.3.5 during the last three years I have not entered into any assignment, arrangement or composition with my creditors under any Law of any State or any Country; and

9.6.4 I further agree and declare that I will immediately notify the Principal Employer or Original Member and Trustees of the Fund in writing should I, or a fellow Trustee, Director, Secretary or Executive Officer of the Trustee Company of the Fund become a disqualified person as defined in the SIS Act and in the Fund's Rules 9.6.3 to 9.6.3.5.

9.7 ELECTION TO BE A PUBLIC OFFER SUPERANNUATION FUND

Any constitutional corporation can apply to the ISC for approval as a trustee for the purposes of the SIS Act (Section 23);

9.7.1 The Principal Employer or the Original Member, prior to trustees being appointed, or where appointed, the Trustees, of an excluded or non-excluded fund of less than or more than five members, may elect that the fund be treated as a Public Offer Fund irrespective of anything in the Governing Rules of the Fund, and appoint a professional trustee. The Principal Employer or Original Member or Trustees are advised to consider Rule 10.13 prior to electing to become a Public Offer Fund;

9.7.2 Such election to be in writing to the Commissioner on the approved form together with the prescribed fee of five hundred dollars or such other amount as may be required, under Common Seal as appropriate;

9.7.3 The Public Offer Fund Trustee must provide to the Commissioner (ISC) a certificate by an independent registered company auditor certifying that the Trustee had at least five million dollars of net tangible assets or an equivalent bank guarantee approved by the Commissioner, at the end of each statement period, being no longer than a twelve-month period;

9.7.4 Such election is irrevocable other than to appoint another professional trustee and retain the fund as a Public Offer Fund;

9.7.5 The Trustee of the Public Offer Fund cannot be an individual and must be a company of substance with at least five million dollars of net tangible assets or a bank guarantee for a similar amount approved by the Commissioner. The Trustee of the Public Offer Fund must sign a Consent to Act and a Declaration

as to Status as per Rule 9.6. Trustees have to fulfil additional obligations, particularly with regard to compliance, disclosure, fair dealing with members and prospectus requirements as per Rule 10.13;

9.7.6 An Employer Sponsor can be a professional trustee of a Public Offer Fund if the said trustee and other Employer Sponsors of the Fund who are associates of the Trustees contribute to the Fund in respect of no more than 10% of members of the Fund, and the combined balances of those members does not constitute more than 10 % of the gross assets of the Fund, or such other higher figure as granted by the Commissioner.

9.7.7 **POLICY COMMITTEE:**

A Policy Committee is only required on request since, for groups of fewer than 50 members, it may be difficult to find enough people willing to sit on a Committee. Funds with more than four member's but fewer than fifty member's can, upon request, and at the sole discretion of the members' of the Fund, request the Trustees to form a Policy Committee. Provided that is obligatory to have a Policy Committee for Funds with 50 or more members. Public Offer Funds with fifty or more member's are required to establish at least one Policy Committee for each individual sub-plan (prescribed group of members). The Policy Committee is elected to represent the views of the members to the Trustees and shall consist of an equal number of Employer and Member representatives with a minimum committee of two persons and a maximum committee of eight persons or such higher number as decided upon at the sole and absolute discretion of the Policy Committee for each Sub-Plan, who must represent all of the members and categories of members within the Fund or sub-plan. Members are defined as employee members and or non-employee members or self-employed members or members in receipt of immediate fixed-term annuity, allocated pension or lifetime pension benefits, beneficiaries of same, and members with deferred benefits in the Fund (which could include dependants or beneficiaries or ex- members). The Policy Committee provisions and functions are:

- 9.7.7.1** The Trustees shall take steps to notify the Principal Employer or Original Member and members by letter or in the form of a Election Notice that an equal number of Employer or Original Member and Member representatives are required to form a Policy Committee being a minimum of two (2) and a maximum of eight (8) or such higher maximum number as may be determined (at the sole and absolute discretion of the Policy Committee) and that the Principal Employer or Original Member and the Members elect the nominated number of representatives as stated in the said advice and reply within 30 days of receipt of the letter or election notice;
- 9.7.8** Should there be more applications received than positions stated in the letter or Election Notice then a poll or vote is called for to elect the Policy Committee members;
- 9.7.9** The Principal Employer or Original Member upon receipt of advice of both the Employer representatives and the member representatives shall convene a meeting as soon as practicable ensuring that a chairperson is elected at that meeting who shall have a deliberative vote but not a casting or second vote and take the necessary steps to ensure that the following matters are tabled:
- 9.7.9.1** The Investment Strategy of the Fund;
- 9.7.9.2** The Performance of the Fund;
- 9.7.9.3** Reporting requirements, including but not limited to, Prospective (New) Member's Advice, Member's Benefit Statement, Fund Statement, Cessation of Membership and Discharge Statements and Rollovers;
- 9.7.9.4** Administration of the Fund:
- 9.7.9.5** General Business;
- 9.7.9.6** Date of next Policy Committee meeting which must be at least annually;

- 9.7.10** The term of office as Employer or Original Member or Member representatives for the purpose of the Policy Committee is infinite unless otherwise decided by the Policy Committee;
- 9.7.11** An Employer or Original Member or Member representative can be removed and a new representative elected provided that a meeting is convened of which at least 7 days, prior written notice is given, following the two-thirds voting rule, to remove or appoint the said representative. The members of the Fund may be able to remove the Policy Committee, or a member of the Policy Committee, by submitting a petition to the Trustees which contains the majority vote of the members of the Fund. The petition can demand a meeting to force an election of new Policy Committee representatives, or the removal or appointment of a Policy Committee representative at that meeting, which then follows the two-thirds voting rule. An Employer or Original Member or Member representative must give 30 day's notice in writing of resignation and a replacement representative is required to be appointed within 90 days of expiry of the said resignation notice. There are circumstances where a representative can be removed other than by the same procedure in which appointment occurred. Removal of a representative can occur in the event of:
- 9.7.11.1** death;
 - 9.7.11.2** mental or physical incapacity;
 - 9.7.11.3** the person becoming a "disqualified person" as defined in part 15 of the SIS Act (ie, as a result of insolvency, during the period of insolvency, or being convicted of dishonest conduct under the SIS Act);
 - 9.7.11.4** the Trustees being suspended or removed by the Commissioner under part 17 of the SIS Act (eg, where the Commissioner is concerned about the financial position of the Fund);
 - 9.7.11.5** resignation from the position of representative;

- 9.7.11.6 expiration of the tenure of the appointment; or
- 9.7.11.7 the representative ceasing to satisfy a condition that was required to be eligible for appointment; In addition, removal of the Member representative can occur:
- 9.7.11.8 on retirement or other termination of the Member or;
- 9.7.11.9 when the representative ceases to be a member of the fund;

9.7.12 VOTING RULE:

The two-thirds voting rule shall apply which is based on the total number of Policy Committee member's, not two thirds of those present at a meeting. Therefore, if a policy committee has eight individual member's there would need to be at least six of those member's present, or proxy votes presented to total six votes, as per Rule 9.15, at a meeting, before any decisions could be made. Any decisions made at the meeting would have to be unanimously supported by all member's who were present representing those six votes. Two persons shall constitute a quorum. There is no requirement or need for a quorum greater than two persons under the two-thirds voting rule to pass a motion, provided that the appropriate number of proxy votes were submitted as per Rule 9.15.2. Provided further, the Act does not specify that the two-thirds voting rule must apply to a Policy Committee. The member's of the Policy Committee may by resolution (minute), adopt differing voting rules including the decision to include, or not include, proxy votes and the number of persons that constitute a quorum;

- 9.7.13 The policy committee can dissolve itself. However, if at least five members of the fund for which the policy committee functions requests the Trustees to form a replacement committee, the Trustees must, within 90 days, take all reasonable steps to do so;

A meeting may be held wholly or in part by telephone connection among the Policy Committee members and, if a representative of the Trustees has been requested to attend, the Trustees

Representative must attend the Policy Committee Meeting. The Trustees are to ensure that meetings are held at least annually and to provide facilities that reasonably meet the needs of the Policy Committee to meet and function effectively;

9.7.14 POLICY COMMITTEE EXPENSES:

The Trustees may recoup from the Fund the cost of providing facilities for the Policy Committee to meet, which includes but is not limited to, the costs incurred in attending the meeting and in providing information to the Committee. The amount of the costs recouped is charged against the members' benefits in the Fund in a fair and reasonable manner as between all members of the Fund and the various kinds of benefits for each member of the Fund.

9.8 NON-EXCLUDED FUNDS WITH MORE THAN FOUR BUT LESS THAN FIFTY MEMBERS

The Principal Employer or the Original Member, prior to a Trustee being appointed, or, where appointed, the Trustees, in accordance with the two-thirds voting Rule 9.15, has the sole and absolute discretion by elect the method by which the Fund complies with the Act including, but not limited to, the choice of trustee options and the choice of the Equal Representation Rules applying to the fund in accordance with the Act, provided that the Fund must either:

9.8.1 Have a single independent corporate Trustee, as per Rule 9.24 which is:

- 9.8.1.1** appointed following nomination by agreement between a majority of fund members and the employer/s of those members; and
- 9.8.1.2** agreement to the nomination of a Trustee which must be solely between the Employers and the Members. An organisation representing the interest of either an Employer or a Member must not be a party to the agreement; and
- 9.8.1.3** approved by the Commissioner under the SIS Act; and
- 9.8.1.4** not associated with any standard Employer Sponsors of the Fund; or

9.8.2 Have a group of individual Trustees which shall:

- 9.8.2.1** consist of an equal number of Employer representatives and Member representatives being a minimum total of two (2) and a maximum total of eight (8) or such higher number as decided upon at the sole and absolute discretion of the Trustees; or

9.8.3 Have a board of Trustees which shall:

9.8.3.1 be a corporate Trustee which can be the corporate Employer Sponsor or a separate corporation formed solely for the purpose of being the corporate Trustee of the Fund; and

9.8.3.2 consist of an equal number of Employer representatives and Member representatives being a minimum total of two (2) and a maximum total of eight (8) or such higher number as decided upon at the sole and absolute discretion of the Trustees; and

9.8.3.3 all Employer and Member representatives on the board of Trustees must be directors of the corporate Trustee; or

9.8.4 Elect to become a Public Offer Fund: and

9.8.4.1 make application to the Commissioner as per Rule 9.7;

All employer and member Trustee representatives are required to sign a Consent to Act and a Declaration as to Status stating that they are not disqualified persons as per Rule 9.6 and that they will immediately notify the Trustees and the Principal Employer or Original Member should they become a disqualified person. A disqualified person is defined as a person who has been convicted of an offence involving dishonesty or a bankrupt within the period of bankruptcy or a company which is in receivership or which has a director or executive officer who has been convicted of dishonesty or is insolvent or a civil penalty order has been applied under the SIS Act or is being removed as trustee by the Commissioner under part 17 of the SIS Act (where the commissioner is concerned about the financial position of the Fund) or if the independent trustee or independent director ceases to be independent. There is no requirement to notify, or apply for approval from, the Commissioner when appointing a group of Trustees or a board of Trustees.

9.9 EMPLOYER REPRESENTATIVE:

9.9.1 Employer representative is defined in section 10 of the SIS Act as a member of the group of Trustees or board of Trustees, as the case may be, nominated by the Employer or Employers of the Fund members, or an organisation representing the interests of the Employer or Employers. For example, in a multi-employer Fund an Employer representative may also be nominated by:

- 9.9.1.1 one or more of the Employers of the members; or
- 9.9.1.2 one or more organisations representing the interests of one or more of those Employers; or
- 9.9.1.3 one or more of the Employers and one or more organisations representing the interests of one or more of the other Employers.

9.10 MEMBER REPRESENTATIVE:

- 9.10.1 Member representative is also defined in section 10 of the SIS Act. It means a member of the group of Trustees or board of Trustees, as the case may be, nominated by the members of the Fund or an organisation representing their interests (such as a trade union). It is not necessary for a member representative to be a member of the Fund;

It is important to note that a representative must act in the best interest of all the members and other beneficiaries of the Fund, regardless of whether he or she is a member representative or an employer representative.

9.11 ADDITIONAL INDEPENDENT TRUSTEE OR INDEPENDENT DIRECTOR

- 9.11.1 In addition to the member representatives and employer representatives, a group of Trustees may include a Trustee who is not a member representative or employer representative and still meet the basic Equal Representation Rules. Similarly, a board of a corporate Trustee may include a director which is not a member representative or employer representative and still meet the basic Equal Representation Rules. The additional Trustee or director is not empowered to exercise a casting or second vote in any proceedings of the group of Trustees or board of Trustees. This is possible provided the following conditions are met:
 - 9.11.1.1 The additional trustee or director is "independent" as defined in Rule 9.12;
 - 9.11.1.2 The additional trustee or director is appointed at the request of the employer representatives or member representatives;

The reason there is scope to appoint an additional independent trustee/director is that such a person may bring to the role a special skill or expertise which either assists with decision

making on certain issues or assists with the decision making process. The appointment of an additional independent trustee/director is subject to the consent of the Trustees as a whole. Thus, a request by some of the trustees or directors to appoint an additional independent trustee or director would need to be considered by the others.

9.12 DEFINITION OF “ INDEPENDENT “

9.12.1 The additional trustee or director is “ independent” if the trustee or director is :

- 9.12.1.1** not a member of the Fund ; and
- 9.12.1.2** not an Employer Sponsor or “associate” (as defined in Section 12 of the SIS Act) of an Employer Sponsor of the Fund; and
- 9.12.1.3** not an employee of an Employer Sponsor of the Fund or an employee of an associate of such an Employer Sponsor ; and
- 9.12.1.4** not in any capacity a representative of an organisation (such as a trade union) representing the interests of one or more members of the Fund ; and
- 9.12.1.5** not in any capacity a representative of an organisation representing the interests of one or more Employer Sponsors of the Fund ;

Where a corporate Trustee of a Fund (in addition to performing its duties as Trustee of the Fund) pays Employer contributions to the Fund, it will be an Employer Sponsor of the Fund. In these circumstances a technical difficulty arises in that any person who is appointed as a director of the corporate Trustee would be an associate of an Employer Sponsor, and therefore could not be an “additional independent director”. However, the ISC is considering the need to enable such a person to be considered as an additional independent director where no contributions are made to the Fund in respect of that person.

9.13 VOTING RIGHTS OF THE ADDITIONAL INDEPENDENT TRUSTEE OR DIRECTOR

9.13.1 An additional independent trustee or director is allowed a deliberative vote but not a casting vote. That is, they can vote in the normal course of proceedings (as can all trustees or directors) but they cannot have an additional “second vote”.

9.14 MORE THAN ONE ADDITIONAL INDEPENDENT TRUSTEE OR DIRECTOR

9.14.1 The general rule is that only one “ additional independent trustee” or “additional independent director ” is allowed. However, where a trustee seeks a departure from this rule, upon request, the Commissioner will consider the individual circumstances of the case. In some cases, the Commissioner may decide not to take action against a departure from the general rule, provided:

9.14.1.1 the decision to appoint the additional independent trustee or director was decided on by the Trustee vote in accordance with the two-thirds voting rule as defined in Rule 9.15; and

9.14.1.2 the two-thirds voting rule is not diluted. For example, if a Fund has two Member representatives, two Employer representative and two additional Independent Trustees then the two Employer representatives and two additional Independent Trustees could (in accordance with the two-thirds voting rule) decide on issues without resort to the Member representatives. If such a scenario were to arise then the commissioner would be unlikely to allow the appointment of the second additional Independent Trustee.

9.15 THE TWO-THIRDS VOTING RULE

9.15.1 Where a non-excluded Fund is required to comply with the basic Equal Representation Rules then no decision can be made by the group of Trustees or the board of the corporate Trustee (as the case may be) unless two-thirds of the total number of Trustees, or directors on the board of Trustees vote in favour of the decision;

9.15.2 A proxy vote is permitted provided that it is in writing and is received within forty-eight hours of the meeting at the nominated address of the Fund. The proxy vote shall contain as applicable:

9.15.2.1 The name of the Fund;

9.15.2.2 The address of the Fund;

9.15.2.3 The name of the Trustee representative;

9.15.2.4 The notified date of the meeting;

9.15.2.5 The direction to vote on a particular issue (which is optional);

9.15.2.6 The primary nominated person to whom the proxy vote is granted;

9.15.2.7 The secondary nominated person to whom the proxy vote is granted should the primary person not be present at the meeting;

9.15.3 The two-thirds voting rule is based on the total number of trustees or directors, not two thirds of those present at a meeting. Therefore, if a Fund has eight individual Trustees then there would need to be at least six of those Trustees present, or proxy votes presented to total six votes, at a meeting before any decisions could be made. Any decisions made at the meeting would have to be unanimously supported by all Trustees who were present representing those six votes. Two persons shall constitute a quorum. There is no requirement or need for a quorum greater than two persons under the two-thirds voting rule to pass a motion, provided that the appropriate number of proxy votes were submitted. Employer or Member representatives can be appointed or removed by the Trustees through the two-thirds voting rule provided that a meeting in convened and at least 7 days, prior written notice is given. The members of the Fund may be able to remove the representatives, or one or more of the representatives, by submitting a petition to the Trustees which contains the majority vote of the members of the Fund. The petition can demand a meeting to force an election of Trustee representatives, or the removal or appointment of a representative. The duly appointed representatives shall, at that meeting, vote in accordance with the two-thirds voting rule. Representatives can be removed by an event such as, but not inclusive of: resignation, mental or physical incapacity, death, the person becoming disqualified as a result of insolvency (being applied during the period of insolvency) or being convicted of a dishonest conduct offence or civil penalty under Part 17 of the SIS Act. Member representatives can also be removed where the member retires or ceases employment or ceases to be a member of the Fund;

9.15.4 Where a Fund has chosen to comply with the alternative agreed

representation rules instead of the basic Equal Representation Rules, the two-thirds voting rule does not apply.

9.16 NON-EXCLUDED FUNDS WITH FIFTY OR MORE MEMBERS

The Principal Employer or the Original Member prior to Trustees being appointed, or where appointed the Trustees, in accordance with the two-thirds voting rule (9.15), has the sole and absolute discretion to elect the method by which the Fund complies with the Act including, but not limited to, the choice of Trustee options and the choice of the Equal Representation Rules applying to the Fund in accordance with the Act, provided that the Fund must either:

9.16.1 Have a group of individual Trustees which shall:

9.16.1.1 Consist of an equal number of Employer representatives and Member representatives being a minimum total of two (2) and a maximum total of eight (8) or such higher number as decided upon in the sole and absolute discretion of the Trustees; or

9.16.2 Have a board of Trustees which shall:

9.16.2.1 Be a corporate Trustee which can be the corporate Employer Sponsor or a separate corporation formed solely for the purpose of being the corporate Trustees of the Fund; and

9.16.2.2 Consist of an equal number of Employer representatives and Member representatives being a minimum total of two (2) and a maximum total of eight (8) or such higher number as decided upon at the sole and absolute discretion of the Trustees; and

9.16.2.3 All Employer and Member representatives on the board of Trustees must be directors of the corporate Trustee; or

9.16.3 Elect to become a Public Offer Fund; and

9.16.3.1 make application to the Commissioner to become a Public Offer Fund as per Rule 9.7;

Provided that all of the Rules from 9.9 to 9.15.3 of this Deed shall also apply to Funds with 50 (fifty) or more members. All employer and member Trustee representatives are required to sign a Consent to Act and a Declaration as to Status as per Rule 9.6 stating that they are not disqualified persons and that they will notify the Trustees and the Principal Employer or Original Member immediately should they become a disqualified person. A disqualified person is defined as a person who has been convicted of an offence involving dishonesty, or a bankrupt within the period of bankruptcy, or a company which is in receivership, or which has a director or executive officer who has been convicted of dishonesty or is insolvent or in respect of whom or a civil penalty order has been issued under the SIS Act, or who is being removed as Trustee by the Commissioner under Part 17 or the SIS Act (where the Commissioner is concerned about the financial position of the Fund) or if the independent trustee or independent director ceases to be independent. There is no requirement to notify, or apply for approval from, the Commissioner when appointing a group of Trustees or a board of Trustees.

9.17 PENALTIES

9.17.1 It is not an offence to contravene the Equal Representation requirements in part, of the SIS Act. However, a contravention of the Equal Representation requirements could lead to the Commissioner issuing a notice to the Trustees directing that no more employer contributions can be made to the Fund (under section 63 of the SIS Act). It is an offence, however, to intentionally or recklessly contravene the requirements:

- 9.17.1.1** to establish procedures for appointing and removing Member representatives of a group of Trustees or a board of Trustees;
- 9.17.1.2** to establish procedures for removal of additional independent Trustees or directors;
- 9.17.1.3** to ensure that the standards applicable to the operation of the Fund, which may include the two-thirds voting rule, are complied with at all times;

The penalty for contravention is a fine of up to \$10,000 in the case of individual Trustees, or \$50,000 in the case of corporate Trustees.

9.18 MORE MEMBER REPRESENTATIVES THAN EMPLOYER REPRESENTATIVES

9.18.1 The basic Equal Representation Rules specifically require equal numbers of employer representatives and member representatives. There may be cases where a Fund is proposed to be structured with more member representatives than employer representatives. The Commissioner would not take any action against such an arrangement provided that the Trustees could provide evidence that the Employer/s or their representatives do not object to it.

9.19 VACANCIES

9.19.1 From time to time a vacancy will occur in the membership of a group of Trustees or on the board of a corporate Trustee. The Fund is taken to have complied with the basic Equal Representation rule during a period of vacancy provided that:

9.19.1.1 immediately before the vacancy occurred the Fund complied with the basic Equal Representation Rule; and

9.19.1.2 the vacancy was filled within 90 days of it occurring; and

9.19.1.3 immediately after the vacancy was filled the Fund complied with the basic Equal Representation Rule;

If during the 90 day period for one vacancy another vacancy arises, a separate 90 day period applies for the later vacancy.

9.20 WHERE FUNDS INCREASE IN SIZE

9.20.1 A Fund which moves from having more than 4 but fewer than 50 members to having 50 or more members has up to 90 days to comply with the provisions that apply to funds with 50 or more members. During this transitional period, funds are required to comply with the requirements applying to funds with fewer than 50 members;

9.20.2 The Commissioner has also decided to modify the requirements to allow funds which move from having fewer than five members to having 5 or more members up to 90 days to comply with the provisions that apply to funds with 5 or more members. Similarly, if the membership number jumps from fewer than 5 to 50 or more, funds are allowed up to 90 days to comply with the

provisions that apply to funds with 50 or more members.

9.21 EQUAL REPRESENTATION (APPOINTMENTS AND PROCEDURES)

- 9.21.1** The Principal Employer or Original Member of a non-excluded fund consisting of five (5) or more members shall, if electing to have Equal Representation Trustees, either as a group of individual Trustees or as directors on a board of the corporate Trustee, shall take steps to notify the Principal Employer or Original Member and Members in writing within 30 days, that an equal number of employer or original member and member representatives are required including, if appropriate, the inclusion of an independent trustee or director being a minimum total of two (2) and a maximum total of eight (8) or such higher number at the sole and absolute discretion of the Principal Employer or Original Member, prior to Trustees being appointed, or the Trustees when appointed:
- 9.21.2** The notification to state that written replies must be received within 28 days of the date of the advice;
- 9.21.3** Should there be more applications received than positions stated in the letter or Election Notice then a poll or vote is called for to elect the Trustee representatives;
- 9.21.4** The Principal Employer or Original Member upon receipt of advice of both the Employer representatives and the Member representatives shall convene a meeting as soon as practicable ensuring that a chairperson is elected at the meeting who shall have a deliberative vote but not a casting or second vote;
- 9.21.5** The term of office of Employer or Original Member or Member representatives as Trustees for the purpose of the Equal Representation Rule is, unless otherwise agreed upon by the Trustees, as infinite. Provided that the Trustees retain absolute discretion as to the continuance of, and the choice of, the Equal Representation Rules and can instigate changes, as and if decided upon, in accordance with the Act;
- 9.21.6** Where a Fund is required to comply with the basic Equal Representation Rules then no decisions can be made by the group of Trustees or board of the

corporate Trustee (as the case may be) unless two thirds of the total number of trustees, or directors on the board, vote in favour of the decision;

9.21.7 The two-thirds voting rule as defined in Rule 9.15, is based on the total number of trustees or directors, not two-thirds of those present at a meeting. Therefore, if a Fund has eight individual trustees then there would need to be at least six of those Trustees present, or proxy votes presented to total six votes, at a meeting before any decisions could be made. Any decisions made at the meeting would have to be unanimously supported by all Trustees who were present representing those six votes. Two persons shall constitute a quorum. There is no requirement or need for a quorum of more than two persons under the two-thirds voting rule, to pass a motion, provided that the appropriate number of proxy votes were presented as defined in Rule 9.15.2;

9.21.8 Where the Fund has obtained approval from the Commissioner to have an independent trustee or has elected to become a public offer fund, the Equal Representation rule does not apply;

9.21.9 Where a Fund increases or decreases its membership the Trustees have 90 days to comply with the appropriate Equal Representation requirements;

9.21.10 Public Offer Funds which have a Sub-Plan of 50 members or more must have a Policy Committee for each Sub-Plan, if applicable, with Equal Employer, Original Member and Member Representatives to advise the Trustees of the management of the Sub-Plan. The procedure required by the Trustees to formulate and give effect to a Policy Committee is stated in Rule 9.7.7;

Provided that persons who have been convicted of an offence involving dishonesty, and bankrupts (during the bankruptcy period imposed) will not be permitted to become or to remain as Trustees. Companies which are in receivership, or which have a director or executive officer who has been convicted of an offence involving dishonesty or are insolvent will be prohibited from being trustees. Such persons or body corporate are to be dismissed as Trustees within 30 days by notice in writing and appropriate steps taken to instigate new Trustees within 30 days of expiry of such notice.

9.22 EQUAL REPRESENTATION (REMOVAL OR APPOINTMENT OF TRUSTEE REPRESENTATIVES)

9.22.1 An Employer or Original Member or Member Trustee representative can be removed and a new representative appointed provided that a meeting is convened by the Trustees, of which at least 7 day's prior written notice is given and a two thirds vote is obtained to remove or appoint the said representative. The members of the Fund may be able to remove the representative, or one or more of the representatives, by submitting a petition to the Trustees which contains the majority vote of the members of the Fund. The petition can demand a meeting to force an election of Trustee representatives, or the removal or appointment of a representative. The duly appointed representatives, shall at that meeting, vote in accordance with the two-thirds voting rule. The two-thirds voting rule as defined in Rule 9.15, is based on the total number of Trustee representatives, not two-thirds of those present at a meeting. Therefore, if a Fund has eight individual Trustees then there would need to be at least six of those trustees present, or proxy votes presented to total six votes at that meeting, before any decisions could be made. Any decisions made at the meeting would have to be unanimously supported by all Trustees who were present representing those six votes. Two persons shall constitute a quorum. There is no requirement or need for a quorum of more than two persons under the two-thirds voting rule to pass a motion, provided that the appropriate number of proxy votes were presented as defined in Rule 9.15.2;

9.22.2 An Employer or Original Member or Member Representative must give 30 days notice in writing of resignation and a replacement representative is required to be appointed within 90 days of expiry of the said resignation notice;

9.22.3 There are circumstances where a member representative or additional independent trustee or director can be removed other than by the same procedure in which appointment occurred. Removal of either a member representative or additional independent trustee or director can occur in the event of:

- 9.22.3.1 death;
- 9.22.3.2 mental or physical incapacity;
- 9.22.3.3 the person becoming a “ disqualified person” as defined in part 15 of the SIS Act (ie, as a result of insolvency, during the period of Insolvency) or being convicted of a dishonest conduct offence, or being the subject of a civil penalty order under the SIS Act);
- 9.22.3.4 the Trustees being suspended or removed by the Commissioner under Part 17 of the SIS Act (eg, where the Commissioner is concerned about the financial position of the Fund);
- 9.22.3.5 resignation from the position of member representative or additional independent trustee or director;
- 9.22.3.6 expiration of the tenure of the appointment; or
- 9.22.3.7 the member representative or additional independent Trustee or director ceasing to satisfy a condition that they were required to satisfy to be eligible for appointment. In addition, removal of the Member representative can occur:
 - 9.22.3.8 on retirement or other termination of employment; or
 - 9.22.3.9 when the member representative ceases to be a member of the Fund;
 - 9.22.3.10 removal of an independent trustee or director if the person ceases to be independent.

9.23 EQUAL REPRESENTATION (NOTIFICATION TO MEMBERS)

Once the rules for Appointment and Removal are established, the Trustees must publish them in a way that will make Fund members aware of the procedures for appointment and removal of member representatives and (if relevant) the procedure for removal of additional independent directors or trustees. For most Funds the most efficient way to ensure that all members are made aware of the procedures would be by including them in the Member Booklet or written advice given to members at the time they join the Fund, or soon after. Posting the rules for appointment and removal on a work

notice board would not normally meet the requirements to publish the rules in way that would make members aware of the procedures, as Fund Trustees could not normally be satisfied that all Fund members would read the work noticeboard.

9.24 INDEPENDENT TRUSTEE

Funds with membership of between 5 and 49 members can waive the Equal Representation Rules provided that the following conditions are complied with:

- 9.24.1** The Fund has less than 50 members;
- 9.24.2** The independent trustee must be a corporate trustee;
- 9.24.3** The corporate trustee is independent of the principal employer, original member or participating Employer; provided that a trustee who is an employer sponsor of a fund will be considered independent if:
 - 9.24.3.1** no more than 10% of the members of the Fund have an employer sponsor in the Fund who is a trustee or an associate of a trustee; and
 - 9.24.3.2** the value of the accrued assets of those members is no more than 10% of the market value of the Fund assets; and
 - 9.24.3.3** the trustee is not a member of the Fund and is not an employee of an employee sponsor of the Fund or an employer of an associate of an employer sponsor; and not in any capacity a representative of an organisation (such as a trade union) representing the interest of one or more members of the Fund; and not in any capacity a representative of an organisation representing the interests of one or more employer sponsors of the Fund;

The modification also provides that the Commissioner can approve a percentage higher than either of the 10% limits referred to above in individual circumstances (the approval, if given, may be for a limited time and subject to certain conditions);

- 9.24.4** The Trustees have been appointed following agreement between the principal employer or original member and a majority of fund members who can also dismiss the said independent trustee by the same procedure and appoint

another independent trustee or comply with the Equal Representation requirement considerations as per Rules 9.21 and 9.22;

- 9.24.5** The Trustees cannot include a person or persons who have been convicted of an offence involving dishonesty or is a bankrupt during the bankruptcy period imposed or, in the instance of a Corporate Trustee, which is in receivership or includes a director or executive officer who has been convicted on an offence involving dishonesty or is insolvent;
- 9.24.6** Application must be in writing and issued to the Commissioner;
- 9.24.7** The Trustees have been approved by the Commissioner;
- 9.24.8** The Fund must comply with the Policy Committee requirements, if applicable, as defined in Rule 9.7.7;

Provided that the Trustees shall within 90 days from the date on which the Fund surpasses 50 Members, take the necessary steps to enable the Fund to continue to comply with the Act.

9.25 INVESTMENT MANAGERS WITHIN THE FUND

The Trustees may designate either specific individuals within a group of individual Trustees or specific director/s of a board of Trustees of the corporate Trustee or a specific individual or corporation to be investment managers responsible to the Trustees who hold the sole and absolute power to make decisions. These investment managers are not to be confused with the following title, being Independent Investment Managers.

9.26 INDEPENDENT INVESTMENT MANAGERS

The Trustees may, by written agreement, for an excluded fund with less than five members, appoint an Independent Investment Manager or Managers, which could be individuals or corporations. An excluded fund appointed Independent Investment Manager need not be required to satisfy the disqualified persons requirements, but is required to sign a modified statement pertaining to Consent to Act as stated within Rule 9.6. A non-excluded fund with five or more members may, by written agreement of the Principal Employer and/or Original Member Employer representatives and Member representatives as Trustees, or through a board of Trustees satisfying the equal representation requirements, appoint a Corporate Independent Investment Manager or corporate managers. Independent Investment Managers are not required to hold five million dollars of net tangible assets and/or an equivalent approved

bank guarantee approved by the Commissioner, provided that the Independent Investment Manager is not a Public Offer Fund. The Independent Investment Manager or Managers of a non-excluded fund must sign a modified statement similar to that of Rule 9.6 pertaining to Consent to Act and Declaration as to Status;

9.26.1 Individuals are ineligible to act as the Independent Investment Manager for non-excluded funds with five or more members;

9.26.2 The Trustees must ensure that the agreement contains adequate provision to enable the Trustees to acquire from the Independent Investment Manager all information deemed by the Trustees to be relevant to the Fund. Such information is to include, but not be limited to:

9.26.2.1 Provision of appropriate information on a regular basis as to the making of, and return on, the investments; and

9.26.2.2 Provision of such information as is necessary to enable the Trustees to assess the capability of the Independent Investment Manager; and

9.26.2.3 Whenever it is necessary or desirable to do so, provision to require the Independent Investment Manager to provide said information;

9.26.3 The Independent Investment Manager cannot appoint or engage a custodian without the written authority of the Trustees or engage a professional trustee, as required for a Public Offer Fund, without the written authority of the Trustees;

9.26.4 The Trustees can terminate the agreement at any time despite anything contained within the agreement and is not under any liability to the Independent Investment Manager for cancellation of such agreement;

9.26.5 Despite anything in the Governing Rules of the Superannuation Fund, any provision of an agreement between the Trustees of the Fund and an Investment Manager that purports to exempt the Investment Manager from liability for negligence, or to limit that liability, is void;

9.26.6 If any individual investment Manager of a non-excluded fund over his/her lifetime has been convicted of an offence arising out of a law of the commonwealth, State or a Territory or a foreign country, being an offence of dishonest conduct, or if a civil penalty order was made in relation to that person; or the person is an insolvent under administration or that person is a director of the corporate body of the Investment Manager of a non-excluded fund. Then the Trustees must remove the Investment Manager or have the Investment Manager remove that person within 28 days of notification by the Trustees;

9.26.7 A body corporate must be removed within 28 days as Investment Manager to the non-excluded fund if a receiver or a manager has been appointed in relation to property beneficially owned by the body corporate or a professional liquidator has been appointed and the body corporate has commenced to be wound up.

9.27 NOTIFICATION OF INELIGIBLE INVESTMENT MANAGER

An investment manager which becomes ineligible whilst managing superannuation monies will be obliged to notify the Trustees and the ISC immediately and the Trustees will be obliged to make arrangements for the orderly withdrawal of funds from that Investment Manager as soon as practicable and either appoint a new manager or take on this responsibility as Trustees or make other arrangements in accordance with the Act.

9.28 DEALING IN SECURITIES (BANK BILLS, SHARES, MANAGED INVESTMENTS, ETC)

Trustees of an excluded Fund with less than five members who deal in securities solely on behalf of the Fund in their capacity as Trustees of the Fund are not required to hold a Dealer's Licence. Trustees of non-excluded Funds with five or more members if dealing direct will be required to hold a Dealer's Licence. Should Trustees of excluded or non-excluded Funds utilise the services of a licensed representative holding a letter of authority to deal in securities, or a licensed dealer or Licensed Stockbroker, will not be required to hold a Dealer's Licence.

9.29 TRUSTEES CRITERIA

The appointment and removal of the Trustees of the Fund shall be governed by the criteria specified herein or pursuant to such other criteria, rules and regulations as may be promulgated by the Act.

9.30 CONTINUITY OF OFFICE

Any person who acts as a Trustee shall on ceasing to be a Trustee pursuant to this rule do everything necessary to vest the Fund in the remaining or new Trustees and shall deliver all records and other books to the remaining or new Trustees.

9.31 DUTIES OF TRUSTEES

The fiduciary obligations of Trustees are codified in the Act, and these obligations cannot be avoided or modified. They require the Trustees:

- 9.31.1 To act honestly in all matters concerning the fund;
- 9.31.2 To exercise, in relation to all matters affecting the fund, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
- 9.31.3 To ensure that the Trustees duties and powers are performed and exercised in the best interests of the beneficiaries;
- 9.31.4 To keep the money and other assets of the Fund separate from any money and assets, respectively;
 - 9.31.4.1 that are held by a Trustees personally; or
 - 9.31.4.2 that are money or assets, as the case may be of an Employer-Sponsor, Original Member or an associate of an Employer-Sponsor, or Original Member of the Fund; ,
 - 9.31.4.3 not to enter into any contract, or do anything else, that would prevent the Trustees from, or hinder the Trustees in, properly performing or exercising the Trustees functions and powers;
 - 9.31.4.4 if there are any reserves of the Fund to formulate and give effect to a strategy for their prudential management, consistent with the Fund's investment strategy objectives and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;
 - 9.31.4.5 to allow a beneficiary access to any prescribed information or any prescribed documents.

9.32 TRUSTEES MEETINGS

- 9.32.1** The Trustees shall hold meetings for the conduct of business and regulate their meetings in such a manner as they think fit. Unless otherwise determined by the Trustees (2) two Trustees shall constitute a quorum unless there is only one (1) Trustee in which case that Trustee shall constitute a quorum. Any matter may be determined by a majority of the Trustees voting at any duly constituted meeting of the Trustees and such majority decision shall be deemed to be the decision of the Trustees. Each Trustee present at such a meeting shall be entitled to one (1) vote and in the case of an equality of votes the chairman shall have a deliberative vote but is not entitled to have a casting or second vote. Provided that for non-excluded funds following the Equal Representation rules, the two thirds voting rule shall apply as per Rule 9.15;
- 9.32.2** A resolution in writing of an excluded fund, signed by all the Trustees, or if the Trustee is a company, by all the Directors thereof, shall be as valid and effectual as if it had been passed at a meeting of the Trustees or of the directors of the Trustee company duly convened and held. Non-excluded funds shall abide by the Equal Representation rule and the two-thirds voting rule as appropriate;
- 9.32.3** The Trustees may appoint a secretary who may be a Trustee. Minutes shall be kept and there shall be entered in such minutes particulars of all meetings of the Trustees. Such minutes shall be signed by the chairman of the meeting. Any minutes so signed shall in the absence of fraud be prima facie evidence of the matters stated in such minutes;
- 9.32.4** An incorporated company acting as sole Trustee shall be a quorum and shall be competent to decide all questions which may properly come before a meeting of the Trustees; provided that the Equal Representation rules have not been breached and that a minimum of two persons were present at that meeting; provided further that
- 9.32.5** A company which was incorporated under the Act with a single director empowers that director to be the sole signatory of that company.

9.33 TRUSTEES RECORDS OF MEETINGS AND FUND RECORDS

Trustees must hold meetings, record minutes and retain all minutes and Fund records for the ensuing ten year period together with accounting records which are required to be held for five years.

9.34 OFFICES OF TRUSTEES

The offices of Trustees shall be filled at all times, but if for any reason there is no Trustee of the Fund at any time, the Principal Employer or Original Member shall undertake the duties of the Trustees to the extent that it is necessary to appoint new Trustees in accordance with the provisions hereof.

9.35 FUND VESTED IN TRUSTEES

The Fund shall be vested in the Trustees and managed by the Trustees upon the terms and conditions and subject to the powers, authorities and discretions contained in these Rules.

9.36 NOTIFICATION OF ADVERSE EVENTS

If the Trustees of a superannuation fund become aware of the occurrence of an event that has had, or may have, a significant adverse effect on the financial position of the Fund, the Trustees must give written notice to the Commissioner setting out particulars of the event not later than the third business day after the Trustees became aware of the event. An event is taken to have had, or perceived to have had, a significant adverse effect on the financial position of a superannuation fund if, as a result of the event, the Trustees will not, or may not, be able, at a time before the next annual report by the Trustees to the beneficiaries, who are entitled to receive the report, to make payments to beneficiaries as and when the obligation to make those payments arises.

9.37 TAXATION LIABILITIES

9.37.1 The Trustees shall be empowered to deduct and remit tax including, but not limited to, contributions tax on all gross deductible contributions, tax on the Fund's net earnings, the superannuation surcharge, if applicable, dependant upon a member's notional taxable income or the appropriate amount of tax on ETP (Eligible Termination Payment) or pension or annuity payments, in accordance with the Act from the assets of the fund and individual members balances or equity and shall establish an account or accounts for this purpose if required;

9.37.2 The Trustees shall deduct from any benefit payable to any member pursuant to this Deed any tax payable (or such tax as the Trustees shall consider is payable) from or in respect of the benefits and shall pay the said tax to the relevant authorities within the required time for payment;

9.37.3 The member or beneficiary shall be entitled to receive only the net benefit of payment after the deduction of tax. Provided however that if, as a result of a member receiving an qualifying eligible termination payment, a refund of Tax is paid to the Trustees by the Australian Taxation Office pursuant to Section 221h (5a) of the Income Tax assessment Act 1936, the Trustees shall pay the full amount of such refund to the payee of such qualifying eligible termination payment.

9.38 TRUSTEES POWERS

In addition to the powers which they have by law and which are otherwise granted to it by this Deed the Trustees shall have the power to administer the Fund in all its details and such power includes, but is not limited to, the right:

9.38.1 To commence, carry on or defend any proceedings related to the Fund or the rights of members, former members and beneficiaries;

9.38.2 To insure or reinsure any risks, contingencies or liabilities of the Fund with any insurance company, financial institution, superannuation fund or like body;

9.38.3 To guarantee, indemnify or become surety for members in accordance with the Act;

9.38.4 To retain the services of professional advisers, whether persons, firms or companies, in relation to the management, administration or investments of the Fund and to delegate to such professional advisers such powers as it shall see fit from time to time and to determine and pay out of the Fund the fees payable to such professional advisers;

9.38.5 To arrange the borrowing of money and the taking up of loans and to arrange for the re-direction of such borrowing's and loans, the securing and repayment of the same in any manner and upon any terms as they may deem advisable in accordance with the Act;

- 9.38.6** To make and give receipts, releases and other discharges for money payable to the Fund and for the claims and demands of the Fund;
- 9.38.7** To determine who shall be entitled to sign on the Fund's behalf receipts, acceptances, endorsements, releases, contracts and documents;
- 9.38.8** To determine, authorise and arrange payment of benefits out of the Fund to persons entitled;
- 9.38.9** To decide who are dependents for the purposes of this Deed;
- 9.38.10** Generally to do all acts and things as the Trustees consider necessary or expedient for the administration, maintenance and preservation of the Fund and in the performance of its obligations under these Rules.

9.39 RESTRICTION OF TRUSTEES POWERS

This Trust Deed shall not:

- 9.39.1** Permit the Trustees to be subject to direction by any other person; or
- 9.39.2** Permit a discretion to be exercised in relation to the Fund without the consent of the Trustees; or
- 9.39.3** Permit the Governing Rules to be amended without the consent of the Trustees; with certain exceptions of which the most important are:
- 9.39.3.1** directions by a Court, the ISC or the Superannuation Complaints Tribunal;
- 9.39.3.2** directions by members or beneficiaries in relation to their own benefits or benefits in specie, Rule 6.9 or where beneficiaries or members have a choice of investments;
- 9.39.3.3** employers or Original Members exercising a right to terminate or reduce contributions;
- 9.39.3.4** employers exercising rights in other circumstances covered by regulations. (It is intended that this should cover circumstances where employers are voluntarily providing superannuation benefits in excess of the Superannuation Guarantee or Award minimum mandatory contribution amount).

9.40 TRUSTEES DISCRETION

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

9.41 TRUSTEES INDEMNITY

9.41.1 The Trustees shall be indemnified against all liabilities incurred by them in connection with any act done or omitted in good faith in the administration of the Fund and shall have a lien on the Fund for such indemnity. The Trustees shall not be liable for any act or default done or omitted in good faith in the administration of the fund or for any loss in the Fund or for any loss or expense incurred by the Fund in connection with the investment of the Fund or for any other loss, damage or misfortune whatever except where due to their own wilful acts or defaults as the case may be;

9.41.2 No Trustee shall be liable for the neglect or default of any solicitor, banker, accountant, actuary, adviser or other agent employed or engaged in good faith by the Trustees or for anything done or omitted to be done by the Trustees, except in the case of fraud, intentional breach of trust or other wilful misconduct on the part of that Trustee;

9.41.3 The Trustees may rely upon any certificate, statement or representation made to them by or on behalf of any member or prospective member with respect to his age, salary, length of service, date of cessation of employment, state of health or other facts required to be determined under any of the provisions of or for any purpose of this Deed; and the Trustees shall not be liable on account of the payment of any monies or the doing or omission of any act or thing in reliance upon any such certificate, statement or representation made by or on behalf of a member which shall be and become final and conclusively binding upon that Member and his dependants and he and they shall be estopped from denying the truth thereof;

- 9.41.4** The Trustees may be indemnified from fund assets for any liability incurred as a Trustee (although such an indemnity does not extend to dishonesty, wilful or reckless negligence, or a civil or criminal penalty imposed for a breach of the legislation);
- 9.41.5** Trustees have the right to seek professional advice on any matter concerning their duties or powers, and the cost of such advice may be paid for out of the Fund;
- 9.41.6** Trustees are protected against victimisation under the Act so that they cannot be pressured or coerced to do things which they believe are not in the interest of beneficiaries;
- 9.41.7** Where Trustees are sued in respect of a loss on any investment, it will be a defence for the Trustees to show that the investment was made in accordance with a properly formulated investment strategy;

There cannot be a provision within the Governing Rules of the Fund which prohibits the Trustees of the Fund from seeking advice from any person in respect of any matter relating to performance of the duties or the exercise of the powers of the Fund, and any provision in the Governing Rules that purports to preclude the Trustees from being indemnified out of assets of the Fund in respect of the cost of obtaining such advice, or to limit the amount of such an indemnity, is overridden by this Rule and is void.

9.42 LIABILITY FOR BREACH OF TRUST BY TRUSTEES

There is a liability for breach of trust if the Trustees:

- 9.42.1** Fail to act honestly in a manner concerning the fund; or
- 9.42.2** Wilfully or recklessly fail to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustees were required to exercise.

9.43 RESERVES

The maintenance of reserves or an equalisation account as per Rule 8.8 will not be regarded as a breach of the Trustees fiduciary obligation to their members.

9.44 PROTECTION OF FUND

Assets of the Fund including assets held in the name of a Trustee or Trustees are not part of the estate of the Trustee in his personal, corporate or individual capacity for any purpose

whatsoever including any claim on the assets of the Trustee by reason or debts or obligations incurred by the Trustee in such individual capacity. A Trustee or Trustees has no possessory lien on any assets of the Fund in order to satisfy debts or obligations arising otherwise than as Trustee of the Fund and subject to Rule 5.10 hereof may not charge any assets of the Fund whether specifically or generally otherwise than for the purposes of the Fund.

9.45 APPLICATION FOR FINANCIAL ASSISTANCE

The Trustees may apply to the Commissioner if the Fund suffers a loss as a result of a fraudulent conduct or theft and if the loss has caused substantial diminution of the Fund, leading to difficulties in the payment of benefits. The Minister shall decide if a grant will be considered and whether such assistance is to be paid out of the Consolidated Revenue Fund or the Superannuation Protection Account.

9.46 ACTUARIAL CERTIFICATES AND CONSIDERATIONS

Where unallocated benefits are being provided within the Fund (including a lifetime pension) or allocated benefits are being provided within the Fund in the form of an immediate fixed-term annuity or an allocated pension, the Trustees shall instruct an actuary to make a valuation, as appropriate, of the assets and liabilities of the Fund at least once in every three years or such other periods in accordance with the Act, from the commencement date and shall provide the actuary with such papers, accounts and documents relating thereto as the actuary shall require. The actuary is empowered to adjust the amount of pension payments based upon his valuation and the Trustees shall administer the Fund in accordance with that actuarial valuation. The actuary shall report in writing to the Trustees the result of such valuation. Should the Fund consist of both allocated benefit members and unallocated benefit members, which includes an allocated fund which may also be providing lifetime pension benefits, there is a requirement for the Trustees to obtain an actuarial certificate for both the Allocated and Unallocated Sections of the Fund. A further certificate or certificates, as applicable, shall be provided by an actuary at the commencement of the Trustees accepting compulsory superannuation (Superannuation Guarantee) contributions for members and such certificate shall be for five (5) years, provided that it may be more cost effective and prudent to consider a three year period for all actuarial certificates with a common due date.

9.47 SECRECY

The Trustees and every new Trustee on appointment shall observe strict secrecy with regard to the affairs, accounts and transactions of the Principal Employer or the Original Member of the Fund both while they shall continue to be Trustees and at all times afterwards and if so required by the Principal Employer or Original Member, shall enter into a bond of such value, terms and conditions as shall be agreed by the Trustees and Principal Employer or Original Member and in default of such agreement, on such value, terms and conditions as shall be determined by an arbitrator appointed on the application of the Principal Employer or Original Member pursuant to the provisions of the Arbitration Act.

9.48 SIGNATORIES OF THE FUND

All cheques and other negotiable or transferable instruments for payments or transfers out of the Fund and all receipts for monies paid or transferred into the Fund plus application of investments, ancillary benefits and required documentation shall be signed, drawn, endorsed or otherwise executed as the case may be by the Trustees and/or such person or persons as the Trustees shall from time to time by resolution so determine. The Trustees may conduct accounts of any type at any bank, building society, credit union or other financial institution. The operating of any account shall be by the Trustees and/or such person or persons as the Trustees shall from time to time by resolution so determine.

9.49 TRUSTEES COMPENSATION

The Trustees may receive from the Principal Employer or Original Member or Participating Employer such compensation as may be mutually agreed. The Principal Employer or Original Member or Participating Employer shall reimburse the Trustees for any reasonable expenses in the administration of the Fund.

9.50 EMPLOYMENT

Any person appointed as full time officer to the Fund may, if the Trustees so recommends and the Principal Employer or Original Member agrees, be deemed, for the purposes of this Deed to be employed by the Principal Employer or Original Member.

9.51 DISPUTES RESOLUTION

The Trustees of a non-excluded Fund shall, in accordance with the Rules of the Fund and the Act, answer enquiries and complaints from, or on behalf of, members of the Fund or dependants or beneficiaries of members or dependants of a deceased member, the legal

representative of a member or persons notified by the Trustees in the event of a member's death or an Employer Sponsor or Original member or an associate of an Employer Sponsor or Original member either verbally or in writing within one month. The Trustees will disclose such information, as requested, in accordance with the Act, pertaining to the Fund which may include: copies of the Governing Rules of the Fund pertaining to the request, the latest Fund Accounts and Audit, or an abridged statement of the Accounts and Audit, the most recent Fund Statement, as applicable, notices issued by the Commissioner, Member's Statements, or other statements, if applicable, issued by the Trustees relevant to the request, and a copy of the Actuarial certificate information requested (if applicable). The Trustees are to advise the name, address, phone and fax number of the Contact Person for the Fund, and advise that the Superannuation Trust Deed of the Fund is available, upon request, to peruse at the Fund's contact address at times stated. The Trustees will, for non-excluded funds with five or more members, if unable to satisfy a complaint, establish within a reasonable amount of time and within ninety days, a Disputes Committee, following the two-thirds voting rule procedure contained in Rule 9.15, consisting of equal Employer or Original Member and Member representatives who will appoint a chairperson who shall have a deliberative vote but not a casting or second vote. Provided that the Act does not specify that the two-thirds voting rule must apply to a Disputes Committee. The member's of the Disputes Committee may by resolution (minute) adopt differing voting rules including, but not limited to, the decision to include, or not include, proxy votes. Provided further the Act is silent as to what number/s constitute a Disputes Committee. It is therefore possible that one person could constitute the Disputes Committee. The Trustees can by resolution (minute) elect to follow the Equal Representation Disputes Rule and the two-thirds voting rule or adopt differing rules such as a single person constituting the Disputes Committee which negates the need for proxy votes and a quorum. The Disputes Committee activation procedures and Rules are:

- 9.51.1** The Trustees shall take steps to notify the Principal Employer or Original Member and Members by letter, or in the form of a election notice that an equal number of Employer or Original Member and Member representatives are required to form a Disputes Committee being a minimum of two (2) and a maximum of eight (8) or such greater number as decided upon, (at the sole and absolute discretion of the Trustees);

- 9.51.2 The notification to state that written replies must be received within 28 days of the date of the advice;
- 9.51.3 Should there be more applications received than positions stated in the letter or Election Notice, then a poll or vote is called for to elect the Disputes Committee Members;
- 9.51.4 The Principal Employer or Original Member upon receipt of advice of both the Employer representatives and the Member representatives shall convene a meeting as soon as practicable ensuring that a chairperson is elected at that meeting who shall have a deliberative vote but not a casting or second vote;
- 9.51.5 The term of office as Employer or Original Member or Member representatives for the purpose of the Disputes Committee is for as long as required for the individual matter at hand and shall be disbanded at the conclusion of the dispute unless otherwise decided by the Disputes Committee;
- 9.51.6 An Employer or Original Member or Member representative can be removed and a new representative appointed in accordance with the two-thirds voting rule as contained in Rule 9.15. Provided that a meeting is convened of which at least seven days prior written notice is given. The members of the Fund may be able to remove the representatives, or one or more of the representatives, by submitting a petition to the Trustees which contains the majority vote of the members of the Fund. The petition can demand a meeting to force an election of representatives or the removal or appointment of a representative. The duly appointed representatives, shall at that meeting, vote in accordance with the two thirds voting rule. An Employer or Original Member or Member representative must give 30 days notice in writing of resignation and a replacement representative is required to be appointed within 30 days of expiry of the said resignation notice. There are circumstances where a representative can be removed other than by the same procedure in which appointment occurred. Removal of a representative can occur in the event of:
- 9.51.6.1 death;
- 9.51.6.2 mental or physical incapacity;

- 9.51.6.3** the person becoming a “ disqualified person” as defined in Part 15 of the SIS Act (ie, as a result of insolvency, during the period of insolvency, or being convicted of a dishonest conduct);
- 9.51.6.4** the Trustees being suspended or removed by the Commissioner under Part 17 of the SIS Act (eg, where the Commissioner is concerned about the financial position of the Fund);
- 9.51.6.5** resignation from the position of representative;
- 9.51.6.6** expiration of the tenure of the appointment, if applicable; or
- 9.51.6.7** that representative ceasing to satisfy a condition that was required to be eligible for appointment; in addition, removal of the member representative can occur:
- 9.51.6.8** on retirement or cessation of employment;
- 9.51.6.9** when the representative ceases to be a member of the Fund;
- 9.51.7** The Disputes Committee can dissolve itself. However, the Trustees must, within 30 days, take all reasonable steps to formulate a new Disputes Committee. A meeting may be held wholly or in part by telephone connection among the Disputes Committee members, and if a representative has been requested to attend, the representative must attend the Disputes Committee meeting or submit a proxy vote as per Rule 9.15.2. The Trustees are to ensure that meetings are held and provide facilities that are reasonably necessary (as and if required) to enable the disputes committee to meet and function effectively;
- 9.51.8** **DISPUTES COMMITTEE EXPENSES:**
- The Trustees may recoup from the Fund the cost of providing facilities for the Disputes Committee to meet, including costs incurred in attending the meeting and in providing information to the Disputes Committee. The amount of the costs recouped, is charged against the members’ benefits in the Fund, in a fair and reasonable manner as between all members of the Fund, and the various kinds of benefits for each member of the Fund;

Should the Disputes Committee not be able to resolve the dispute then it is the right of all parties, of a non-excluded fund, to call upon the Superannuation Complaints Tribunal for adjudication. The Tribunal is an independent body set up by the Federal Government to assist members or beneficiaries of non-excluded funds to resolve certain types of complaints with Fund Trustees. The Superannuation Complaints Tribunal can be contacted by phoning 13 14 34 and the Insurance and Superannuation Commission (ISC) can be contacted on 13 10 60 (for the cost of a local call). If the Tribunal accepts the complaint it will attempt to resolve the matter through conciliation, which involves assisting the Complainant and the Fund Trustees to come to a mutual agreement. If conciliation is unsuccessful, the complaint is referred to the Tribunal for a determination which is binding. If the Disputes Committee fails to resolve the dispute the Trustees are required to notify the concerned persons in writing and advise the name and address and phone number of the Superannuation Complaints Tribunal. The notification should contain advice that if a complaint is to be made, it is required to be on the appropriate form available from the Tribunal, and needs to be submitted within 28 days of this notification. (Further reference may be made to Rules in the area in dispute, such as that illustrated in Rule 6.4 pertaining to a death benefit.) The Trustees are advised, for the protection of the Fund, the members and the Trustees, to record both the enquiries made and the negotiations and actions taken, which, in summary form, are also required to be minuted, and to seek qualified advice prior to taking actions, where deemed necessary.

9.52 TRANSFER OF PERFORMANCE

In the event that the whole or substantially the whole of the assets of the Principal Employer's or Original Member's business are hereafter acquired by another Employer or person or corporation (hereinafter called "the assignee") or for any other reason whatsoever, the Trustees may elect to accept the performance by the assignee of the obligations of the Principal Employer or Original Member in these Rules and such acceptance by the Trustees shall discharge them from any further obligations under this Deed and henceforth the assignee shall be construed as the Principal Employer or Original Member for the purposes of these Rules provided that the assignee undertakes in writing to be bound by the terms and conditions of these Rules.

9.53 MERGERS

To the extent not already covered by existing arrangements, members' accrued benefits must be protected in all superannuation fund mergers. Mergers will not be allowed to proceed where members' accrued entitlements would be reduced, without either the written approval of the members affected, considering Rule 8.5.3, and the ISC. In all cases where members are to be transferred from one scheme to another they must receive notice of the proposal, including advice of the provisions in the deed under which the transfer is being made.

9.54 TERMINATION OF TRUSTEES

9.54.1 Subject to the provisions of the Act, and subject to Rule 9.8 or Rule 9.16, as applicable, for non-excluded funds with five or more members, the Principal Employer or Original Member shall be entitled by notice in writing at any time and from time to time:

9.54.1.1 to remove any Trustee hereof;

9.54.1.2 to appoint any additional Trustee;

9.54.1.3 to appoint a new Trustee in the place of any Trustee who resigns his Trusteeship or ceases to be a Trustee by operation of the law in accordance with the Act;

9.54.2 The office of a Trustee shall become vacant and a Trustee shall cease to be a Trustee if it:

9.54.2.1 resigns office by notice in writing to the Principal Employer or Original Member;

9.54.2.2 is disqualified from office by operation of the law;

9.54.2.3 being an individual, dies or cannot continue due to mental or physical incapacity or;

9.54.2.4 being a company, is wound up;

9.54.2.5 includes a person or persons who have been convicted of an offence involving dishonesty or is a bankrupt during the bankruptcy period imposed or, in the instance of a corporate Trustee, which is in receivership or a director or executive officer of said corporate Trustee has been convicted of an

- offence involving dishonesty or is insolvent or has been the subject of a civil order under the SIS Act;
- 9.54.2.6 is being suspended or removed by the Commissioner under Part 17 of the SIS Act ;
- 9.54.2.7 has exceeded the tenure of the appointment, if applicable;
- 9.54.2.8 has ceased to satisfy a condition that was required to satisfy the eligibility requirements for appointment;
- 9.54.3 The removal of a member representative or an individual Trustee or a director on the board of Trustees can occur:
- 9.54.3.1 on retirement or other termination of employment; or
- 9.54.3.2 where the member representative ceases to be a member of the Fund;
- 9.54.4 The removal of an independent trustee or director shall occur if the person ceases to be independent;

Provided that, once a professional trustee has been appointed and the Fund is a Public Offer Fund, such election is irrevocable with the exception of appointing another professional trustee, still retaining the fund as a Public Offer Fund.

9.55 WINDING UP THE FUND

The Trust hereby declared shall be terminated and the Fund shall be wound up as hereinafter provided upon the happening of any of the following events:

- 9.55.1 By a resolution of the Principal Employer or Original Member to permanently close the Fund;
- 9.55.2 If an order is made or an effective resolution is passed for the winding up or bankruptcy of the Principal Employer or Original Member other than for the purposes of amalgamation or reconstruction and thereafter the Original Member and or all Participating Employers unanimously agree to permanently cease contributing to the Fund;

- 9.55.3** If the Principal Employer or Original Member is a partnership or sole trader or corporation and if the partnership is dissolved or the business of the Principal Employer or Original Member in any way ceases to exist, other than for the purpose of amalgamation or reconstruction; or
- 9.55.4** If the Principal Employer or Original Member decides to permanently close the Fund to new members but continues to make contributions to and/or accepts contributions from members until the death or prior termination of membership of the last member or dependant entitled to benefits.
- 9.56 UPON WINDING UP THE TRUSTEES SHALL:**
- 9.56.1** Advise the members and dependants in writing that the Fund shall be wound up on a specified date (hereinafter called "the closure date");
- 9.56.2** At the closure date, immediately make a call for any arrears of contribution and not accept further contributions;
- 9.56.3** Ensure that the first charge on the assets of the Fund shall be the current pending liabilities of the Fund, and the liability, in respect of the administration and other costs, associated with the winding up proceedings of the Fund; and in determining the priorities to be given to the remaining liabilities of the Fund the Trustees must ensure that:
- 9.56.3.1** if the Fund is solvent at the winding up date, the amount allocated to each individual member must not be less than the minimum guaranteed benefit of the member; and
- 9.56.3.2** if the Fund is technically insolvent at the winding up date, an amount equal to the net realisable value of the assets shall be apportioned among the members of the Fund at that date. So that, the amount allocated to an individual member is relative to the member's minimum guaranteed benefit; and is in proportion to the total minimum guaranteed benefit entitlement of all of the members of the Fund; and

- 9.56.3.3** if the Trustees are providing immediate fixed-term annuity, allocated pension or pension benefits internally through the Fund, the Trustees may decide to purchase annuities or pensions from another complying fund, prior to determining the amount in the Fund to be allocated to members. Should this result in a member's benefits being reduced, the benefits for other members will also in these circumstances, be reduced; and
- 9.56.3.4** all reserves (if any) held in the Equalisation Account may be allocated to the members provided that the allocation considers: members who have retired or died, and the amount of reserve if applicable, allocated to individual members; and
- 9.56.3.5** distribute amongst the members and their dependants the net assets of the Fund at the closure date in such amounts and in such manner as the Trustees in their absolute discretion shall think fit after first obtaining the advice of an actuary where appropriate, provided that;
- 9.56.3.6** for each member who is an employee at the closure date, to hold in trust for that member his part of the net assets as determined pursuant to Rule 9.56.3 for so long as the member remains an Employee, or in such other manner as approved by the Commissioner, and the Trustees, shall hold such net assets upon the same trusts as are declared in this Deed; and
- 9.56.3.7** subject to Rule 9.56.3, effect payment of the allocated net assets in accordance with this Deed as the Trustees with the agreement of the member or dependant or beneficiary may determine and in accordance with preserved benefit rules, member's contribution credits and in accordance with the Act.

10 FINANCIAL REPORTS AND DISCLOSURE OF INFORMATION STANDARDS

The Fund shall comply with the Financial Reports and Disclosure of Information Standards as

modified from time to time by the Commissioner and in accordance with the Act.

- 10.1** Financial Statements are to be produced at the end of the fiscal year including: balance sheet, assets and liabilities, income and expenses, and profit and loss account together with an ISC/Tax Return and a Statement of Assets and Liabilities required to be completed and submitted at the end of the financial year.
- 10.2** A Prospective (New) Member's Advice is to be issued to a prospective member as soon as practicable. The requirements differ between excluded funds with less than five members and non-excluded funds with five or more members at the beginning of the fund statement period;
- 10.3** A Member's Benefit Statement is to be prepared and issued, at least once each 12 month period to members, which differs between excluded funds with less than five members and non-excluded funds with five or more members at the beginning of the fund statement period;
- 10.4** A Cessation of Membership Statement is to be issued as soon as practicable to a departing member, with the possible exception of members who are transferring (transferring) benefits to another complying funds, together with a Member's Benefit Statement, which differs between excluded funds with less than five members and non-excluded funds with five or more members;
- 10.5** A Fund Statement is to be prepared and issued to members for non-excluded funds at least once in a twelve-month period and is required to be issued together with the Prospective (New) Member's Advice;

The disclosure requirements which are not covered in the ensuing Rules are contained in the claim areas of: a temporary disablement claim (Rule 6.2), a total and permanent disablement claim (Rule 6.3), a death claim (Rule 6.4), and a retirement benefit claim (Rule 6.5). Trustees of excluded funds with less than five members are advised to read Rules 10.7, 10.8 and 10.14. Trustees of non-excluded funds with five or more members are advised to read Rules 10.9, 10.10, 10.11, 10.12 and then 10.14. A large percentage of the compliance issues being reported from ISC field audits are failures to comply with the Reporting and Disclosure of Information Standards. This is an area in which Trustees are required to exercise particular attention and supervision. The Trustees are responsible

ensuring that written statements are sent to each member of the Fund. If the Trustees elect to designate another person or body to distribute such statements then a written declaration must be signed and issued to the Trustees stating that the members' statements have been issued. This declaration is subject to the Tax Administration Act 1953 and heavy penalties apply in the case of false declarations.

10.6 PROSPECTIVE (NEW) MEMBER'S ADVICE (EXCLUDED FUNDS) LESS THAN FIVE MEMBERS

A Fund is an excluded fund for the purposes of the application of the Prospective (New) Member's advice if the Fund consisted of less than five members at the commencement of the statement period irrespective of whether or not the Fund had five or more members at the end of, or during, the Statement Period. The Trustees of an excluded fund must provide all information in the form of a membership booklet or written advice that the Trustees believe a member needs for the purpose of understanding his or her entitlement in the Fund. The Prospective (New) Member's advice is to be issued as soon as practicable and, in any event, within three months from the date shown on the new member's Application Form to join the Fund. Should a member leave within 3 months of joining the Fund, a Prospective (New) Member's advice is not required to be issued. The Trustees are required to include a statement that they believe to the best of their knowledge that the Fund has complied and satisfied the Superannuation Conditions in accordance with the Act. Employee members, non-employee members and self-employed members are required to sign a statement that they have received a membership booklet or written advice. Where the person is given some or all of the required information, before the person becomes a member, the Trustees will not be required to give that information again, assuming it is correct in all material aspects when the person becomes a member. This rule applies not only where the Trustees have already given the information, but also where the trustees of another fund has previously given the required information (eg, where the member's benefits are being transferred between fund's because of a fund restructure). If a member leaves the Fund before the time the information is required to be given to the member, the Trustees are not required to give the information to the member. The membership booklet or written advice shall contain (as and if applicable):

10.6.1 FUND DETAILS:

- 10.6.1.1 the name of the Fund;
- 10.6.1.2 the Trustees of the Fund;
- 10.6.1.3 the correspondence address of the Fund;
- 10.6.1.4 the contact person for the Fund or designated position eg, Enquiries Officer;
- 10.6.1.5 Phone and fax number;
- 10.6.1.6 Name of Principal Employer;
- 10.6.1.7 Name of Original Member;
- 10.6.1.8 Name of Participating Employer;

10.6.2 DESCRIPTION OF THE FUND:

- 10.6.2.1 The Fund has been established to enable you and your employer (as applicable) to provide a superannuation programme to meet your future retirement needs and needs of dependants. The Trustees are empowered to consider all areas permissible within the Act for the investment of the Superannuation Fund assets;
- 10.6.2.2 Contributions to the Fund are non-contractual and flexible provided that both the member and the employer may be subject to either mandatory or voluntary regular contributions such as, in the instance of the employer, mandatory Award or Superannuation Guarantee contributions or undeducted contributions by the member qualifying for the Federal Government matching contributions (if any) within the limits announced to take effect from 1 July 1997;

The Trustees of the Fund will need to consider the main features of the Fund and include said features, as applicable, within the Prospective (New) Member's Booklet or Member's written Advice as hereinafter defined;

10.6.3 CATEGORIES OF MEMBERSHIP:

The Fund offers twenty categories of membership, namely AF, AIF, AIYF, AIZF, AL, AIL, AIYL, AIZL, AP, AIP, UF, UIF, UIYF, UIFZ, UL, UIL, UIYL, UIZL, UP and UIP. The first letter in each category of membership shall either be "A" or "U" where "A" represents an Allocated Accumulation Benefit and "U" represents an Unallocated Benefit. The letter "I" represents a category of membership which entitles a member to benefit from more than one category. The letter "Y" represents a Compulsory Superannuation Fund member (Superannuation Guarantee). The letter "Z" represents an Award (Productivity Fund) member. The last letter in each category of membership shall be "F", "L" or "P" where "F" represents a Fully Commutable Pension, "L" represents a Lump Sum Benefit and "P" represents a Partially Commutable Pension of which no more than 25% of the member's Equity or Accumulation Account can be commuted;

10.6.4 CLASS OF MEMBERSHIP:

There are eight (8) classes of membership of the Fund designated alphabetically as "A" class, "B" class, "C" class, "D" class, "E" class, "F" class, "G" class and "H" class. The class of membership is the vested entitlement of the member to the member's Accumulation Account or Equity. The Employer contribution credits for employee members are credited to the member's Accumulation Account or member's Equity calculated on fully completed years of membership as per the Vesting Schedule in the Deed ranging from "A" class respectively as: forty years, twenty five years, twenty years, fifteen years, ten years, seven years and five years with full immediate vested entitlement for class "H" which is the class of vesting entitlement that is applied to all member contributions and accruals and mandatory employer contributions and accruals such as Award (Productivity) and Superannuation Guarantee contributions;

10.6.5 TRUST DEED:

This advice contains a brief condensed overview of sections of the Trust Deed which is the document that governs the operation of the Fund and contains the full details of the rights, conditions and benefits of members. The Trust Deed

remains the final authority on all questions relating to the Fund in accordance with the Act. A copy of the Fund's Superannuation Trust Deed is located at the correspondence address stated for the Fund and is available to peruse, upon request, during business hours;

10.6.6**TRUSTEES:**

The Trustee/s of your Fund is/are (name and ACN number, if applicable) who is/are responsible for ensuring that the rights of all members under the Trust Deed are secured and that the Fund at all times complies with the requirements of the Insurance and Superannuation Commissioner and the Australian Taxation Office;

10.6.7**MANAGEMENT AND FINANCIAL POSITION OF THE FUND:**

The management of the Fund is performed by the Trustees which includes, but is not limited to: compliance requirements of the Act, the information required to prepare the Fund's annual tax return, audit and ISC return, liaison with the members and employees (as applicable) of the Fund. The financial position of the Fund is contained in the Fund's annual returns, which are submitted to the ATO and ISC and are audited, which states the Fund's financial position as required by the Act. (the Trustees have the option to include a copy of the financial statements of the Fund, and or an abridged statement, or to simply make a statement that, in the Trustees' opinion, the Fund is in a sound financial position, which is supported by the audited accounts, and invites the prospective (new) member to contact the Trustees to discuss the financial position of the Fund if desired;

10.6.8**THE INVESTMENT PERFORMANCE OF THE FUND:**

A statement from the Trustees as to the actual performance of the Fund over the last one to three years, or such other period of at least twelve month's duration, being the last twelve months or period that the Fund has been in operation, if less, as decided upon at the Trustees' discretion. The report to include, if applicable, the extent to which circumstances, whether primarily within the Fund's investments or the economy in general, have been reflected in the Fund's performance;

10.6.9 THE INVESTMENT STRATEGY OF THE FUND:

The current Investment Strategy of the Fund or a written report of the Investment Strategy including detail of the Investment Strategy objectives is to be issued to the prospective (new) member, with advice that the Investment Strategy is reviewed from time to time and that all changes to the Investment Strategy will be advised to members of the Fund within a reasonable period of time;

10.6.10 BENEFITS OF THE FUND:

The Fund is designed to provide benefits for members upon retirement or dependants of members. Retirement benefits, total and permanent disablement or invalidity or death benefits, within a member's Allocated Account are provided through contributions by members and/or employers, as applicable, plus the proportional amount of the Fund earnings less Fund expenses (including tax), which is allotted to the member's Individual Account. Retirement age is defined as age 55, or such other age as shown in Rule 4.8, which could be up to age 60 if legislated, or retirement, whichever is the latter. Additional ancillary benefits, if applicable, such as temporary disablement benefits, total and permanent disablement benefits and death benefits, if provided through a registered life insurance company, may form part of the member's benefits. Provided that health evidence, if requested, is submitted and that the benefit applied for is accepted by the registered insurer. The Trustees must state the applicable ancillary benefits, including the amounts and the name and address of the insurer or insurers, as applicable. (Should the Fund provide self-funded ancillary benefits, then details of the said benefits are required to be included in the advice). Unallocated members of the Fund (if applicable) will have a Benefit Promise Formula which, if applying, will be attached to this advice and will include all of the benefits provided by the Fund;

10.6.11 PRESERVATION OF BENEFITS:

Under the Trust Deed of the Fund, and in accordance with the Act, the Trustees are required to treat certain benefits that have accrued to you as a

preserved benefit. A preserved benefit can only be paid out in the following circumstances:

- 10.6.11.1** When you attain age 55, or such age as shown in Rule 4.8, which could be up to age 60 if legislated, or retirement, whichever is the latter;
- 10.6.11.2** Being invalidated, (total and permanent disablement) which defined as unlikely to ever be able to work again in an occupation for which you are reasonably qualified by previous education, training or experience. Invalidity is either determined by the Trustees in their sole and absolute discretion or, upon the terms and conditions of the insurance company providing the insured benefit;
- 10.6.11.3** You intend to live permanently overseas and you satisfy the Trustees that you have no intention of ever returning to Australia;
- 10.6.11.4** That you can satisfy the Commissioner that you would suffer severe financial hardship or qualify for early release of benefits on compassionate grounds and that the Commissioner does grant early release of benefits in part or full;
- 10.6.11.5** Benefits are applied to a non-commutable pension or annuity;
- 10.6.11.6** Upon death;

10.6.12 RETENTION OF MEMBERS BENEFITS OF THE FUND:

The Trustees, have the sole and absolute discretion to offer to retain members benefits in the Fund in accordance with Rule 8.3 and the / Provided that the member is associated with either the Principal Employer Original Member or Participating Employer or Trustees of the Fund;

10.6.13 ROLL OVER (TRANSFER) TO OR FROM OTHER COMPLYING FUNDS:

The Trustees in their sole and absolute discretion can accept benefits to be rolled in (transferred) to the Fund and the member is empowered to request the Trustees that the member's vested benefits be rolled over (transferred) to a

complying fund or fund's of the member's choice. The Trustees are empowered to roll over a member's benefit to a ERF (eligible rollover fund), if 90 days have elapsed since the benefit became payable and the member, after at least two notices, has not given instructions to roll over benefits. Provided that the last notice stated the name and address of the ERF, and that, unless advice is received by the member within 28 days, the benefits will be rolled over to the ERF nominated;

10.6.14 TAXATION:

The Trustees will deduct and remit tax payable by the Fund which is currently 15% on all deductible contributions, 15% of taxable Fund earnings; and the superannuation surcharge amount, if applicable, dependant upon the member's notional taxable income, which can range from 1% to 15% and the appropriate amount of tax upon a member's lump sum termination payment from the Fund as an ETP, (Eligible Termination Payment) as and if applicable;

10.6.15 POST-RETIREMENT BENEFITS:

The Trust Deed of the Fund provides internal facilities for immediate fixed-term annuities, allocated pensions and lifetime pensions in accordance with the Act. There are numerous requirements and considerations including, but not limited to, actuarial, legal and specific requirements of the Act to be considered prior to offering post-retirement benefit facilities to members. The Trustees hold the sole and absolute discretion to the provision of these facilities to members. The member may, as per Rule 10.6.13, roll over (transfer) benefits to: a fixed-term annuity, an allocated annuity, an allocated pension, a lifetime pension or to a regulated complying fund or receive the benefit in part or full as a lump sum ;

10.6.16 REPORTING:

A Prospective (New) Member's Advice is required to be issued as soon as practicable to a prospective (new) member. An Annual Member Benefit Statement is to be prepared and issued each year within six months of the end of the statement period, setting out the position of the member's benefits. This

information should be read carefully by the member upon receipt. A Cessation of Membership Statement and Discharge Statement is to be issued as soon as practicable to the member upon termination from the Fund, showing member entitlements and continuation options, if applicable, of any insured ancillary benefits, including qualifications and explanations as required by the Act;

10.6.17

ENQUIRIES OR COMPLAINTS AND FUND INFORMATION:

The Trustees will, in accordance with the Rules of the Fund and the Act, answer enquiries and complaints from, and provide information to, members of the Fund or dependants or beneficiaries of members or dependants of a deceased member or the legal representative of a member or persons notified by the Trustees in the event of a member's death or an Employer Sponsor or an Original Member of the Fund or an associate of an Employer Sponsor or Original Member of the Fund either verbally or in writing within one month. The Trustees will disclose such information, as requested, in accordance with the Act, pertaining to the Fund which may include; copies of the Governing Rules of the Fund pertaining to the request, a copy of, or an abridged statement of, the Fund Accounts and Audit, notices issued by the Commissioner, the Member's Benefit Statement or other statements, if applicable, issued by the Trustees relating to the request, and a copy of the Actuarial certificate information requested (if applicable). A copy of the Fund's Superannuation Trust Deed is available through the Fund's Contact Person for members to peruse at the following address and at times stated. The Contact Person for the Fund is (Name, or Enquiries Officer) who can be contacted; (Times, Address Fax and Phone Number). If you would like to question any matter relating to the Fund, please write or fax or telephone the Contact Person (or Enquiries Officer).

10.7 MEMBER'S BENEFIT STATEMENT (EXCLUDED FUNDS) LESS THAN FIVE MEMBERS

A Fund is an excluded fund for the purpose of the application of the member's Benefit Statement if the Fund consisted of less than five members at the commencement of the statement period, irrespective of whether or not the Fund had five or more members at the end

of, or during, the statement period. The Trustees of an Excluded Fund must provide all information that the Trustees reasonably believe a member needs for the purpose of understanding his or her benefit entitlements in the Fund. The member's Annual Statement of Benefits in the Fund is to be issued within six months from the end of a reporting period as decided at the sole and absolute discretion of the Trustees, which is usually the 30th of June, and is to contain a statement by the Trustees that, to the best of their knowledge, they believe the Fund complies and has satisfied the superannuation fund conditions in accordance with the Act. The Trustees, at their discretion, need not give a lifetime pension member of the Fund a Member Benefit Statement, or a pension member of the Fund can request in writing, that a Member Benefit Statement is not provided. Considering the effect that adverse investment returns or excessive Fund expenses or substantial accreditations would have to a member's Allocated Account, it is recommended that Trustees issue a Member Benefit Statement to members. If a person ceases to be a member after the reporting period but before the information has been given, the information need not be given, if the Trustees provide the necessary information in a Cessation of Membership Statement. The Trustees are required to make, and continue to follow up and make, every effort to locate the member to issue the required member's statement. The Member's Benefit Statement shall contain the following information: (as applicable)

10.7.1 MEMBERSHIP DETAILS:

- 10.7.1.1** The name of the Fund;
- 10.7.1.2** Trustees of the Fund;
- 10.7.1.3** Name of the Principal Employer;
- 10.7.1.4** Name of the Original Member;
- 10.7.1.5** Name of the Participating Employer;
- 10.7.1.6** Periods to which the statement relates;
- 10.7.1.7** Name of the Member;
- 10.7.1.8** Last recorded member's annualised salary;
- 10.7.1.9** Category of Member;

- 10.7.1.10 Class of Member;
- 10.7.1.11 Member's date of birth;
- 10.7.1.12 Members' date of service;
- 10.7.1.13 Date member joined Fund;
- 10.7.1.14 Prior eligible Fund date;
- 10.7.1.15 Advice that the member is either an employee member or a non-employee member or a self-employed member or an immediate fixed-term annuity member or an allocated pension member or a lifetime pension member or members with deferred benefits retained within the Fund (which could include dependants or beneficiaries of members) ;

10.7.2 ANCILLARY BENEFITS:

- 10.7.2.1 Amount of the Insured death benefit;
- 10.7.2.2 Amount of the insured total and permanent disablement benefit;
- 10.7.2.3 Amount of the insured temporary disablement benefit (if applicable, which has a maximum income benefit period of two years) ;

Provided that if there are no insured death or total and permanent disablement benefits, then the member's Benefit Statement is to state that the member's Vested Account Balance or member's Equity is the benefit payable upon death or total and permanent disablement;

10.7.3 MEMBER'S VESTED BENEFIT;

- 10.7.3.1 Member's vested benefit at the commencement of the statement period;
- 10.7.3.2 Undeducted contribution amount for the period;
- 10.7.3.3 Federal Government transfer (if applicable) ;
- 10.7.3.4 Rollovers (transfers) received during the period;
- 10.7.3.5 Transfer from the Forfeited Benefits Account (if applicable);

- 10.7.3.6 Transfer from the Equalisation Account (if applicable);
- 10.7.3.7 Member's additional vested benefit for the period (including vested Employer contributions and proportionate share of net profits allotted to the member's Individual Account or Equity;)
- 10.7.3.8 Members vested benefit at the conclusion of the statement period;

10.7.4 MEMBER'S ACCOUNT RECORDS:

- 10.7.4.1 Preserved benefit;
- 10.7.4.2 Restricted non-preserved benefit;
- 10.7.4.3 Non-preserved benefit (which applies until 30 June 1997)
from 1 July 1997, all member's benefits will be redefined and will be subject to a formula to become;
- 10.7.4.4 Preserved benefits;
- 10.7.4.5 Restricted non-preserved benefits;
- 10.7.4.6 Unrestricted non-preserved benefits;

10.7.5 DEFINED BENEFITS:

- 10.7.5.1 Defined benefit formula showing: Multiple of salary, periods of salary applying to formula and application of that formula to provide member's death, total and permanent disablement, temporary disablement and retirement benefits, as applicable, in accordance with the actuarial certificate applying to the Fund;

10.7.6 CONTACT DETAILS:

- 10.7.6.1 Name of Contact Person or designated position such as (Enquiries Officer);
- 10.7.6.2 Phone and fax number;
- 10.7.6.3 Contact address for the Fund plus advice that Fund information is available upon request by the member;

The Member's Benefit Statement should be issued to members for whom the Trustees are receiving contributions, and the immediate fixed-term annuity, allocated pension and lifetime pension members receiving benefits from the Fund or members with deferred benefits within the Fund (which could include dependants or beneficiaries of members). The Annual Member's Benefit Statement is to include a copy of the current Investment Strategy of the Fund, or a written report of the Investment Strategy, including detail of the Investment Strategy objectives, and changes to the Investment Strategy, as and if applicable. Statement must also include any changes in the Rules and provisions of the Fund or any significant event which would affect the member's benefits.

10.7.7

EXPLANATIONS AND QUALIFICATIONS: (TO BE INCLUDED WITH THE MEMBER'S BENEFIT STATEMENT)

These explanations and qualifications refer to the information shown on the Member's Benefit Statement. This statement will only show contributions paid by you or your employer and or investment credits or debits which have been received and allotted by the Trustees to your Accumulation Account or Equity during period shown. Overriding Statement: (applying to Notes 1 to 15 following) Member's Account Balance does not take into account any early withdrawal or termination penalties, capital gains tax, stamp duty, broker fees, etc, which may or may not apply to any of the Fund investments which are encashed to pay out a member's benefit. Allotment to a Member's Accumulation Account or Equity is calculated from the date investment credits or debits or liabilities are allotted by the Trustees. If an amount or advice of a credit or debit or liability has been received by the Trustees that does not appear on this statement because it has not yet been allotted to your Accumulation Account or Equity, you will be credited or debited with said adjustment from the applicable date. The Trustees state that to the best of their knowledge and belief, the Fund complies with and has satisfied the superannuation conditions in accordance with the Act:

Note 1: Category of Membership The fund offers twenty categories of membership; namely AF, AIF, AIYF, AIZF, AL, AIL, AIYL, AIZL, AP, AIP, UF, UIF, UIYF, UIZF, UL, UIL, UIYL, UIZL, UP and UIP. The first letter in

each category of membership shall either be "A" or "U" where "A" represents an allocated accumulation benefit and "U" represents an unallocated benefit. The letter "T" represents a category of membership which entitles a member to benefit from more than one category. The letter "Y" represents a Compulsory Superannuation Fund member (Superannuation Guarantee). The letter "Z" represents an Award (Productivity Fund) member. The last letter in each category of membership shall be "F", "L" or "P" where "F" represents a Fully Commutable Pension, "L" represents a Lump Sum Benefit and "P" represents a Partially Commutable Pension of which no more than 25% of the member's Equity or Accumulation Account can be commuted;

Note 2: Class of Membership There are eight (8) classes of membership of the Fund designated alphabetically as "A" class, "B" class, "C" class, "D" class, "E" class, "F" class, "G" class and "H" class. The class of membership is the vested entitlement of the member to the member's Accumulation Account or Equity. The employer contribution credits for employee members are credited to the member's Account, or member's Equity, calculated on fully completed years of membership as per the Vesting Schedule in the Deed, ranging from "A" class respectively as: forty years, twenty five years, twenty years, fifteen years, ten years, seven years and five years, with full immediate vested entitlement for class "H" which is the class of vesting entitlement that is applied to all member contributions and accruals and mandatory employer contributions and accruals such as Award (Productivity) and Superannuation Guarantee contributions;

Note 3: Death Benefit amount applies if paid to a dependant within the RBL (Reasonable Benefit Limits). A reduced amount may apply if paid to a non-dependant or benefit is in excess of the RBL limits, due to tax on said benefit. **Total and Permanent Disablement Benefit** is defined as: unable to continue with an occupation suited by previous training or experience, which is either determined by the Trustees in their sole and absolute discretion, or upon the

terms and conditions of the insured benefit contract, which is determined by the insurance company providing the insured benefits. **Temporary Disablement Benefit** income payment is limited to a maximum compensation period of two years, which is either determined by the Trustees in their sole and absolute discretion or upon the terms and conditions of the insured benefit contract which is determined by the insurance company providing the insured benefits;

Note 4: Vested Benefit refers to your guaranteed minimum benefit entitlement on leaving the Fund at the respective dates shown. See Notes 9 to 11 to ascertain the amount that could be paid out as a withdrawal or termination benefit, or is required to be preserved;

Note 5: Undeducted Contributions means your personal, after-tax, non-deductible contributions (not accruals);

Note 6: Federal Government matching contributions transferred to you (if applicable);

Note 7: Roll over (Transfer) of Member's Benefits to the Fund and/or transfer from **Forfeited Benefits Account** (distribution of Fund excess credits, if applicable) and/or **Equalisation Account**, being a distribution from the Fund Reserve Account (if applicable). The Trustees in their sole and absolute discretion can accept the roll over (transfer) of a member's benefit to the Fund. A member is empowered to request the Trustees to roll over (transfer) the member's Account or Equity to other complying funds. The Trustees are empowered to roll over a member's benefit to a ERF (Eligible Rollover Fund), if 90 days have elapsed since the benefit became payable and the member, after at least two notices, has not given instructions to roll over benefits. Provided that the last notice stated the name and address of the ERF and that, unless advice is received from the member within 28 days, the benefit will be rolled over to the ERF nominated;

Note 8: Additional Vested Benefit may include a share of the Employer's contributions as specified under the Deed in accordance with the Vesting Schedule; and **Net Fund Earnings** are defined as the declared earnings including capital appreciation where applicable, less taxes, expenses and

insurance premiums which are proportionally or individually allotted to the member's Account or Equity;

Note 9: The Preserved Portion of your Vested Benefit refers to that part of your entitlement that cannot be paid to you (unless under \$500) prior to retirement, being age 55 or such age as shown in Rule 4.8, which could be up to age 60, if legislated, or retirement, whichever is the latter, or early release of benefits if granted by the Commissioner, or total and permanent disablement, invalidity, permanently leaving Australia, death or benefits are applied to a non-commutable lifetime pension or annuity upon cessation of employment with an employer who had, or an associate of an employer who had, contributed to the Fund in relation to the member. The formula for preserved benefits from 1 July 1997 is the member's total vested benefit reduced by the restricted non-preserved benefit and the unrestricted non-preserved benefit;

Note 10: Restricted Non-Preserved Benefits means contributions and accruals by an existing Employer or Original Member of the Fund and contributions and accruals by an employee of an existing Employer or Original Member of the Fund provided that the Fund commenced prior to 22 December 1986. From 1 July 1997, restricted non-preserved benefits are further redefined under SIS (Superannuation Industry (Supervision) Act 1993) as being the greater of: the restricted non-preserved benefit payable had the member resigned or been retrenched as at July 1997, recalculated and indexed thereafter in line with AWOTE (Average Weekly Ordinary Time Earnings) or the total amount of the member's undeducted contributions (excluding accruals) including those made post 1 July 1997. Restricted non-preserved benefits from 1 July 1997 can become unrestricted non-preserved benefits provided that cessation of employment has occurred with an Employer of the Fund who had, or whose associates had, contributed to the Fund in relation to the member;

Note 11: Unrestricted Non-Preserved Benefits are benefits to which preservation is not applicable and can be withdrawn by the member in part or full upon request to the Trustees of the Fund, irrespective of continuity of employment or contributions by the employer or member to the Fund;

Note 12: Details of Contributions in Arrears (if applicable) and any action taken to have said contributions paid. Such advice to contain: The amount or anticipated amount of the contributions, the action taken or the proposed action to be taken to have the contributions paid and any other details or explanation that the Trustees deem necessary. Such advice, if including Superannuation Guarantee contributions, to also state the specific amount of the shortfall and any shortfall component received for the member, which is to be itemised for each member;

Note 13: Fees and Charges are contained in the audited accounts of the Fund and, although not individually shown, have been accounted for in the calculation of the member's benefits. They consist of: ISC (Insurance and Superannuation Commission) annual lodgement fee, annual ISC return, tax return and audit fees, contributions tax and the Fund's net income which is taxed at 15%, plus, if applicable, the surcharge amount which could range from 1% to 15% dependent upon a member's individual notional taxable income, and charges for advice or services (as applicable) for: actuarial, legal, accounting and investments, charges/fees for investments as and if applicable which may consist of: establishment or exit costs, stamp duty, REIWA or settlement fees, termination fees, stockbroker fees, including any transfer costs or direct fees or investment fees which were not deducted within the specific investment concerned;

Note 14: Enquiries or Complaints and Fund Information The Trustees will, in accordance with the Rules of the Fund and the Act, answer enquiries and complaints from, and provide information to, a member or dependant or beneficiary of a member or a dependant of a deceased member or the legal representative of a member or persons notified by the Trustees in the event of a member's death or an Employer Sponsor or Original Member of the Fund or an associate of an Employer Sponsor or Original Member of the Fund either verbally or in writing within one month. The Trustees will disclose such information as requested in accordance with the Act, pertaining to the Fund, which may include:

copies of the Governing Rules of the Fund pertaining to the request, abridged information from the Fund Accounts and Audit, notices issued by the Commissioner, the Member's Statement or other statements, if applicable, issued by the Trustees relating to the request, and a copy of the Actuarial certificate information requested (if applicable). A copy of the Fund's Superannuation Trust Deed is available at the Fund's contact address, which is available for members to peruse during times stated in Note 15;

Note 15: Contact Person The Contact Person for the Fund is (Name, or Enquiries Officer) who can be contacted; (Times, Address, Fax and Phone Number). If any information appears incorrect or you would like to question any matter relating to the Fund, or advise the Trustees of a change to your preferred dependants, please write or fax or telephone the (Contact Person or Enquiries Officer).

10.8 CESSATION OF MEMBERSHIP STATEMENT (EXCLUDED FUNDS): LESS THAN FIVE MEMBERS

10.8.1 To consist of the relevant information shown in Rules 10.7 to 10.7.7;

10.8.2 A possible exception could be members rolling over (transferring) from the Fund who may not need to be provided with a Cessation of Membership Statement. The Trustees are required to complete a STP (Statement of Termination Payment) and a RPN (Rollover Payment Notification), both available from the ATO, which will show the member's benefit entitlement in the Fund. The Trustees will also need to provide to the member notification of any significant changes since the last Member's Benefit Statement issued which would have an effect on the Member's Benefits. Provided that the information given was sufficient to enable the member to understand the effect of the roll over (transfer) and the member will receive a Member's Benefit Statement from the receiving fund's trustees, there may not be a requirement to issue a Cessation of Membership Statement; and

10.8.3 Advice as to the right of continuance by the member to any insured benefit's on the member's life within the Fund and the time frame or conditions that apply to continuance of the insured benefit, as and if, applicable;

- 10.8.4** A member's benefit can remain in the Fund for up to ninety days, at which point, unless direction has been received from the member, the member's benefit will be rolled over to an ERF (Eligible Rollover Fund) as per Rule 4.2.7. (The Trustees will also need to nominate the name and address of the ERF and consider the content of Rule 4.2.7, in the Members Cessation of Membership Statement). The Trustees in their sole and absolute discretion can retain the member's benefit in the Fund provided that the member is associated to the Principal Employer or Original Member or Participating Employer or Trustees and that the retention of the member's benefits in the Fund will not contravene the Act as per Rule 8.3;
- 10.8.5** The Trustees are required to prepare and issue a dated Discharge of Benefit Statement from the Fund which is to be signed and witnessed, as hereinafter defined, with the Original retained by the Trustees and a copy issued to the recipients, prior to paying out a member's benefits. The Discharge of Benefit Statement will differ dependant upon the specific discharge of benefits, which could range from: the cessation of employment and/or cessation of membership of the Fund, the rolling over of benefits, from the Fund, the Commissioner granting early release of benefits or temporary disablement or total and permanent disablement or the member permanently leaving Australia or the death or retirement of the member. The Discharge of Benefit Statement is to contain, as applicable:
- 10.8.5.1** The date of the Discharge of Benefit Statement;
 - 10.8.5.2** The name of the Fund;
 - 10.8.5.3** The name and address of the Trustees of the Fund;
 - 10.8.5.4** The name and address, and date of birth of the member;
 - 10.8.5.5** The name and address of the persons to whom the benefit is payable, if other than the above;
 - 10.8.5.6** The specific reason for the discharge of benefit, eg, retirement, etc;
 - 10.8.5.7** The method of payment of the benefit, eg, Lump Sum Payment " etc" ;

- 10.8.5.8 The amount of benefit payable;
- 10.8.5.9 Proof of age;
- 10.8.5.10 Certification of identity;
- 10.8.5.11 Evidence or certification of existence;
- 10.8.5.12 The signatures of all recipients and witnesses;

The Trustees, in their sole and absolute discretion, can design the Discharge of Benefit Statement to be an acknowledgment by the recipients which must be signed prior to the payment of the benefit; or can include a receipt together with the Discharge of Benefit Statement, which would be issued and completed at the same time as the benefit is paid. Irrespective of what method is chosen, the Discharge of Benefit Statement is to include provision for one or more witnesses, as appropriate, and include a statement to the effect that the recipients accept the Discharge of Benefit Payment as full discharge of all rights, interests and entitlements under the governing rules of the Deed and the Fund and that there can be no further claim against, or financial interest in, the Fund.

10.9 PROSPECTIVE (NEW) MEMBER'S ADVICE (NON-EXCLUDED FUNDS) FIVE OR MORE MEMBERS

The Trustees of the Fund must provide a Prospective (New) Member Booklet or written advice, together with a copy or updated version of the Fund Statement last issued as per Rule 10.12, to each prospective (new) fund member or sub-plan member, as soon as practicable, and in any case within three months from the date shown on the membership application form, for advice of the member's entitlements, rights and conditions of the Fund. Should a member leave within three months of joining the Fund, a Prospective (New) Member's Advice is not required to be issued. The Trustees shall provide all information that the Trustees believe a member needs for the purpose of understanding his or her entitlements in the Fund. Should the Trustees of the Fund be a professional Trustee and the Fund is a Public Offer Fund, then there are additional requirements as shown in Rule 9.7. The Trustees are required to include a statement that they believe to the best of their knowledge that the Fund has complied with and satisfied the superannuation conditions in accordance with the Act. All prospective (new) member's of the Fund are required to sign a statement that they have received a membership

booklet or written advice. Where the person is given some or all of the required information before the person becomes a member, the Trustees will not be required to give that information again, assuming it is correct in all material aspects when the person becomes a member. This rule applies not only where the Trustees have already given the information, but also where the trustees of another fund has previously given the required information (eg, where the member's benefits are being transferred between fund's because of a fund restructure). If a member leaves the Fund before the time the information is required to be given to the member, the Trustees are not required to give the information to the member. The Prospective (New) Member's advice shall contain the following: (as applicable)

10.9.1**FUND DETAILS:**

- 10.9.1.1 The name of the Fund ;
- 10.9.1.2 The Name of the sub-plan;
- 10.9.1.3 The Trustees of the Fund;
- 10.9.1.4 The names of the Employer and Member Trustee representatives as a group of individual Trustees, or as directors on the board of trustees of a corporate Trustee;
- 10.9.1.5 The Policy Committee members (if applicable) and how they are appointed or removed;
- 10.9.1.6 The correspondence address of the Fund;
- 10.9.1.7 The Contact Person for the Fund or designated position eg, Enquiries Officer;
- 10.9.1.8 Phone and fax number;
- 10.9.1.9 Name of the Principal Employer; and or
- 10.9.1.10 Name of the Original Member;
- 10.9.1.11 Name of the Participating Employer;

10.9.2**DESCRIPTION OF THE FUND:**

(Example only): The Fund has been established to enable you and your Employer, as applicable, to provide a superannuation programme to meet your retirement needs and needs of dependants. The Trustees are empowered to

consider all areas permissible within the Act for the investment of the Superannuation Fund assets. Contributions to the Fund are non-contractual and flexible, provided that both the member and the employer may be subject to either mandatory or voluntary regular contributions such as, in the instance of the Employer, Award (Productivity) or Superannuation Guarantee contributions or member's undeducted contributions, if applicable, qualifying for the Federal Government matching contributions (if any) within the limits designated, proposed to take effect from 1 July 1997;

The Trustees of the Fund will need to consider the main features of the Fund and include those features, as applicable, within the Prospective (New) Member's Advice as hereinafter defined;

10.9.3

CATEGORIES OF MEMBERSHIP:

The Fund offers twenty categories of membership, namely AF, AIF, AIYF, AIZF, AL, AIL, AIYL, AIZL, AP, AIP, UF, UIF, UIYF, UIZF, UL, UIL, UIYL, UIZL, UP and UIP. The first letter in each category of membership shall either be "A" or "U" where "A" represents an Allocated Accumulation Benefit and "U" represents an Unallocated Benefit. The letter "I" represents a category of membership which entitles a member to benefit from more than one category. The letter "Y" represents a Compulsory Superannuation Fund member (Superannuation Guarantee). The letter "Z" represents an Award (Productivity Fund) member. The last letter in each category of membership shall be "F", "L" or "P" where "F" represents a fully Commutable Pension, "L" represents a Lump Sum Benefit and "P" represents a Partially Commutable Pension of which no more than 25% of the member's equity or accumulation account can be commuted. The Trustees by resolution and with the consent of the Principal Employer or Original Member may create a further category or categories of membership provided that a member's existing rights shall not be detrimentally affected upon a transfer to such new category or categories without the written consent of such members and provided that the conditions of Rule 8.5.3 have not been breached. Compulsory Superannuation members' category "Y" (Superannuation Guarantee) and Award (Productivity) Fund

members' category "Z" transfers cannot detrimentally affect members' rights unless obligated under the Act;

10.9.4 CLASS OF MEMBERSHIP:

There are eight (8) classes of membership of the Fund designated alphabetically as "A" class, "B" class, "C" class, "D" class, "E" class, "F" class, "G" class and "H" class. The class, of membership is the vested entitlement of the member to the member's Accumulation Account or Equity. The Employer contribution credits for employee members are credited to the Member's Account or Member's Equity calculated on fully completed years of membership as per the Vesting Schedule in the Deed ranging from class "A" respectively as: forty years, twenty five years, twenty years, fifteen years, ten years, seven years and five years with full immediate vested entitlement for class "H" which is the class of vesting entitlement that is applied to all member contributions and accruals and mandatory employer contributions and accruals such as Award (Productivity) and Superannuation Guarantee contributions;

10.9.5 TRUST DEED:

This advice contains a brief condensed overview of the Trust Deed which is the document that governs the operation of the Fund and contains full details of the rights, conditions and benefits for members. The Trust Deed remains the final authority on all questions relating to the Fund in accordance with the Act. A copy of the Fund's Superannuation Trust Deed is located at the correspondence address stated for the Fund and is available to peruse upon request during business hours;

10.9.6 TRUSTEES:

The Trustee/s of your Fund is/are (name and ACN if applicable) who is/are responsible for ensuring that the rights of all members under the Trust Deed are secured and that the Fund at all times complies with the requirements of the Insurance and Superannuation Commissioner and the Australian Taxation Office. Non-excluded funds with five or more members are required, if not electing to become a Public Offer Fund, or, for funds with five to forty-nine members, not appointing an independent trustee, to comply with the equal

representation rules. The rules for appointment, procedures and dismissal of employer and member Trustee representatives and Trustees are contained in the following governing rules of the Fund, being Rules 9.21 to 9.23 and 9.54 which are available for members to peruse at the address and at times stated in the Contact Person or Enquiries Officers section of this advice. The procedures, in brief, are: Notification is issued to all members of the Fund requesting nominations of between two (2) to eight (8) Employer and Member representatives who must call a meeting and elect a chairperson who shall have a deliberative vote but not a casting or second vote. The term of office of a group of individual Trustees or directors on the board of Trustees of a corporate Trustee is infinite unless otherwise decided by the Trustees in their sole and absolute discretion. Two persons shall constitute a quorum. Trustee decisions are determined by the two-thirds voting rule which is applied over the total number of representatives irrespective of the number of representatives attending a meeting, thus there is no requirement or need for a quorum greater than two persons to pass a motion, provided that the appropriate number of proxy votes were issued as per Rule 9.15.2. Example: Six Trustee representatives are elected of whom two attend a meeting, holding two proxy votes. It will require a unanimous vote of all representatives at that meeting, representing those four votes, to satisfy the two-thirds voting rule and pass that motion. Employer or Member representatives can be removed or appointed by the Trustees through the two-thirds voting rule, provided that a meeting is convened and at least 7 days' notice is given. The members of the Fund may be able to remove the representatives, or one or more of the representatives, by submitting a petition to the Trustees which contains the majority vote of the members of the Fund. The petition can demand a meeting to force an election of Trustee representatives, or the removal or appointment of a representative. The duly appointed representatives shall, at that meeting, abide by the two-thirds voting rule. Representatives may be removed by an event such as, but not limited to, resignation, mental or physical incapacity, death, or the person becoming disqualified as a result of insolvency or being convicted of a dishonest conduct offence or civil penalty under Part 17 of the SIS Act.

In addition, removal of a member representative can occur on retirement or other termination of employment, or when the member ceases to be a member of the Fund;

10.9.7 MANAGEMENT AND FINANCIAL POSITION OF THE FUND:

The management of the Fund is performed by the Trustees and includes, but is not limited to: Compliance requirements of the Act, the information required to prepare the Fund's annual tax return, audit and ISC return, including liaison with the members and/or Employers of the Fund. The financial position of the Fund is contained in the Fund's annual returns which are submitted to the ATC and ISC and are audited, stating the Fund's financial position as required by the Act. Members of the Fund will receive a Fund Statement each year showing abridged information from the audited Fund Accounts and the Auditor's Report and, if there is a relevant Sub-Plan, abridged financial information relating to that Sub-Plan, within six months of the Fund reporting period each year, which, unless otherwise decided by the Trustees, is the end of the financial year being the 30th of June;

10.9.8 THE INVESTMENT PERFORMANCE OF THE FUND OR SUB-PLAN:

Statement from the Trustees as to the actual performance of the Fund over the last five years, as applicable, (or such longer periods as decided upon at the Trustees' discretion) stating, if applicable, circumstances which may have occurred whether primarily within the Fund investments, or the economy in general which may have affected in the Fund's performance;

10.9.9 THE INVESTMENT STRATEGY OF THE FUND:

The current Investment Strategy of the Fund, or a written report of the Investment Strategy including detail of the Investment Strategy objectives, is to be issued to the prospective (new) member, with advice that the Investment Strategy is reviewed from time to time and that all changes to the Investment Strategy will be advised to members of the Fund within a reasonable period of time;

10.9.10**BENEFITS OF THE FUND:**

The Fund is designed to provide benefits for members upon retirement or dependants of members. Retirement benefits, total and permanent disablement or invalidity or death benefits, within a member's Allocated Account are provided through contributions by members and/or employers as applicable, plus the proportional amount of the Fund earnings less Fund expenses (including tax) which is allotted to the member's Individual Account or Equity. Retirement age is defined as age 55, or such other age as shown in Rule 4.8, which could be up to age 60 if legislated, or retirement, whichever is the latter. Additional ancillary benefits, if applicable, such as temporary disablement benefits, total and permanent disablement benefits and death benefits, if provided through a registered life insurance company, may form part of the member's benefits provided that health evidence, if requested, is submitted and that the benefit applied for is accepted by the registered insurer. The Trustees must state the applicable ancillary benefits including the amounts and the name and address of the insurer or insurers as applicable. (Should the Fund provide self-funded benefits, then details of the self-funded ancillary benefits are required to be included in the advice). Unallocated members (if applicable) of the Fund will have a benefit promise formula which, if applying, will be attached to this advice and will include all of the benefits provided by the Fund;

10.9.11**PRESERVATION OF BENEFITS:**

Under the Trust Deed of the Fund, and in accordance with the Act, the Trustees are required to treat certain benefits that have accrued to you as a preserved benefit. A preserved benefit can be paid out only in the following circumstances:

- 10.9.11.1** When you attain age 55, or such age as shown in Rule 4.8, which could be up to age 60 if legislated, or retirement, whichever is the latter;
- 10.9.11.2** Being invalidated (total and permanent disablement) which is defined as unlikely to ever be able to work again in an occupation for which you are reasonably qualified by previous

education, training or experience. Invalidity is either determined by the Trustees in their sole and absolute discretion or, in the event of an insured benefit, upon the terms and conditions of the insured benefit contract which is determined by the insurance company providing the insured benefit;

10.9.11.3 You intend to live permanently overseas and you satisfy the Trustees that you have no intention of ever returning to Australia;

10.9.11.4 That you can satisfy the Commissioner that you would suffer severe financial hardship or qualify for early release of benefits on compassionate grounds and that the Commissioner does grant early release of benefits in part or full;

10.9.11.5 Benefits are applied to a non-commutable lifetime pension or annuity, provided that cessation of employment has occurred with an Employer who had, or an associate of an Employer who had, contributed to the Fund in relation to the member;

10.9.11.6 Upon death;

10.9.12

RETENTION OF MEMBER'S BENEFITS IN THE FUND:

The Trustees have the sole and absolute discretion to offer to retain the member's benefits in the Fund in accordance with Rule 8.3 and the Act. Provided that the Trustees of a non-excluded fund with five or more members can only retain employee or ex-employee member's benefits within the Fund. Should the Trustee be a professional Trustee and the Fund is a Public Offer Fund then the Fund can retain all member's benefits. Trustees of Funds other than a Public Offer Funds must roll over (transfer) a member's benefit or pay out a member's benefit after ninety days of a member's termination from the Fund unless agreement has been reached through the Trustees to retain the (ex-employee) member's benefit in the Fund as per Rule 8.3;

10.9.13**ROLLOVERS (TRANSFERS) TO OR FROM OTHER COMPLYING FUNDS:**

The Trustees in their sole and absolute discretion can accept the roll over (transfer) of a member's benefit to the Fund. A member is empowered to request the Trustees that the member's vested benefits be rolled over (transferred) to other complying fund's. Members terminating from the Fund, other than members of a Public Offer Fund, have ninety days in which to direct the Trustees as to the elected rollover institutions, and/or complying fund's, for roll over (transfer) of a member's benefits, or to request the Trustees to pay out benefits as a lump sum, from which the Trustees are required to deduct the appropriate amount of tax. Provided that preservation rules are not breached by paying out the member's benefit. The Trustees are required to retain the member's benefit within the Fund for up to ninety days, at which point, unless agreement has been reached through the Trustees to retain the member's benefit in the Fund or direction has been received from the member, the member's benefit will be rolled over to an ERF (Eligible Rollover Fund) as per Rule 4.2.7. (The Trustees will also need to nominate the name and address of the ERF and consider the requirements contained in Rule 4.2.7 when wording the member's notification.) The Trustees are empowered to roll over a member's benefit to a ERF (Eligible Rollover Fund) if 90 days have elapsed since the benefit became payable and the member, after at least two notices, has not given instructions to roll over benefits. Provided that the last notice stated that unless advice is received within 28 days from the member, the member's benefit will be rolled over to the ERF nominated;

10.9.14**FEES AND CHARGES:**

The fees and charges of the sub-plan or Fund, excluding tax, for the last statement period was (amount) which, when applied to the total Fund assets of (amount) equated to (percent %). The fees and charges consist of the ISC annual lodgement fee of (\$200 per \$500,000 of Fund assets); annual accounting fees for the ISC/tax return and audit, actuarial and legal, investment advice, fees and charges which include, as and if appropriate: establishment or exit costs, stamp duty, REIWA or settlement costs,

termination fees, stock broker fees, including any transfer costs or direct fees or investment fees which were not deducted within the specific investment, (Investment charges average from 0% to 6% for establishment and 0% to 3% annualised which may or may not have a further charge upon termination); and miscellaneous or non-itemised expenses. The net amount allotted to a member's Allocated Account or Equity is net of: contributions tax and the Fund's net income which is taxed at 15%, plus, if applicable, the Superannuation Surcharge amount, which could range from 1% to 15% dependent upon a member's individual notional taxable income. The attached Fund Statement last issued, as appropriate, provides a statement of fees and charges of the Sub-Plan or Fund, and includes fees, charges, expenses, administration and other operational costs, an outline of how they are attributed, whether direct or indirect, stating occasions or periods at which they are levied or deducted, or if predetermined fixed amounts (shown as per member or per account), or if a fixed percentage (shown as if applied to account balance or contributions).

10.9.15 TAXATION:

The Trustees will deduct and remit tax payable, which is currently 15% on all deductible contributions and 15% of taxable Fund earnings, and the appropriate amount of tax upon a member's lump sum termination payment from the fund as an ETP (Eligible Termination Payment) or the Superannuation Surcharge ranging from 1% to 15% dependant upon a member's notional taxable income, as and if applicable;

10.9.16 POST-RETIREMENT BENEFITS:

The Trust Deed of the Fund provides internal facilities for immediate fixed-term annuities, allocated pensions and lifetime pensions in accordance with the Act. There are numerous requirements and considerations including, but not limited to, actuarial, legal and specific requirements of the Act to be considered prior to offering post-retirement benefit facilities to members. The Trustees hold the sole and absolute discretion to the provision of these facilities to members. The member may, as per Rule 10.9.13, roll over (transfer) benefits to: a fixed term annuity, an allocated annuity, an allocated pension, a lifetime

pension or to a regulated complying fund or receive the benefit in part or full as a lump sum;

10.9.17 REPORTING:

A Prospective (New) Member's Advice is issued as soon as practicable to a prospective (new) member. An annual Member's Benefit Statement is prepared and issued each year within six months of the end of the accounting period, setting out the position of the member's benefits. The Trustees of the Fund will also issue a Fund Statement at least once in each twelve-month period to the member, which will contain detailed information pertaining to the Fund as required by the Act. This information should be read carefully by the member upon receipt. A Cessation of Membership Statement which includes a Discharge Statement, as applicable, is issued as soon as practicable to the member upon termination from the Fund, showing member's entitlements and continuation options, if applicable, of any insured ancillary benefits, including qualifications and explanations as required by the Act;

10.9.18 ENQUIRIES OR COMPLAINTS AND FUND INFORMATION:

The Trustees will, in accordance with the Rules of the Fund and the Act, answer enquiries and complaints from, and provide information to, a member of the Fund or dependants or beneficiaries of a member or dependants of a deceased member or the legal representative of a member or persons notified by the Trustees in the event of a member's death or an Employer Sponsor or an Original Member of the Fund or an associate of an Employer Sponsor or an Original Member of the Fund either verbally or in writing within one month. The Trustees will disclose such information, as requested, in accordance with the Act, pertaining to the Fund which may include; copies of the Governing Rules of the Fund pertaining to the request, a copy of, or an abridged statement of, the Fund accounts and audit, notices issued by the Commissioner, the Member's Benefit Statement or other statements, if applicable, issued by the Trustees relating to the request, and a copy of the actuarial certificate

information requested (if applicable). A copy of the Fund's Superannuation Trust Deed is available through the Fund's Contact Person for members to peruse at the following address and at times stated. The Contact Person for the Fund is (Name, or Enquiries Officer) who can be contacted; (Times, Address Fax and Phone Number). If you would like to question any matter relating to the Fund please write or fax or telephone the Contact Person or Enquiries Officer. The Trustees of a non-excluded fund with five or more members will if unable to satisfy a member's complaint, establish within a reasonable amount of time and within ninety days, a Disputes Committee, following the procedure contained in Rule 9.51. Should the Disputes Committee not be able to resolve the dispute then it is the right of all parties to call upon the Superannuation Complaints Tribunal for adjudication. The Tribunal is an independent body set up by the Federal Government to assist members or beneficiaries of non-excluded funds to resolve certain types of complaints with Fund Trustees. You can contact the Superannuation Complaints Tribunal by phoning 13 14 34 or the Insurance and Superannuation Commission (ISC) can be contacted by phoning 13 10 60 (for the cost of a local call). If the Tribunal accepts the complaint it will attempt to resolve the matter through conciliation, which involves assisting the Complainant and the Fund Trustees to come to a mutual agreement. If conciliation is unsuccessful, the complaint is referred to the Tribunal for a determination which is binding.

10.10 MEMBER'S BENEFIT STATEMENT (NON-EXCLUDED FUND) FIVE OR MORE MEMBERS

The member's Annual Benefit Statement for the Sub-Plan or Fund is to be issued to the member as soon as practicable and within six months from the end of the Fund reporting period, as decided upon at the sole and absolute discretion of the Trustees, which is usually the 30th of June. (This Member's Benefit Statement is for Funds with five or more members which do not have a professional trustee and are not a Public Offer Fund, see Rule 10.13 for further Public Offer Fund requirements). The member's Annual Benefit Statement is to contain

a statement by the Trustees that to the best of their knowledge the Fund complies with and has satisfied the Superannuation Fund conditions in accordance with the Act. The Trustees must provide all the information a member reasonably needs for the purpose of understanding his or her benefit entitlements in the Fund. The Trustees, at their discretion, need not give a lifetime pension member of the Fund a Member Benefit Statement, or a pension member of the Fund can request in writing that a Member Benefit Statement is not provided. Considering the effect that either adverse investment returns or excessive Fund expenses or substantial accreditations would have on a member's Allocated Account, it is recommended that Trustees issue a Member's Benefit Statement to members. If a person ceases to be a member after the reporting period but before the information has been given, the information need not be given if the Trustees provide the necessary information in a Cessation of Membership Statement. The Trustees are required to make and continue to follow up and make, every effort to locate the member to issue the required Benefit Statement. The Member's Benefit Statement shall contain the following information (as applicable) :

10.10.1

MEMBERSHIP DETAILS:

- 10.10.1.1** Name of the Fund;
- 10.10.1.2** Trustees of the Fund;
- 10.10.1.3** The names of the employer and member Trustee representatives as a group of individual Trustees, or as directors on the board of Trustees of a corporate Trustee;
- 10.10.1.4** The Policy Committee members (if applicable) and how they are appointed or removed;
- 10.10.1.5** Name of the Principal Employer; or
- 10.10.1.6** Name of the Original Member; and or
- 10.10.1.7** Name of the Participating Employer;
- 10.10.1.8** Periods to which the statement relates;
- 10.10.1.9** Name of the member;
- 10.10.1.10** Last recorded member's annualised salary;

- 10.10.1.11 Category of member;
- 10.10.1.12 Class of member;
- 10.10.1.13 Member's date of birth;
- 10.10.1.14 Member's date of service;
- 10.10.1.15 Date member joined fund;
- 10.10.1.16 Prior eligible Fund date;
- 10.10.1.17 Advice that the member is either an employee member or an immediate fixed-term annuity or an allocated pension or a lifetime pension member or a ex-employee member with deferred benefits retained within the Fund (which may include dependants or beneficiaries of ex-employee members);

10.10.2 ANCILLARY BENEFITS:

- 10.10.2.1 Amount of the insured death benefit;
- 10.10.2.2 Amount of the insured total and permanent disablement benefit;
- 10.10.2.3 Amount of the insured temporary disablement benefit which has a maximum income benefit period of two years;

Provided that, if there are no insured death or total and permanent disablement benefits, then the Member's Benefit Statement is to state that the members vested account balance or member's Equity is the benefit payable upon death or total and permanent disablement;

10.10.3 MEMBER'S VESTED BENEFIT:

- 10.10.3.1 Member's vested benefit at the commencement of the statement period;
- 10.10.3.2 Employer's gross contributions for the period;
- 10.10.3.3 Employer's vested contributions for the period;
- 10.10.3.4 Member's undeducted contributions for the period;
- 10.10.3.5 Federal Government transfer (if applicable);

- 10.10.3.6 Rollovers (transfers) received during the Fund statement period;
- 10.10.3.7 Transfer from the Forfeited Benefits Account (if applicable);
- 10.10.3.8 Transfer from the Equalisation Account (if applicable);
- 10.10.3.9 Net earnings credited for the period;
- 10.10.3.10 Less member withdrawals for the period;
- 10.10.3.11 Less the amount of fees, charges, expenses and tax deducted for the period;
- 10.10.3.12 The member's vested benefit at the conclusion of the statement period;

10.10.4 MEMBER'S ACCOUNT RECORDS:

- 10.10.4.1 Preserved benefit;
- 10.10.4.2 Restricted non-preserved benefit;
- 10.10.4.3 Non-preserved benefit (which applies until 30 June 1997) from 1 July 1997, all member's benefits will be redefined and will be subject to a formula to become:
- 10.10.4.4 Preserved benefits;
- 10.10.4.5 Restricted non-preserved benefits;
- 10.10.4.6 Unrestricted non-preserved benefits;

10.10.5 DEFINED BENEFITS:

- 10.10.5.1 Defined benefit formula showing: multiple of salary, periods of salary applying to formula and application of that formula to provide member's death, total and permanent disablement, temporary disablement and retirement benefits, as applicable, in accordance with the actuarial certificate applying to the Fund;

The Member's Benefit Statement should be issued to members for whom the Trustees are

receiving contributions and the immediate fixed-term annuity, allocated pension and lifetime pension members receiving benefits from the Fund, or members with deferred benefits in the Fund, which could include dependants or beneficiaries of members or ex-members. The Annual Member's Benefit Statement is to include a copy of the Fund's Investment Strategy, or advice to members of the current Investment Strategy and the investment objectives of the Fund, including changes to the Investment Strategy, as and if applicable. Such Statement must also include any changes in the rules and provisions of the Fund, or any significant event which could affect member's benefits.

10.10.6 EXPLANATIONS AND QUALIFICATIONS: (TO BE INCLUDED WITH THE MEMBER STATEMENT)

These explanations and qualifications refer to the information shown on the Member's Statement of Benefits. This statement will only show contributions paid by you or your employer and/or investment credits/debits which have been received and allotted by the Trustees to your Accumulation Account or Equity during the period shown. Overriding Statement (applying to Notes 1 to 21 following). Member's account balance does not take into account any early withdrawal or termination penalties, capital gains tax, stamp duty, broker fees, etc which may or may not apply to any of the Fund investments which are encashed to pay out a member's benefit. Allotment to a member's Accumulation Account or Equity is calculated from the date contributions, investment credits or debits or liabilities are received by the Trustees. If an amount or advice of a credit or debit or liability has been received by the Trustees that does not appear on this statement because it has not yet been allotted to your Accumulation Account or Equity, you will be credited or debited with said adjustment from the applicable date. The Trustees state that, to the best of their knowledge and belief, the Fund complies with and has satisfied the superannuation conditions in accordance with the Act:

Note 1: Category of Membership The fund offers twenty categories of membership, namely AF, AIF, AIYF, AIZF, AL, AIL, AIYL, AIZL, AP, AIP, UF, UIF, UIYF, UIZF, UL, UIL, UIYL, UIZL, UP AND UIP. The first letter in each category of membership shall either be "A" or "U" where "A" represents an Allocated Accumulation Benefit and "U" represents an Unallocated Benefit. The letter "I" represents a category of membership which entitles a member to benefit from more

than one category. The letter "Y" represents a Compulsory Superannuation Fund member (Superannuation Guarantee). The letter "Z" represents an Award (Productivity Fund) member. The last letter in each category of membership shall be "F", "L" or "P" where "F" represents a Fully Commutable Pension, "L" represents a Lump Sum Benefit and "P" represents a Partially Commutable Pension of which no more than 25% of the member's Equity or Accumulation Account can be commuted. The Trustees by resolution and with the consent of the Principal Employer or Original Member may create a further category or categories of membership provided that a member's existing rights shall not be detrimentally affected upon a transfer to such new category or categories without the written consent of such members, provided that the conditions of Rule 8.5 have not been breached. Compulsory Superannuation Members' Category "Y" (Superannuation Guarantee) and Award (Productivity) Fund Members' category "Z" transfers cannot detrimentally affect Members' rights unless obligated under the Act;

Note 2: Class of Membership There are eight (8) classes of membership of the Fund designated alphabetically as "A" class, "B" class, "C" class, "D" class, "E" class, "F" class, "G" class and "H" class. The class of membership is the vested entitlement of the member to the member's Accumulation Account or Equity. The employer contribution credits for employee members are credited to the member's Account or member's Equity calculated on fully completed years of membership as per the Vesting Schedule in the Deed ranging from "A" class respectively as: forty years, twenty five years, twenty years, fifteen years, ten years, seven years and five years with full immediate vested entitlement for class "H" which is the class of vesting entitlement that is applied to all member contributions and accruals and mandatory employer contributions and accruals such as Award (Productivity) and Superannuation Guarantee contributions;

Note 3: Death Benefit amount applies if paid to a dependant within the RBL (Reasonable Benefit Limits). A reduced amount may apply if paid to a non-dependant or if benefit is in excess of the RBL limits, due to tax on said benefit.

Total Disablement Benefit is defined as unable to continue with an occupation suited by previous training or experience which is either determined by the Trustees in their sole and absolute discretion or, in the event of an insured benefit, upon the terms and conditions of the insured benefit contract which is determined by the insurance company providing the insured benefit.

Temporary Disablement Benefit income payment is limited to a maximum compensation period of two years which is either determined by the Trustees in their sole and absolute discretion or upon the terms and conditions of the insured benefit contract which is determined by the insurance company providing the insured benefits;

Note 4: Vested Benefit refers to your guaranteed minimum benefit entitlement on leaving the Fund at the respective dates shown. See Notes 12 to 14 to ascertain the amount that could be paid out as a withdrawal or termination benefit, or is required to be preserved;

Note 5: The Employer's gross contributions for the period means the gross contributions made by the Employer. **The Employer's vested contribution** for the period is the member's entitlement to the Employer's contributions in accordance with the member's vesting entitlement as stated in the Vesting Schedule for the member's class of membership;

Note 6: Undeducted Contributions means your personal, after-tax, non-deductible contributions (not accruals);

Note 7: Federal Government matching contributions transferred to you (if applicable);

Note 8: Roll over (transfer) of member's benefits to the Fund and/or transfer from **Forfeited Benefits Account** (distribution of Fund excess credits (if applicable) and/or **Equalisation Account** being a distribution from the Fund Reserve Account (if applicable). The Trustees in their sole and absolute discretion can accept the roll over (transfer) of a member's benefit to the Fund. A member is empowered to request the Trustees to roll over (transfer) the member's benefit to other complying funds. The Trustees are empowered to roll over a member's benefit

to a ERF (Eligible Rollover Fund), if 90 days have elapsed since the benefit became payable and the member, after at least two notices, has not given instructions to roll over benefits. Provided that the last notice stated the name and address of the ERF and that, unless advice is received from the member within 28 days, the member's benefit will be rolled over to the ERF nominated;

Note 9: Net Earnings is the net rate or amount credited to the member after crediting all vested contributions and earnings less expenses in proportion to the member's Accumulation Account or Equity in accordance with the Act. The net amount includes provision for contributions tax and the Fund's net income which is taxed at 15%, plus, if applicable, the Superannuation Surcharge amount which could range from 1% to 15% dependent upon an individual member's notional taxable income;

Note 10: Member Withdrawals for the period (if applicable) are either unrestricted non-preserved benefits or early release of benefits, if granted by the Commissioner withdrawn by the member from the Fund and/or roll over (transfer) of a member's benefits from the Fund to other complying fund's;

Note 11: Fees and Charges consist of: ISC (Insurance and Superannuation Commission) annual lodgement fee, annual ISC return, tax return and audit, fees and charges for advice or services (as applicable) for: actuarial, legal, accounting and investments, charges/fees for investments, as and if applicable, which may consist of: establishment or exit costs, stamp duty, REIWA or settlement fees, termination fees, stockbroker fees, including any transfer costs or direct fees or investment fees which were not deducted within the specific investment concerned;

Note 12: The Preserved Portion of your Vested Benefit refers to that part of your entitlement that cannot be paid to you (unless under \$500) prior to retirement, being age 55, or such age as shown in Rule 4.8, which could be age 60 if legislated, or retirement, whichever is the latter, or early release of benefits if granted by the Commissioner, total and permanent disablement, invalidity, or permanently leaving Australia or death. The formula for preserved benefits from 1 July 1997 is the member's total vested benefit reduced by the restricted non-preserved benefit and the unrestricted non-preserved benefit;

Note 13: Restricted Non-Preserved Benefits means contributions and accruals by an existing Employer or Original Member of the Fund and contributions and accruals by an employee of an existing Employer or Original Member of the Fund provided that the Fund commenced prior to 22 December 1986. From 1 July 1997 restricted non-preserved benefits are further redefined under SIS (Superannuation Industry (Supervision) Act 1993) as being the greater of: the restricted non-preserved benefit payable had the member resigned or been retrenched as at July 1997 recalculated and indexed thereafter in line with AWOTE (Average Weekly Ordinary Time Earnings) or the total amount of the member's undeducted contributions (excluding accruals) including those made post 1 July 1997. Restricted non-preserved benefits from 1 July 1997 can become unrestricted non-preserved benefits provided that cessation of employment has occurred with an Employer of the Fund who had, or whose associates had, contributed to the Fund in relation to the member;

Note 14: Unrestricted Non-Preserved Benefits are benefits to which preservation is not applicable and can be withdrawn by the member in part or full upon request to the Trustees of the Fund, irrespective of continuity of employment or contributions by the Employer or member to the Fund;

Note 15: Member Protection Standards means mandatory employer contributions for members pertaining to Award (Productivity) or Superannuation Guarantee contributions (if applicable) and are subject to Member Protection Standards which are defined as: the fees and charges applied to a member's Account or Equity with the exception of taxation liabilities and the cost of insured ancillary benefits such as death or total and permanent disablement benefits, cannot exceed the earnings created whilst the member's Account or Equity is less than \$1,000;

Note 16: Details of Contributions in Arrears (if applicable) and any action taken to have said contributions paid. Such advice to contain: the amount or anticipated amount of the contributions, the action taken or the proposed action to be taken to have the contributions paid and any other details or explanation that the Trustees deem necessary. Such advice, if including Superannuation Guarantee contribution:

to also state the specific amount of the shortfall and any shortfall component received for the member, which is to be itemised for each member;

Note 17: Rollovers (Transfers) to or from other complying funds. The Trustees in their sole and absolute discretion can accept the roll over (transfer) of a member's benefit to the fund. The member is empowered to request the Trustees that the member's vested benefits be rolled over (transferred) to other complying funds. Members rolling over (transferring) benefits from the Fund, other than members of a Public Offer Fund, have 90 days in which to direct the Trustees as to the elected rollover institution/s and/or complying funds for roll over (transfer) of a member's benefits or to request the Trustees to pay out benefits as a lump sum from which the Trustees are required to deduct the appropriate amount of tax, provided that the preservation rules are not breached by paying out the member's benefits. The Trustees are required to retain the member's benefits within the Fund for up to 90 days, at which point, unless agreement has been reached with the Trustees to retain the ex-employee's benefit in the Fund or direction has been received from the member, the member's benefits will be rolled over to an ERF (Eligible Rollover Fund) as per Rule 4.2.7 (The Trustees will also need to consider the requirements of Rule 4.2.7 and nominate the name and address of the ERF in the member's statement). The Trustees are empowered to roll over a member's benefit to an ERF (Eligible Rollover Fund) if 90 days have elapsed since the benefit became payable and the member, after at least two consecutive notices, has not given instructions to roll over benefits. Provided that the last notice stated that unless advice is received from the member within 28 days, the member's benefit will be rolled over to the ERF nominated;

Note 18: The Trustee/s of your Fund is/are (name and ACN, if applicable) who is/are responsible for ensuring that the rights of all members under the Trust Deed are secured and that the Fund at all times complies with the requirements of the Insurance and Superannuation Commissioner and the Australian Taxation Office. Non-excluded funds with five or more members are required, if not electing to become a Public Offer

Fund, or, for funds with five to forty nine members, not appointing an Independent Trustee, to comply with the Equal Representation Rules. The Rules for appointment, procedures and dismissal of employer and member Trustee representatives and Trustees are contained in the following governing rules of the Fund, being Rules 9.21 to 9.23 and 9.54 which are available for members to peruse at the address and at times stated in the Contact Person or Enquiries Officers section of this advice. The procedures, in brief, are: Notification is issued to all members of the Fund requesting nominations of between two (2) to eight (8) Employer and Member representatives who must call a meeting and elect a chairperson who shall have a deliberative vote but not a casting or second vote. Two persons shall constitute a quorum. The term of office of a group of individual Trustees or directors on the board of Trustees of a corporate Trustee is infinite unless otherwise decided by the Trustees in their sole and absolute discretion. Trustee decisions are determined by the two-thirds voting rule which is applied over the total number of representatives irrespective of the number of representatives attending a meeting, thus there is no requirement or need for a quorum greater than two persons to pass a motion, provided that the appropriate number of proxy votes were issued as per Rule 9.15. Example: Six Trustee representatives are elected of whom two attend a meeting, holding two proxy votes. It will require a unanimous vote of all present representing those four votes at that meeting, to satisfy the two-thirds voting rule and to pass that motion. Employer or Member representatives can be appointed or removed by the Trustees through the two-thirds voting rule, provided that a meeting is convened and at least 7 days notice is given. The members of the Fund may be able to remove the representatives, or one or more of the representatives, by submitting a petition to the Trustees which contains the majority vote of the members of the Fund. The petition can demand a meeting to force an election of Trustee representatives, or the removal or appointment of a representative. The duly appointed representatives shall, at that meeting, abide by the two-thirds voting rule. Representatives may be removed by an event such as, but not limited to,

resignation, mental or physical incapacity, death, the person becoming disqualified as a result of insolvency or being convicted of a dishonest conduct offence or civil penalty under part 17 of the SIS Act. In addition, removal of a member representative can occur on retirement or other termination of employment or when the member ceases to be a member of the fund;

Note 19: Indemnity Insurance The Trustees have/have not effected indemnity insurance on behalf of the Fund;

Note 20: Enquiries or Complaints and Fund Information The Trustees shall, in accordance with the Rules of the Fund and the Act, answer enquiries and complaints from, and provide information to, a member or dependant or beneficiary of a member or a dependant of a deceased member or the legal representative of a member or persons notified by the Trustees in the event of a member's death or an Employer Sponsor or Original Member of the Fund or an associate of an Employer Sponsor or Original Member of the Fund either verbally or in writing within one month. The trustees will disclose such information, as requested, in accordance with the Act, pertaining to the Fund which may include: copies of the governing rules of the Fund pertaining to the request, a copy of, or an abridged statement of, the Fund Accounts and Audit, notices issued by the Commissioner, the Member's Benefit Statement or other statements, if applicable, issued by the Trustees relating to the request, and a copy of the Actuarial certificate information requested (if applicable). A copy of the Fund's Superannuation Trust Deed is held at the Fund's contact address, which is available for members to peruse during times stated in Note 21. The Trustees of a non-excluded fund with five or more members will, if unable to satisfy a member's or beneficiaries complaint, establish within a reasonable amount of time and within ninety days, a Disputes Committee following the procedure contained in Rule 9.51. Should the Disputes Committee not be able to resolve the dispute then it is the right of all parties to call upon the Superannuation Complaints Tribunal for adjudication. The Tribunal is an independent body set up by the Federal Government to assist members or beneficiaries of non-excluded funds to resolve

certain types of complaints with Fund Trustees. The Superannuation Complaints Tribunal can be contacted by phoning 13 14 34 and the Insurance and Superannuation Commission (ISC) can be contacted on 13 10 60 (for the cost of a local call). If the Tribunal accepts the complaint it will attempt to resolve the matter through conciliation, which involves assisting the Complainant and the Fund Trustees to come to a mutual agreement. If conciliation is unsuccessful, the complaint is referred to the Tribunal for a determination which is binding;

Note 21: Contact Person The Contact Person for the Fund is (Name, or Enquiries Officer) who can be contacted; (Times, Address, Fax and Phone Number). If any information appears incorrect, or you would like to question any matter relating to the Fund, or advise the Trustees of a change to your preferred dependent, please write or fax or telephone the (Contact Person or Enquiries Officer).

10.11 CESSATION OF MEMBERSHIP STATEMENT (NON-EXCLUDED FUNDS) MORE THAN FIVE MEMBERS

- 10.11.1** To consist of the relevant information shown in Rules 10.10 to 10.10.7;
- 10.11.2** A possible exception could be members rolling over (transferring) from the Fund who may not need to be provided with a Cessation of Membership Statement. The Trustee is required to complete a STP (Statement of Termination Payment) and a RPN (Rollover Payment Notification) both available from the ATO, which will show the member's benefit entitlement in the Fund. The Trustees will also need to provide to the member, notification of any significant changes since the last Member's Benefit Statement issued which would have an effect on the member's benefits. Provided that the information given was sufficient to enable the member to understand the effect of the roll over (transfer) and the member will receive a Member's Benefit Statement from the receiving fund's trustees, there may not be a requirement to issue a Cessation of Membership Statement; and
- 10.11.3** Advice as to the right of continuance by the member to any insured benefits on the member's life within the Fund and the time frame or conditions that apply to the continuance of the insured benefit, as and if applicable;

- 10.11.4** A member's benefit can remain in the Fund for up to ninety days at which point, unless direction has been received from the member or agreement has been reached with the Trustees to retain the ex-employee's benefit in the Fund, the member's benefit will be rolled over to an ERF (Eligible Rollover Fund) as per Rule 4.2.7 (the Trustees will also need to nominate the name and address of the ERF, and consider the content of Rule 4.2.7, in the Member's Cessation of Membership Statement). The Trustees in their sole and absolute discretion can retain the member's benefit in the Fund provided that the member is an ex-employee of the Principal Employer or Original Member or Participating Employer and the retention of a member's benefit in the Fund will not contravene the Act as per Rule 8.3;
- 10.11.5** The Trustees are required to prepare and issue a dated Discharge of Benefit Statement from the Fund which is to be signed and witnessed, as hereinafter defined, with the original retained by the trustees and a copy issued to the recipients, prior to paying out a member's benefit. The Discharge of Benefit Statement will differ dependent upon the specific discharge of benefits, which could range from: the cessation of employment and/or cessation of membership of the Fund, the rolling over of benefits from the Fund, the Commissioner granting early release of benefits or temporary disablement or total and permanent disablement or the member permanently leaving Australia or the death or retirement of the member. The Discharge of Benefit Statement is to contain, as and if applicable:
- 10.11.5.1** The date of the Discharge of Benefit Statement;
 - 10.11.5.2** The name of the Fund;
 - 10.11.5.3** The name and address of the Trustees of the Fund;
 - 10.11.5.4** The name and address, and date of birth of the member;
 - 10.11.5.5** The name and address of the persons to whom the benefit is payable, if other than the above;
 - 10.11.5.6** The specific reason for the discharge of benefit, eg, retirement, etc ;

- 10.11.5.7 The method of payment of the benefit, eg; lump sum payment, etc ;
- 10.11.5.8 The amount of benefit payable;
- 10.11.5.9 Proof of age;
- 10.11.5.10 Certification of identity;
- 10.11.5.11 Evidence or certification of existence;
- 10.11.5.12 The signature of all recipients and witnesses;

The Trustees, in their sole and absolute discretion can design the Discharge of Benefit Statement to be either an acknowledgment by the recipients which must be signed prior to the payment of the benefit; or to include a receipt together with the Discharge of Benefit Statement, which would then be issued and completed at the same time as the benefit is paid. Irrespective of what method is chosen, the Discharge of Benefit Statement is to include provision for one or more witnesses, as appropriate, and include a statement to the effect that the recipients accept the Discharge of Benefit Payment as full discharge of all rights, interests and entitlements under the governing rules of the Deed and the Fund and that there can be no further claim against, or financial interest in, the Fund.

10.12

FUND STATEMENT (NON-EXCLUDED FUNDS) WITH FIVE OR MORE MEMBERS

A Fund Statement must be issued to each person who was a member of the Fund on the day on which the Fund Statement was completed and is required to be issued with a Prospective (New) Member's Advice as stated in Rule 10.9. The Trustees must provide to a member, defined as a person who is contributing to the Fund or is, or has, had contributions made by the Employer of the Fund (or, for Public Offer Funds, including a non-employee member or a self-employed member) and includes an immediate fixed-term annuity, allocated pension and lifetime pension member, including beneficiaries and members with deferred benefits in the Fund (which may include dependants or beneficiaries of members or ex members), certain Fund information on a regular basis. Fund information concerns management and other information which relates to the Fund (or Sub-Plan of it) and is provided in a Fund

Statement which is required to be prepared and issued to members for each Fund Reporting period. The Fund reporting period must generally be no more than a twelve-month period, however the Trustees may apply to the Commissioner for a longer period. The Fund reporting period may be different from the member reporting period. Once one Fund reporting period ends, the next must commence immediately. Different Fund reporting periods can apply in respect of different members or groups of members, although, in practice, it will be common for the Trustees to use the same Fund reporting period for all members. All Fund information need not be given to a member in respect of the same Fund reporting period. For example, some Fund information may be given for a six month period, and other information may be given for a nine-month period. A Fund reporting period need not relate to the Fund's income year. However, the accounting information required to be included will ordinarily relate to the income year as section 112 of the SIS Act requires financial statements to be included which are to be based on the Fund's income year. Thus a Fund may, for example, provide account information on the income year and other information on the year to the Fund's review date. It may be prudent and cost effective to coincide the Fund Statement with the end of the financial year (30th of June) and issue the Fund Statement and the Member's Statement at the same time. The Trustees must fulfil the regular fund information requirements as soon as practicable, and in any event within six months, after the end of a Fund reporting period. The Trustees are required to issue the Fund Statement immediately to the member, upon completion, and continue to use every endeavour to locate an address, to ensure the member's receipt of the Fund Statement;

10.12.1 GENERAL DISCLOSURE REQUIREMENT

The Fund Trustees must give all information that a member would reasonably need for the purpose of:

- 10.12.1.1** understanding the management and financial condition of the Fund and any relevant Sub-Plan; and

10.12.1.2 understanding the investment performance of the relevant Sub-Plan or, if none, of the Fund;

10.12.1.3 providing sufficient information that a member reasonably needs for the purpose of understanding the aspects of the Fund and the member's general entitlement to benefits in the Fund;

Trustees of a non-excluded fund with five or more members at the beginning of the statement period shall prepare and issue within each twelve-month statement period a Fund Statement in accordance with the Act to members which shall contain: (as applicable);

10.12.2 CONTACT DETAILS

10.12.2.1 the name of the Contact Person or Enquiries Officer;

10.12.2.2 the contact address for the Fund;

10.12.2.3 the contact phone and fax number as applicable;

10.12.3 SUB-PLAN (IF APPLICABLE)

A common factor may exist within the Sub-Plan of the Fund such as a category of members with the same Employer or a specific investment strategy or a benefit structure or design (which is possible within this Deed) that is unique to the members of the Sub-Plan of the Fund:

10.12.3.1 The Trustees are required to provide the information that is unique pertaining to the Sub-Plan which may differ from the Fund as a whole which could include specific investments as per Rule 5.7;

The Trustees are required to provide both the specific information pertaining to the Sub-Plan and the information of the Fund, as required in accordance with the Act;

10.12.4 FUND DETAILS:

10.12.4.1 The name of the Fund; or

10.12.4.2 The name of the Sub-Plan;

10.12.4.3 The name of the corporate Trustee; and

- 10.12.4.4 The names of the directors on the board of Trustees of the corporate Trustee in accordance with the Equal Representation Rules; or
- 10.12.4.5 The names of the members of the group of individual Trustees of the Fund in accordance with the Equal Representation Rules; or
- 10.12.4.6 The name of the independent Trustee, if appointed; or
- 10.12.4.7 The name of the professional Trustee should the Fund have elected to become a Public Offer Fund ;
- 10.12.4.8 The names of the members of the Policy Committee for the Sub-Plan or Fund, as and if applicable;
- 10.12.4.9 The name of the Principal Employer or Original Member, including Participating Employers, if applicable;
- 10.12.4.10 The name and address of the Investment Manager if approved, in respect of the Fund or the Sub-Plan or, if none, state that the Trustees are responsible for the investments of the Fund or Sub-Plan; and
- 10.12.5 **APPOINTMENT OF DIRECTORS ON THE BOARD OF TRUSTEES:**
- 10.12.5.1 State the procedure by which the directors were appointed, including the tenure and provisions for removal and replacement of a director;
- 10.12.6 **APPOINTMENT OF A GROUP OF INDIVIDUALS AS TRUSTEES:**
- 10.12.6.1 State the procedure by which the individual trustees were appointed, including the tenure and provisions for removal and replacement of an individual trustee;
- 10.12.7 **APPOINTMENT OF A POLICY COMMITTEE:**
- 10.12.7.1 State the procedure by which the policy committee was appointed, including the tenure and provisions for removal and replacement of the members of a policy committee;

10.12.8**INVESTMENT STRATEGY:**

10.12.8.1 enclose a copy of the Fund or Sub-Plan Investment Strategy; or

10.12.8.2 include a written report of the Fund or Sub-Plan Investment Strategy and detail the Investment Strategy objectives;

10.12.9**STATEMENT OF ASSETS:**

10.12.9.1 The Trustees must provide a Statement of Assets of the relevant Sub-Plan or, if none, of the Fund as at the end of the relevant Fund reporting period and the end of the previous Fund reporting period. The statement must include all information that a member would reasonably need to understand the asset allocation at those times;

10.12.9.2 A Statement of Assets must include either the value or proportion of investments in a particular asset group. This would include the amount of assets invested in government securities, managed investments, PSTs (pooled superannuation trusts) equities, property, etc. Trustees should use their discretion as to what asset groupings should be disclosed;

The requirement for Statement of Assets does not apply to funds from which the benefits paid to each individual member are wholly determined by reference to life assurance policies;

10.12.10**ASSETS EXCEEDING 5% OF THE TOTAL SUB-PLAN OR FUND ASSETS:**

Details of each investment that has a market value in excess of 5% of the total assets of the Sub-Plan or, if none, the Fund. The Trustees must also provide details of each combination of investments that the Trustees know, or ought reasonably to know :

10.12.10.1 That are invested (directly or indirectly) in a single enterprise or a group of associated enterprises; and

10.12.10.2 Has a combined market value in excess of 5% of the total assets of the Sub-Plan or, if none, the Fund (which effectively

means that the Sub-Plan or Fund has increased its holdings in a particular investment or Investment Manager);

An example of a single enterprise (direct investment) could be a holding of, say, 4% of assets invested in entity "A" plus 3% invested in loans to entity "B" and 5% invested (held by the way of shares) in entity "C". Assume that both "B" and "C" are associated with "A". In this case the Trustees are required to disclose total holdings of 12% and state the relationship in the Fund Statement. An example of an indirect investment in a group of associated enterprises could be an investment in PSTs (pooled superannuation trusts) or managed investments in which, say, 2% was invested in ZZZ Pty Ltd. Should the Fund currently have direct investments in ZZZ Pty Ltd of, say, 4% then the Trustees are required to disclose total holdings of 6% and state the relationship in the Fund Statement. As previously shown, the application of the '5% rule' to indirect investments may in some instances require Trustees to 'look through' the assets held by a PST or a managed investment (ie, where the Trustees are in a position where they ought reasonably to know the PSTs precise investment mix. Often, however, this will not be the case). Investments in a trust are not taken to be invested in the trustee of the trust. For example, suppose:

- 10.12.10.3** 3% of the value of a Fund's assets are invested in BBB Pty Ltd;
- 10.12.10.4** 3% of the value of the Fund's assets are invested in a PST or managed investment; and
- 10.12.10.5** the trustee of the PST or managed investment is an associate of BBB Pty Ltd. In this case the Fund would not be regarded as having 6% of the value of the Fund assets in BBB Pty Ltd ;

The requirement to disclose single investments greater than 5% of total assets does not apply for Funds from which the benefits paid to each individual are wholly determined by reference to life assurance policies;

10.12.11 NET EARNING RATE:

10.12.11.1 Net Earning Rate is to be stated over a five year period. The Trustees must provide the actual or notional rate of net earnings for each of the five most recent reporting periods where they are available. Broadly speaking, "Net Earnings" refers to investments less costs;

10.12.11.2 Trustees may provide figures as either a percentage amount or a dollar amount of investment earnings. However, where the earnings are shown as a dollar amount it must be represented in such a way as to clearly indicate the amount of income earned in relation to the total amount invested;

10.12.12 NET EARNINGS ALLOCATED TO MEMBERS' ACCOUNTS:

10.12.12.1 The Trustees must provide information on the manner in which any net earnings are allotted to members' accounts in the relevant Sub-Plan or, if none, the Fund;

10.12.13 FINANCIAL INFORMATION AND AUDITED ACCOUNTS:

The Trustees must provide, so far as they are applicable, either:

10.12.13.1 the audited Fund accounts, the auditor's report and, if there is a relevant Sub-Plan, abridged financial information relating to that Sub-Plan; or both of the following:

10.12.13.2 abridged financial information relating to the Sub-Plan or, if none, the Fund; and

10.12.13.3 information as to when the audited fund accounts and the auditor's report will be sent to members or will be available to members on request (as the case may be);

If abridged financial information is to be provided, it must be derived from the Fund's accounts or records. It must give a reasonable summary of either:

10.12.13.4 changes in the financial position of the Fund or Sub-Plan during the fund reporting period, plus the financial position of the Fund or Sub-Plan at the end of that period;

- 10.12.13.5** changes in the net assets of the Fund or Sub-Plan during the Fund reporting period, plus the net assets of the Fund or Sub-Plan at the end of that period;

This requirement does not apply to Funds from which the benefits paid to each individual member are wholly determined by reference to policies of life assurance;

10.12.14 FEES AND CHARGES:

The Trustees are required to provide a Statement of Fees and Charges of the Sub-Plan or Fund, to include fees, charges, expenses, administration and other operational costs, and must provide an outline of how they are attributed (direct or indirect) including occasions or periods at which they are levied or deducted. If predetermined fixed amounts (shown as per member or per account), or if a fixed percentage, (show if applied to account balance or contributions). A general statement should be provided as to the manner in which fees, charges, expenses and administration and other operational expenses are incurred;

10.12.15 DETAILS OF ANY PENALTIES IMPOSED UNDER THE ACT:

- 10.12.15.1** State details of penalties imposed, if applicable, including explanation of actions taken and costs;

10.12.16 CONTRIBUTIONS TO AN ALLOCATED FUND

Details of contributions in arrears (if applicable) and any action taken to have said contributions paid. Such advice to contain: the amount or anticipated amount of the contributions, the action taken or the proposed action to be taken to have the contributions paid and any other details or explanation that the Trustees deem necessary. Such advice, if including Superannuation Guarantee contributions, to also state the specific amount of the shortfall and any shortfall component received for the member, which is to itemised for each member;

10.12.17 CONTRIBUTIONS TO AN UNALLOCATED FUND (DEFINED BENEFIT FUND)

10.12.17.1 If the contributions paid by an Employer Sponsor to a Defined Benefit Fund in the reporting period are materially less than the amount that an actuary has approved, (ie, as being sufficient or insufficient contributions in that period) then the Trustees must provide a statement of the position. The statement should be in respect of the relevant Sub-Plan or, if none, the Fund. The Trustees must also explain the consequences for the Fund of the shortfall and describe any action the Trustees had taken, or propose to take, in relation to the matter;

10.12.18 RESERVES IN ACCUMULATION FUNDS:

10.12.18.1 Trustees of an Accumulation Fund who maintain reserves, such as the Equalisation Account (Rule 8.8), must provide details of movements in reserves for the relevant Sub-Plan or, if none, the Fund. The details must cover movements during the most recent Fund periods that, in total, constitute a period of at least three years, as appropriate;

10.12.19 RESERVES IN ALL FUNDS:

The Trustees of any Fund (ie, whether it be an Accumulation Fund or a Defined Benefit Fund) which maintains reserves must provide a description of the Trustees management strategy in relation to the reserves developed under paragraph 52 (2) (g) of the SIS Act: being

10.12.19.1 to formulate and give effect to a strategy for their prudential management, consistent with the Fund's Investment Strategy objectives and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;

The description must relate to the relevant Sub-Plan or, if none, the Fund;

10.12.20 INDEMNITY INSURANCE:

10.12.20.1 A Statement as to whether or not indemnity insurance has been taken out by the Trustees;

10.12.17 CONTRIBUTIONS TO AN UNALLOCATED FUND (DEFINED BENEFIT FUND)

10.12.17.1 If the contributions paid by an Employer Sponsor to a Defined Benefit Fund in the reporting period are materially less than the amount that an actuary has approved, (ie, as being sufficient or insufficient contributions in that period) then the Trustees must provide a statement of the position. The statement should be in respect of the relevant Sub-Plan or, if none, the Fund. The Trustees must also explain the consequences for the Fund of the shortfall and describe any action the Trustees had taken, or propose to take, in relation to the matter;

10.12.18 RESERVES IN ACCUMULATION FUNDS:

10.12.18.1 Trustees of an Accumulation Fund who maintain reserves, such as the Equalisation Account (Rule 8.8), must provide details of movements in reserves for the relevant Sub-Plan or, if none, the Fund. The details must cover movements during the most recent Fund periods that, in total, constitute a period of at least three years, as appropriate;

10.12.19 RESERVES IN ALL FUNDS:

The Trustees of any Fund (ie, whether it be an Accumulation Fund or a Defined Benefit Fund) which maintains reserves must provide a description of the Trustees management strategy in relation to the reserves developed under paragraph 52 (2) (g) of the SIS Act: being

10.12.19.1 to formulate and give effect to a strategy for their prudential management, consistent with the Fund's Investment Strategy objectives and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;

The description must relate to the relevant Sub-Plan or, if none, the Fund;

10.12.20 INDEMNITY INSURANCE:

10.12.20.1 A Statement as to whether or not indemnity insurance has been taken out by the Trustees;

10.12.21 SIGNIFICANT EVENTS:

The Trustees must give information to a member concerning any event in relation to the Fund of which the member would reasonably expect to be informed. The information must include all that a member would reasonably need to:

- 10.12.21.1** understand the nature or purpose of the event;
- 10.12.21.2** make an informed judgement about the effect of the event generally;

A significant event could include:

10.12.22 Changes to the Governing Rules or changes carried out or consented to by the Trustees. The Trustees must give information about certain changes to the Fund's Governing Rules or any act carried out or consented to by the Trustees, these are changes that have an adverse effect or a substantial increased effect:

- 10.12.22.1** on a member's accrued benefits;
- 10.12.22.2** on the benefits to which a member may become entitled;
- 10.12.22.3** for the member, on the circumstances in which those benefits would become payable;
- 10.12.22.4** for the member, on the manner in which those benefits would be worked out; or
- 10.12.22.5** on the security of the member's benefits;

10.12.23 FUND RECEIVES NOTICE OF NON-COMPLIANCE:

If the Trustees receive a notice from the Commissioner stating that the Fund is not a complying superannuation fund, the Trustees must give to each member:

- 10.12.23.1** a statement of the circumstances that gave rise to the non-compliance (including details of the non-compliance);
- 10.12.23.2** a statement of the effect on the Fund of the issue of the notice (including the effect on the Fund's tax treatment);
- 10.12.23.3** details of action that the Trustees have taken, or propose to take, to have the fund become a complying superannuation fund; and

Notice of any event which in the opinion of the Trustees is a significant event which could affect the members' entitlement in the Sub-Plan or Fund;

10.12.24

ENQUIRIES OR COMPLAINTS AND FUND INFORMATION:

The Trustees will, in accordance with the Rules of the Fund and the Act, answer enquiries and complaints from, and provide information to: members of the Fund or dependants or beneficiaries of members or dependants of a deceased member or the legal representative of a member or persons notified by the Trustees in the event of a member's death or an Employer Sponsor or an Original Member of the Fund or an associate of an Employer Sponsor or an Original Member of the Fund either verbally or in writing within one month. The Trustees of the Fund will disclose such information, as requested, in accordance with the Act, pertaining to the Fund which may include: copies of the Governing Rules of the Fund pertaining to the request, the latest Fund Accounts and Audit, or an abridged statement of the Fund Accounts and Audit, relevant Fund Statements, notices issued by the Commissioner, if applicable, Member's Statement, or other statements, if applicable, issued by the Trustees relevant to the request, and a copy of the Actuarial certificate information requested (if applicable). A copy of the Fund's Superannuation Trust Deed is available at the Fund's contact address for members to peruse during the times shown in the " Contact Person" section of this Fund Report. The Trustees of a non-excluded fund with five or more members will, if unable to satisfy a member's or beneficiaries complaint, establish within a reasonable amount of time and within ninety days, a Disputes Committee, following the procedure contained in Rule 9.51. Should the Disputes Committee not be able to resolve the dispute then it is the right of all parties to call upon the Superannuation Complaints Tribunal for adjudication. The Tribunal is an independent body set up by the Federal Government to assist members or beneficiaries of non-excluded funds to resolve certain types of complaints with Fund Trustees. The Superannuation Complaints Tribunal can be contacted by phoning 13 14 34 and the Insurance and Superannuation Commission (ISC) can be contacted on 13 10 60 (for the cost of a local call). If the Tribunal

accepts the complaint it will attempt to resolve the matter through conciliation, which involves assisting the Complainant and the Fund Trustees to come to a mutual agreement. If conciliation is unsuccessful, the complaint is referred to the Tribunal for a determination which is binding;

10.12.25 CONTACT PERSON

The Contact Person for the Fund is (Name, or Enquiries Officer) who can be contacted; (Times, Address, Fax and Phone Number). If any information appears incorrect or you would like to make enquiries pertaining to the Fund Report, or you would like to advise the Trustees of a change to your preferred dependants, please write or fax or telephone the Contact Person (or Enquiries Officer). Trustees may consider it prudent to coincide the issuing of the Fund Statement with the Member's annual Benefit Statement. Should this practice be adopted there would not be a doubling up of information which could otherwise occur. If this Fund Statement is to be issued independently then the additional disclosure and reporting requirements are contained within Rule 10.9, as appropriate.

10.13 DISCLOSURE: PUBLIC OFFER FUNDS

Trustees are advised to seek qualified advice prior to electing or accepting to become a Public Offer Fund as there are numerous additional requirements and costs which include, but are not limited to:

- 10.13.1** The Trustee of the fund cannot be an Individual and must be a company of substance with at least five million dollars of net tangible assets or a bank guarantee of at least five million dollars approved by the Commissioner;
- 10.13.2** The Trustee must provide to the Commissioner (ISC) a certificate by an independent registered company auditor certifying that the Trustee had at least five million dollars of assets in accordance with Rule 10.13.1 at the end of each reporting period, being no longer than a twelve-month period;
- 10.13.3** The Trustee is required to produce and update a prospectus approved by the ASC (Australian Securities Commission) to be issued to a

prospective (new) member which must contain key information about the Fund such as described in Rule 10.9 in an easy-to-read, consistent form so that a consumer can both understand and easily “shop around” and compare the choice offered by Public Superannuation Fund providers;

10.13.4 FOURTEEN DAY FREE LOOK PERIOD:

After becoming a member of this Fund you have a period of fourteen days (“the cooling off period”) during which you can cancel your membership and obtain repayment of your contributions. If you cancel during this period, you will not be liable to pay any charges. A request to cancel your membership must be made in writing to the Trustees. If you do cancel your membership during the cooling off period, the contributions that are repaid to you will be adjusted to take account of any increase or decrease in the value of the investments you selected and any tax payable by the Trustees as a result of your having become a member. If any of the contributions you made to the Fund were transferred from another superannuation fund or approved deposit fund and were preserved or restricted non-preserved benefits in that other fund (which means that under Commonwealth regulations they could not be paid to you but had to be preserved in that fund until some future time) then those contributions will not be repaid to you but will instead be transferred to another superannuation fund or approved deposit fund of your choice (provided that it complies with Commonwealth Government regulations);

The Principal Employer or the Original Member or the Trustee considering or obligated to become a Public Offer Fund should seek qualified independent advice prior to taking actions as the circumstances of each Fund are likely to differ and as such may warrant specific individual considerations. The trustee of a public offer fund, once appointed, must fully comply with the Act which has both stringent and costly regulations and must be adhered to in strict accordance with the Act.

10.14 INFORMATION AVAILABLE UPON REQUEST:

The Trustees of excluded and non-excluded funds shall, within one month of request of a member or dependant or beneficiary of a member or a dependant of a deceased member or the legal representative of a member or a person notified by the Trustees in the event of a member's death or an Employer Sponsor or Original Member of the Fund or an associate of the Employer Sponsor or Original Member of the Fund, disclose such information as requested, to the concerned party in accordance with the Rules of the Fund and the Act. On request, the Trustees must (subject to certain exceptions discussed in Rules 10.14.6 to 10.14.9) give to a concerned party any information the concerned party reasonably requires for the purposes of:

- 10.14.1** understanding any benefit entitlements the party has, may have or used to have;
- 10.14.2** understanding the main features of the relevant Sub-Plan or, if none of the Fund;
- 10.14.3** making an informed judgement about the management and financial condition of any relevant Sub-Plan and the Fund;
- 10.14.4** making an informed judgement about the investment performance of the relevant Sub-Plan or, if none, of the Fund; and
- 10.14.5** understanding the particular investments of any relevant Sub-Plan and the Fund;

There are some exceptions to this general rule. Firstly, the internal working documents of the Fund are not required to be given on request. Secondly, a document or information is not required to be given if:

- 10.14.6** it would disclose, or tend to disclose, personal information about another person or party; or
- 10.14.7** the disclosure would be unreasonable in the circumstances; and
- 10.14.8** a document or information is not required to be given if it would disclose, or tend to disclose, trade secrets or other information of

commercial value which would be reduced or destroyed by the disclosure; and

- 10.14.9** information or document's in relation to which the Trustees owe a duty of non-disclosure to another person or party are not required to be disclosed;

Upon written request, the Trustees must give to a concerned person a copy of any of the following documents:

- 10.14.10** the Fund's Governing Rules;
- 10.14.11** the audited accounts and auditor's report (even if only the accounts were specifically requested) ;
- 10.14.12** the most recent actuarial report and any subsequent written advice by an actuary to the Trustees, to the extent that they are relevant to the overall financial condition of the Fund or the person's entitlements; and
- 10.14.13** a copy of the most recent Member's Benefit Statement or Fund Statement (a fund statement is only applicable to non-excluded funds with five or more members) ;
- 10.14.14** notices issued by the Commissioner;
- 10.14.15** copy of actuarial certificate information;
- 10.14.16** statements issued by the Trustees, if applicable, relevant to the request;
- 10.14.17** compliance statement issued by the Commissioner;

A requirement to give a copy of a document or other information may be satisfied by making it available for inspection at a suitable place during normal business hours. A suitable place must be reasonably accessible and must have adequate facilities for the person or party to inspect and photocopy the relevant document or information. It would be a place where it would be reasonable for the person or party to view the documents. For example, if the person or party lives in an isolated area, a suitable place would be the nearest major centre that the person or party would regularly visit.

Alternatively, the Trustees and the person or party requesting information may come to some other arrangement as to how the information is to be given;

10.14.18 Where the Trustees are required to give requested information to a concerned person or party, the Trustees may only charge the person or party if the same information had previously been given to the person or party within the preceding twelve-month period. Where a charge can be levied it must not exceed the reasonable cost to the Fund of giving the information. This includes all reasonably related costs, such as the costs of searching for, obtaining, collating and delivering the information. If the charge is not paid, the information need not be given;

In addition the Trustees must give to an Employer Sponsor or Original Member upon request, any information it reasonably requires for the purposes of:

- 10.14.19** understanding the kinds of benefits to which its employees are, will or may become entitled, and the main features of the relevant Sub-Plan or, if none, the Fund;
- 10.14.20** making an informed judgement about the management and financial condition of any relevant Sub-Plan and the Fund;
- 10.14.21** making an informed judgement about the investment performance of the relevant Sub-Plan or, if none, the Fund; and
- 10.14.22** a matter related to the Superannuation Guarantee or award;

However, there are exceptions to this rule which are the same as those outlined in Rules 10.14.6 to 10.14.9. The Trustees may charge the Principal Employer or Original Member or Participating Employer an amount up to the reasonable cost of giving requested information. This includes all reasonably related costs such as costs for searching, obtaining, collating and delivering the information. It would not be common for Trustees to impose such a charge, particularly if the Fund is not a Public Offer Superannuation Fund. Nevertheless, if the Trustees do so and the Employer Sponsor or Original Member does not pay, the Trustees need not provide the requested information.

11. MISCELLANEOUS

11.1 AMENDMENT OF DEED

11.1.1 The Trustees may at any time by supplemental Deed amend the Rules of this Deed but no amendment shall be made which detrimentally affects the existing rights of any member without the written consent of such member and that the conditions of Rule 8.5.3 have not been breached, or approval has been granted by the Commissioner. The Trustees are empowered under these Governing Rules to amend Rules 8.5.2.7.8, 8.5.2.7.9, 9.7.12 and 9.51 by resolution (minute). Provided always that no amendment introduced primarily for the purpose of securing exemption or relief from liability for income tax under the provisions of the Act or compliance with the Act shall be deemed to be detrimental to the interests of the members. Such variation to consider and not contravene conditions pertaining to Award, Superannuation Guarantee and Compulsory Superannuation members, in accordance with the Act.

11.2 NOTICE OF AMENDMENT

Pursuant to the Act, where these rules are amended after 22 December 1987, the Trustees shall give to each member as soon as practicable thereafter, a written statement explaining the nature, purpose and effect of the amendment on the entitlements of the members. Provided that should said amendment be of an administrative nature or a requirement under the Act which does not effect the member's entitlement, then a written statement to members is not required. The accidental failure to give notice of an amendment shall not prejudice or invalidate such amendment.

11.3 PERIOD OF TRUST

Subject to Rule 9.55, the Trusts constituted by the Deed and these Rules shall continue during the life of the survivor of all the lineal descendants now living of His late Majesty King George VI and twenty-one years after the death of such survivor and such further period (if any) as may from time to time be permitted by law provided always that this provision shall not apply where the laws of the State or Territory of Australia applicable to this Deed provide that the Rule Against Perpetuities shall not apply.

11.4 APPLICABLE LAW

This Deed shall be governed by the law of the State in which the Fund is originally constituted provided that where the laws applicable to these rules are the laws of the State of South Australia the provisions of Section 35(b) of the Trustees Act 1936-1953 of that State are hereby expressly excluded from application to this deed.

11.5 EMPLOYER/EMPLOYEE RELATIONSHIPS

Nothing in this Deed shall affect the powers of the Employer with regard to the remuneration, terms of employment or dismissal of an employee or any other dealing of the Employer with the employee.

11.6 INSPECTION OF THE DEED AND ACCOUNTS OF THE FUND

A copy of the Fund's Superannuation Trust Deed and accounts of the Fund shall be retained by the Principal Employer or Original Member or Trustee and will be available for inspection at the request of a member or dependant of a member or beneficiaries of a member or dependants of a deceased member or the legal representative of a member or a person notified by the Trustees in the event of a member's death or the Employer Sponsor or Original Member of the Fund or an associate of the Employer Sponsor or the Original Member of the Fund at the times and address stated in the Prospective (New) Member's Statement or the Member's Benefit Statement or Cessation of Membership Statement or Fund Statement, as applicable, last received.

11.7 DEEMING PROVISION

Notwithstanding anything expressed or implied in the Deed or these rules, the Deed and the rules shall be deemed to include all the terms of the Act as amended from time to time and all regulations made thereunder from time to time and all re-enactments thereof for the time being in force and if any of the terms of this Deed or the rules are inconsistent with the terms of the Act then the terms of the Act shall prevail.

11.8 CONTRIBUTIONS PAID IN LIEU OF SALARY OR EARNINGS

Where all contributions paid in respect of a member are paid by the Principal Employer or Original Member or Participating Employer, as a result of a voluntary forfeit by the member of salary or earnings, in lieu of superannuation benefits paid by the Principal Employer or Original Member or Participating Employer on behalf of that member, and upon the request in writing of all the members of the Fund, the Principal Employer or Original Member and Participating

Employers (as the case may be) shall assign their respective rights, powers and obligations under these rules to the Trustees, who shall administer the Fund in their absolute discretion.

11.9 CONTRAVENTION OF THE RULES

Compliance Requirements: Under SIS (Superannuation Industry (Supervision) Act 1993) for Auditor's, Actuary's and Trustees of the Fund:

11.9.1 AUDITOR AND ACTUARY

The auditor and actuary (as applicable) are required under the Act to advise the Trustees in writing that, if in their opinion, it is likely that a contravention of the Act may be occurring; or may occur, in relation to the Fund; or the auditor and/or actuary forms the opinion that the financial position of the Fund may be, or may be about to become, unsatisfactorily. The auditor and/or actuary is required to advise the Trustees in writing and request a report from the Trustees on proposals to deal with the issue. If the Trustees actions to deal with the issue are not to the auditor's and/or actuary's satisfaction, the auditor and or actuary must inform the ISC, unless said auditor and/or actuary is dismissed by the Trustees, in which event the before mentioned position applies to the incoming auditor and/or actuary.

11.10 TAX FILE NUMBER

The Trustees are obligated under the Act to deduct tax at the top marginal rate plus Medicare, prior to paying out a member's benefit, including annuity or pension benefits, (with the exception of a death benefit within the RBL Limits if paid to a eligible dependant), if a tax file number is not provided. The Trustees are also obligated from the 20th of August 1996 to pay, (on behalf of the member) the maximum superannuation surcharge amount of 15% on all employer sponsored contributions made to the Fund together with, if applicable, the members deductible contributions and debit the member's Accumulation Account or Equity with that amount if the member has not provided the Trustees with a tax file number. The Trustees are not empowered under the Act to demand the members tax file number and as such the Trustees cannot demand that the member disclose a tax file number. Legislation is to be effective from the 17th of November 1996 permitting Trustees of complying regulated superannuation funds to retain a members tax file number and to apply that number for

the administration of superannuation in accordance with the Act. The members application for membership can contain provision for the inclusion of a tax file number provided that it is clearly stated as a voluntary disclosure from the member and is not a condition of membership of the Fund. The Trustees may in their sole and absolute discretion, include within the membership application a statement as to the tax consequences of a member not disclosing a tax file number. It is therefore a responsibility of the Trustees to consider all existing and new members of the fund pertaining to the retention by the Trustees of the member's tax file number and the taxation consequences to the member should the member's tax file number not be disclosed to the Trustees. It is recommended that alterations are made to all new membership application forms for the provision of the member's tax file number and that all existing members be advised and afforded the opportunity to disclose their tax file number for retention by the Trustees for the administration of superannuation in accordance with the Act.

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PERCENTAGE VESTING SCHEDULE

Fully completed years of Membership at exit date	Class A	Class B	Class C	Class D	Class E	Class F	Class G	Class H
40 Years or more	100%	100%	100%	100%	100%	100%	100%	100%
39 yrs but not 40								
38 39								
37 38	Nil	100%	100%	100%	100%	100%	100%	100%
36 37								
35 36								
34 yrs but not 35								
33 34								
32 33	Nil	100%	100%	100%	100%	100%	100%	100%
31 32								
30 31								
29 yrs but not 30								
28 29								
27 28	Nil	100%	100%	100%	100%	100%	100%	100%
26 27								
25 26								
24 yrs but not 25		93%						
23 24		85%						
22 23	Nil	78%	100%	100%	100%	100%	100%	100%
21 22		72%						
20 21		66%						
19 yrs but not 20		60%	93%					
18 19		54%	85%					
17 18	Nil	48%	78%	100%	100%	100%	100%	100%
16 17		42%	72%					
15 16		36%	66%					
14 yrs but not 15		30%	60%	95%				
13 14		24%	54%	87%				
12 13	Nil	18%	48%	79%	100%	100%	100%	100%
11 12		12%	42%	71%				
10 11		6%	36%	63%				
9 yrs but not 10			30%	55%	100%			
8 9			24%	48%	87%			
7 8	Nil	Nil	18%	42%	74%	100%	100%	100%
6 7			12%	36%	61%	86%		
5 6			6%	30%	50%	72%		
4 yrs but not 5				24%	40%	56%	80%	
3 4				18%	30%	42%	60%	
2 3	Nil	Nil	Nil	12%	20%	28%	40%	100%
1 2				6%	10%	14%	20%	