

DATED TENTH day of NOVEMBER 2003 X

TRUST DEED FOR THE
WELD-QUIP
SUPERANNUATION FUND

DAVID SHIRLOW BEc LLB
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Phone/Fax: (02) 48691007

Sc ✓

THIS DEED is made on the TENTH day of NOVEMBER 2003 ✓

BY: David Walton Bird and Glenys Eleanor Bird both of 40 Dan Street, Campbelltown in the State of New South Wales ("the Trustee").

RECITALS:

The Trustee wishes to establish and maintain an indefinitely continuing superannuation plan ("the Fund") for the sole purpose of providing for members:

- (i) benefits in the event of the retirement of members from gainful employment or occupation;
- (ii) benefits in the event of members attaining an age at which benefits can be received under the Superannuation Industry (Supervision) Act 1993 ("SIS");
- (iii) benefits for dependants of members in the event of the death of the member; and
- (iv) benefits in relation to any further or ancillary purposes which are permitted under SIS or may be approved by the Australian Prudential Regulation Authority.


OPERATIVE PROVISIONS:

1. The Fund shall be known as the Weld-Quip Superannuation Fund.
2. The Fund shall come into operation on the TENTH day of NOVEMBER 2003. ✓
3. The attached rules and appendices ("the Rules"), as amended from time to time, shall have effect as if set out in this Deed.
4. The assets of the Fund shall be vested in the Trustee. The Trustee hereby expressly declares that the Trustee shall hold such assets upon trust to be applied in the manner set forth in the Rules.
5. The Fund shall be managed and administered in all respects according to the Rules.
6. The Trustee shall continue as trustee until a substitute trustee is appointed in accordance with the Rules. The trustee of the Fund from time to time shall be appointed and may resign or be removed in accordance with the Rules.
7. The provisions of this Deed may be amended in the manner set out in the Rules.
8. This Deed and the Rules shall be governed by and construed in accordance with the law of New South Wales.


P	C	F	S
1695	✓	P	✓

EXECUTED as a Deed.

SIGNED SEALED AND DELIVERED by
the said David Walton Bird in the presence of:

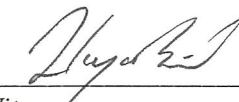


Witness

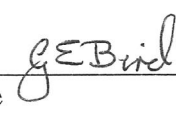
DWB
X


Trustee

SIGNED SEALED AND DELIVERED by
the said Glenys Eleanor Bird in the presence of:



Witness

GEB
X


Trustee

RULES OF THE
WELD-QUIP
SUPERANNUATION FUND

DAVID SHIRLOW BEc LLB

Solicitor

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**RULES OF THE WELD-QUIP
SUPERANNUATION FUND**

1. INTERPRETATION AND GENERAL PROVISIONS

1.1 Definitions

In the Rules unless the context or subject matter otherwise requires:

"Accumulation Account" in respect of a Member, means the account by that name (if any) established and maintained by the Trustee in respect of the Member pursuant to Clauses 5.1 and 5.2.

"Actuary" means a person who is an actuary for the purposes of the Relevant Law and is for the time being appointed by the Trustee for the purposes of the Rules.

"Allocated Pension" means a pension:

- (a) under which a Beneficiary receives payments from the Trustee, such payments to be determined on the basis agreed between the Trustee and the Beneficiary from time to time and which may include rights of commutation;
- (b) which is payable only for so long as the Allocated Pension Account is in credit; and
- (c) which complies with the Relevant Law.

"Allocated Pension Account" in respect of a Beneficiary, means the account by that name (if any) established and maintained by the Trustee in respect of the Beneficiary pursuant to Clauses 5.1 and 5.2.

"Allocated Pensioner" means a Beneficiary receiving an Allocated Pension.

"Approved Benefit Arrangement" means a fund, benefit arrangement, government body or any other person, other than the Fund, to which a payment may be made from the Fund, or from which a payment may be accepted into the Fund, in accordance with the Relevant Law.

"Auditor" means a person who is an approved auditor for the purposes of the Relevant Law.

"Beneficiary" means a person beneficially entitled to receive a Benefit under the Rules.

"Benefit" means the amount which is paid or payable (as the case may be) from the Fund to or in respect of a Member or former Member.

"Benefit Accounts" means the accounts established and maintained in respect of each Member and each Beneficiary pursuant to Clauses 5.1 and 5.2.

"Child" includes a step-child, an ex-nuptial child, a legally adopted child, a posthumous natural child and a person recognised by the Trustee as an adopted child.

"Corporations Act" means Chapter 7 of the Corporations Act, 2001 and any regulations made or issued under that Chapter.

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"Deed" means the Deed to which the Rules are annexed and includes the Rules.

"Dependant" in relation to a Member or former Member includes a Spouse and Child of the Member or former Member, and any other person who in the opinion of the Trustee is or was at the relevant time wholly or partially dependent on the Member or former Member.

"Earning Rate" means the rate of interest determined pursuant to Section 5.

"Employer's Associate" means, in relation to a Member, an associate (as that term is defined in SIS) of an employer of the Member.

"Family Law Act" means Part VIII B of the Family Law Act 1975 and any regulations made or issued under Part VIII B.

"Foregone Benefits Account" means the account by that name (if any) established and maintained by the Trustee pursuant to Clauses 5.1 and 5.3.

"Fund" means the Weld-Quip Superannuation Fund, as it is currently constituted, and all its assets.

"Fund Year" means a period of twelve months ending on 30 June each year or such other date as the Trustee may determine from time to time.

"Gainfully Employed" has, in relation to a Member, the same meaning as given to that expression in the Relevant Law and "Gainful Employment" has an equivalent meaning.

"Member" means any person who has been admitted as a Member of the Fund pursuant to Section 2 and who has not ceased to be a Member pursuant to Section 2.

"Personal Representative" means, in relation to a Member or Beneficiary, the "legal personal representative" of that Member or Beneficiary as defined under the Relevant Law.

"Preservation Rules" means in relation to part or all of a Benefit, a requirement or requirements of Relevant Law that payment thereof is not made to or in respect of the Member before he or she attains a certain age and/or certain conditions are satisfied.

"Preserved Benefit" means that part of a Benefit in respect of a Member, or that part of the Member's interest in the Fund, as appropriate, which is required to be preserved under, and in accordance with, the Preservation Rules.

"Prospective Entitlement" means any amount (other than a Benefit) which may become payable to a Member, Dependant or Beneficiary but to which the person has not become absolutely entitled and includes a contingent right to payment of a Benefit.

"Relevant Authority" means, according to the context in which the expression is used, the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Commissioner of Taxation or such other person or body empowered to administer the Relevant Law.

"Relevant Law" means, to the extent applicable to the Fund, SIS, the Corporations Act and the Family Law Act, provided that if an exemption from compliance with such legislation is granted, or a breach by the Trustee is consented to, by the Relevant Authority, either generally or in respect of the Fund, the operation of the appropriate legislation is qualified accordingly.

"Retained Benefits Account" in respect of a Member, means the account by that name (if any) established and maintained by the Trustee in respect of the Member pursuant to Clauses 5.1 and 5.2.

"Reserve Account" means the account by that name (if any) established and maintained by the Trustee pursuant to Clauses 5.1 and 5.8.

"Retirement" has the same meaning as given to that expression in the Relevant Law.

"Rules" means these Rules, as altered or amended from time to time.

"Section" means a Clause or group of Clauses in the Rules identified by the same initial number.

"SIS" means the Superannuation Industry (Supervision) Act, 1993 and any regulations made or issued thereunder.

"Spouse" includes a de facto spouse who lives with the Member on a genuine domestic basis as the husband or wife of the Member and the widow, widower or surviving de facto spouse of a Member.

"Temporary Disablement" in respect of a Member, has the same meaning as that expression, or any equivalent expression, in any policy of insurance which the Trustee has effected to provide a benefit on temporary disablement of the Member and which is in force at the relevant time.

"Total and Permanent Disablement" in respect of a Member:

- (a) has the same meaning as that expression, or the equivalent expression, in any policy of insurance which the Trustee has effected to provide a benefit on the total and permanent disablement of the Member which is in force at the relevant time; and
- (b) if there is no such policy, means ill-health (whether physical or mental) where the Trustee is reasonably satisfied that the Member is unlikely, because of the ill-health, ever again to engage in Gainful Employment for which the Member is reasonably qualified by education, training or experience.

"Trustee" means the trustee or trustees for the time being of the Fund whether original or substituted as hereafter provided.

1.2 Relevant Law

For the purpose of removing any doubt:

- (a) any provision which must, under the Relevant Law, be incorporated in the Rules in order that the Fund meets the requirements of the Relevant Law and qualifies for the maximum income tax concessions available to superannuation funds, is deemed to be incorporated in the Rules, PROVIDED THAT:
 - (i) any provision so incorporated only applies to the extent its application is necessary to meet the requirements of the Relevant Law and to ensure the Fund qualifies for income tax concessions; and

- (ii) where there is an inconsistency between a provision of the Rules and, to the extent it applies, any provision so incorporated, the latter prevails over the former; and
 - (iii) if a provision so incorporated is required, under the Relevant Law, to be amended, the provision in its amended form is deemed to be included in substitution for the previous provision from the date required under the Relevant Law;
- (b) despite anything contained in the Rules, the Trustee must:
- (i) take any action; and
 - (ii) refrain from taking any action;
- in order to comply with the Relevant Law; and
- (c) if a provision of the Rules would be wholly or partially invalid because it:
- (i) subjects the Trustee to direction by another person; or
 - (ii) permits a person to exercise a discretion without the consent of the Trustee;

then the Trustee's consent is required for the giving of the direction or the exercise of the discretion.

1.3 General Interpretation

(a) Plural and gender of words

In the Rules, unless a different meaning is apparent from the context, words importing any one gender include the other gender and words importing the singular include the plural and vice versa.

(b) Headings

The headings in the Rules are for convenience of reference only and are not relevant to the interpretation of the Rules.

(c) Defined Words

For convenience, the first letters of words and expressions defined in the Rules are indicated by capital letters (but the absence of a capital letter does not alone imply that the word or phrase is used with a meaning different from that given by its definition).

(d) Statutory Enactments

References to any Act refer to that Act as amended, modified or re-enacted from time to time and include any enactment in substitution or replacement for the Act.

(e) Person

The word "person" means and includes a natural person and any body or entity whether incorporated or not.

(f) Severability

Should any provision of the Deed or Rules be invalid in whole or part or be required to be limited or read down in order to be valid, the provision is severed to the extent of the invalidity but the remainder of the provisions continue in full force and effect.

1.4 Primary Purpose of the Fund

If the Trustee is not a constitutional corporation (as that term is defined in SIS) then, despite anything contained in the Deed or the Rules, the Fund has the primary purpose of the provision of old age pensions (as that term is defined in SIS).

2. MEMBERSHIP**2.1 Eligibility**

The Trustee may invite any person who is permitted to become a Member of the Fund in accordance with the Relevant Law to be a Member of the Fund on the terms agreed between the prospective Member and the Trustee.

2.2 Trustee May Require Information

The Trustee may require a Member or an applicant for membership to provide information and evidence, complete documents and undergo medical examinations and tests as the Trustee considers necessary or desirable.

2.3 Conditions

- (a) Each Member, in applying for membership, must confirm his or her acceptance of the Trustee for the time being appointed.
- (b) The Trustee may specify special terms, conditions and restrictions in respect of membership of the Fund.
- (c) Upon becoming a Member of the Fund, the Member is deemed to have approved of and is bound by the Rules.

2.4 Cessation of Membership

A Member ceases to be a Member upon:

- (a) payment of all of a Benefit to or in respect of the Member under the Fund; or
- (b) forfeiture of all of a Member's interest in the Fund under Section 14; or
- (c) transfer of all of a Member's interest in the Fund under Clause 11.3;

whichever occurs first.

2.5 Information to Applicants and New Members

The Trustee must make available, provide or cause to be provided to applicants for membership, and new Members, the statements and other information, and in the manner, the circumstances and at the times, prescribed by the Relevant Law.

3. TRUSTEE

3.1 Appointment and Removal of the Trustee

- (a) Unless, under Clause 1.4, the primary purpose of the Fund is the provision of old age pensions, the Trustee must be a constitutional corporation (as that term is defined in SIS). Otherwise, the Trustee must comprise 2 or more individuals.
- (b) The Trustee or an individual trustee shall cease to hold office:
 - (i) upon resigning by written notice to the Members;
 - (ii) upon termination by written notice from the Member or (if there are 2 or more Members) a majority of the Members;
 - (iii) upon becoming disqualified or otherwise is not being permitted to remain in office under the Relevant Law.

If an individual trustee dies, his or her Personal Representative shall replace the trustee who died and, for the purposes of these Rules, there shall be deemed to be no change of trustee.

- (c) On resignation or removal of the Trustee or an individual trustee, the Member or (if there are 2 or more Members) a majority of Members must, having regard to any requirements under the Relevant Law, appoint a person or persons to be the new Trustee or as a new individual trustee, as applicable, in writing within sixty days or such longer period as is allowed under the Relevant Law.
- (d) The Trustee or an individual trustee shall, on retirement or removal, vest the Fund or cause it to be vested in the new Trustee and shall deliver to the new Trustee all documents, records and other property whatsoever relating to the Fund.
- (e) The outgoing Trustee or individual trustee is, from the date of resignation or removal, released from all further obligations under the Rules (but shall remain liable for any antecedent breach of the Rules) and the new Trustee may exercise all powers and be subject to all the duties and obligations of the Trustee under the Rules as fully as though the new Trustee had been originally named as a party to the Deed.
- (f) The Trustee shall comply with the requirements of the Relevant Law in respect of the management and control of the Fund and the eligibility of persons to act as individual trustees of the Fund.

3.2 Liability of Trustee

- (a) If the Trustee is a corporation a reference in this Clause to "Trustee" is, unless the context requires otherwise, also regarded as a reference to a director of the Trustee.
- (b) Subject to paragraph (c) of this Clause, the Trustee does not incur any liability for:
 - (i) any loss suffered by the Fund or suffered by any Member or any person having at any time an interest in the Fund;
 - (ii) the act or default of any Member or Beneficiary;
 - (iii) the neglect or default of any solicitor, banker, accountant, broker, Auditor, Actuary, adviser, agent or other such person, firms or companies employed in good faith by the Trustee;
 - (iv) the bankruptcy or insolvency of, or any fraudulent or negligent act by, any servant or delegate of the Trustee or any person with whom any investment may be deposited;
 - (v) the payment of an amount or benefit to a person reasonably believed to be entitled thereto but who is in fact not so entitled;
 - (vi) any action taken or thing suffered in reliance upon any document, record, authority, representation, statement or evidence reasonably believed by the Trustee, or a servant or delegate, in good faith to be genuine, accurate and effective;
 - (vii) any act or acts done or omitted to be done bona fide in conformity with any decisions of the Trustee; or
 - (viii) any mistake or determination or erroneous decision that exposes the Trustee to any claim by any person having an interest in the Fund.
- (c) Paragraph (b) of this Clause does not operate to preclude any liability of the Trustee in the event of:
 - (i) fraud;
 - (ii) wilful neglect or misconduct; or
 - (iii) such other circumstances as the Relevant Law prescribes.

3.3 Indemnity of Trustee

- (a) Subject to paragraph (c) of this Clause:
 - (i) the Trustee must be indemnified from the Fund against all liabilities incurred by the Trustee in the exercise, or purported exercise, or as a consequence of the failure to exercise any of the trusts, powers, authorities and discretions vested in the Trustee under the Rules or at law and has a lien on and may use the assets forming part of the Fund for the purposes of this indemnity;

- (ii) this indemnity extends to any payments made to any person who the Trustee bona fide believes to be entitled thereto although it may be subsequently found that the person was not in fact so entitled.
- (b) Subject to paragraph (c) of this Clause, if the Trustee is a corporation:
 - (i) each director of the Trustee must be indemnified from the Fund against all liabilities he or she incurs in the exercise or purported exercise, or as a consequence of the failure to exercise, any of the powers, authorities and discretions vested in him or her under these Rules or at law;
 - (ii) this indemnity extends to any liability for the act or default of another director of the Trustee.
- (c) This Clause does not operate to provide an indemnity to the Trustee or a director of the Trustee to any extent beyond that which is permitted by the Relevant Law and otherwise by law.

3.4 **General Power of Trustee**

In addition to the other powers conferred on the Trustee under the Rules the Trustee has power generally to do all acts and things as the Trustee may consider necessary or expedient for the administration, maintenance and preservation of the Fund and in the performance of the Trustee's obligations under the Rules.

3.5 **Trustee Discretion**

Subject to Clause 3.6, the Trustee, in the exercise of powers and discretions vested in the Trustee under the Rules, has an absolute and uncontrolled discretion and may exercise or enforce all or any powers and discretions from time to time or at any time, or may refrain from exercising all or any powers or discretions from time to time, or at all.

3.6 **Delegation by Trustee**

The Trustee may (to the extent permitted under the Relevant Law) delegate any function to be performed under the Rules, and any power authority or discretion exercisable by the Trustee (including a power or discretion which the Trustee has a duty to exercise or perform and the power of delegation) to any other person, firm or company in such manner and upon such terms and conditions as the Trustee thinks fit. The Trustee may vary or revoke any such delegation as the Trustee thinks fit and may exercise any power in conjunction with or to the temporary or permanent exclusion of a delegate.

3.7 **Confidentiality**

The Trustee and, if the Trustee is a corporation, each of its directors, are required to treat as confidential any information acquired in the course of performing responsibilities in respect of the Fund and only use that information for the purposes of the Fund.

3.8 **SIS Election**

The Trustee may elect that the Fund is to be a regulated superannuation fund under SIS.

3.9 Trustee Meetings and Resolutions

- (a) If there are 2 or more trustees of the Fund they may, subject to the Relevant Law:
- (i) meet together to dispose of business;
 - (ii) regulate meetings as they consider appropriate;
 - (iii) determine a quorum;
 - (iv) act by way of resolution passed by a simple majority of all of the trustees of the Fund;
 - (v) appoint a chairman and replace the chairman whenever they consider appropriate.
- (b) If there are 2 or more trustees of the Fund, a resolution in writing signed by all of the trustees of the Fund has the same effect and validity as a resolution of the trustees of the Fund passed at a meeting at which a quorum is present.

3.10 Member Employee or Director of Trustee

No director, officer or employee of the Trustee is, by virtue of such position, or of powers being delegated by the Trustee to him or her, disqualified from being a Member of the Fund or from exercising any rights or deriving any benefits as a Member. If the Trustee is a corporation, a director of the Trustee who is, or is about to become a Member, may be counted in a quorum and vote at any meeting of the Trustee when the Trustee is exercising powers pursuant to the Rules and may attest the affixing of the common seal of the Trustee notwithstanding that, as a Member, he or she is interested in the matter.

4. CONTRIBUTIONS

- (a) Subject to paragraph (b) of this Clause:
- (i) a Member may contribute to the Fund any amount acceptable to the Trustee;
 - (ii) an Employer's Associate or employer of a Member may contribute to the Fund for the benefit of the Member any amount acceptable to the Trustee and the Trustee may enter into an arrangement with that Employer's Associate or employer in relation to the making of contributions in respect of the Member;
 - (iii) the Trustee may accept contributions in respect of a Member from any other person who is permitted under the Relevant Law to make contributions in respect of the Member; and
 - (iv) contributions may be paid in cash, or with the Trustee's consent by transfer of an asset or assets which are authorised investments as specified in the Rules.
- (b) The Trustee must only accept contributions in the form and in the circumstances permitted under the Relevant Law.

5. ACCOUNTS, VALUATION AND ALLOCATION OF PROFITS AND LOSSES

5.1 Accounts Generally

- (a) The Trustee must establish and maintain in respect of each Member and Beneficiary one or more Benefit Accounts which includes, as are necessary for the purposes of Clause 5.2, one or more of the following:
 - (i) an Accumulation Account;
 - (ii) a Retained Benefits Account;
 - (iii) an Allocated Pension Account.
- (b) The Trustee must establish and maintain:
 - (i) a Foregone Benefits Account if necessary for the purposes of Clause 5.3; and
 - (ii) a Reserve Account if necessary for the purposes of Clause 5.8.
- (c) The Trustee may sub-divide any account established under this Section, or establish additional accounts, if, in the opinion of the Trustee, it is necessary or desirable to do so for the purposes of the Fund.
- (d) The Trustee may vary the items to be credited or debited to any of the accounts established under this Section if, in the opinion of the Trustee, it is necessary or desirable to do so, for the purposes of the Fund, having regard to the interests of Members and Allocated Pensioners and subject to the Relevant Law.

5.2 Benefit Accounts

The Trustee must record in Benefit Accounts (as credits or debits, as appropriate):

- (a) a share of the net earnings of the Fund, ascertained in accordance with Clauses 5.4 to 5.8 inclusive;
- (b) amounts credited to the Foregone Benefits Account pursuant to Section 14, or from the Foregone Benefits Account pursuant to Clause 5.3;
- (c) amounts equal to the value of the cash or other assets paid or transferred to the Trustee from another Approved Benefit Arrangement pursuant to Section 11;
- (d) amounts required to pay Benefits out of the Fund pursuant to Section 6 or to pay or transfer a Benefit or Prospective Entitlement to another Approved Benefit Arrangement pursuant to Section 11;
- (e) any amounts not otherwise referred to in this Clause in respect of such matters or things as the Trustee considers necessary or as required by the Rules;

together with the following amounts which must be recorded (as credits or debits, as appropriate) in the specific Benefit Accounts prescribed according to the nature of the transaction:

- (f) in the Accumulation Account of a Member:
 - (i) contributions to the Fund made by or in respect of the Member pursuant to Section 4;
 - (ii) amounts required to be transferred to the Member's Retained Benefits Account pursuant to Clause 6.4;
 - (iii) amounts required to be transferred to an Allocated Pension Account pursuant to Clause 6.5;
- (g) in the Retained Benefits Account of a Member:
 - (i) amounts required to be transferred to the Member's Retained Benefits Account pursuant to Clause 6.4;
 - (ii) amounts required to be transferred to an Allocated Pension Account pursuant to Clause 6.5;
- (h) in the Allocated Pension Account of an Allocated Pensioner - amounts required to be transferred to the Allocated Pensioner's Allocated Pension Account pursuant to Clause 6.5.

5.3 Foregone Benefits Account

Amounts must be credited to the Foregone Benefits Account as provided in Clause 14.2 and must be applied within the period (if any) specified under the Relevant Law, as follows:

- (a) if part or all of the Benefit or Prospective Entitlement of a Member, or interest of a Beneficiary, has been forfeited and, in the case of a Member, membership has been terminated under Clause 14.1, the Trustee may in the Trustee's discretion, but only to the extent permitted under the Relevant Law, apply all or part of the proceeds to or for the benefit or maintenance of that former Member, the Beneficiary and/or the Spouse or Child of the former Member or any other person who, in the opinion of the Trustee is wholly or partly dependent on the former Member; or
- (b) in any one or more of the ways approved, either generally or in the specific instance, by the Relevant Authority.

To the extent that it is not possible for the Trustee to apply the proceeds of the Foregone Benefits Account in one or other of the ways referred to above, the Trustee must apply the proceeds in any one or more of the following ways to the extent such application is not prohibited by, and is within the period (if any) specified under, the Relevant Law:

- (c) toward the provision of additional benefits for Members, former Members and/or Dependants; or
- (d) to pay any expenses of the Fund; or
- (e) to assist a Member, former member and/or a Dependand, in the event of financial hardship, ill health, accident or other misfortune causing hardship.

5.4 Earning Rate

As soon as practicable after the end of a Fund Year, the Trustee must declare an Earning Rate for the Fund Year and apply it to Benefit Accounts for the Fund Year. The Trustee may determine different Earning Rates for different Members if, pursuant to Clause 7.1(b), the Trustee has made an allocation of assets of the Fund to one or more Members.

5.5 Interim Earning Rate

If, during a Fund Year, the Trustee is required to pay a Benefit or a Prospective Entitlement to or in respect of a Member or an Allocated Pensioner or to transfer a Benefit between Benefit Accounts, the Trustee may set an interim Earning Rate to be applied to the Benefit Accounts for the period commencing at the start of the Fund Year and ending on the date of the payment or transfer.

5.6 How Earning Rate To Be Determined

In determining an Earning Rate the Trustee must comply with the Relevant Law and take into account:

- (a) the earnings of the Fund, including all income and realised and unrealised capital gains;
- (b) the realised and unrealised losses and expenses of the Fund, including any tax that is or may be incurred by the Trustee which is not debited to a Benefit Account;
- (c) any provisions established by the Trustee for tax and other expenses;
- (d) the appropriateness of averaging profits, earnings, losses and expenses over two or more Fund Years;
- (e) any allocation of assets made pursuant to Clause 7.1 (b);
- (f) the requirement in Clause 5.8 that the Reserve Account must not be in debit at any time; and
- (g) such other matters as the Trustee determines.

An Earning Rate or interim Earning Rate may be positive or negative. For the purposes of this Clause, subject to the Relevant Law the Trustee may value any asset of the Fund on any basis it determines.

5.7 How Earning Rate To Be Applied To Benefit Accounts

The Trustee must determine whether an Earning Rate or interim Earning Rate is to be applied to Benefit Accounts on daily balances, on average balances, or on some other basis.

The Trustee must distribute the losses, profits and earnings of the Fund to the Benefit Accounts at the applicable Earning Rate or interim Earning Rate.

5.8 Reserve Account

If the Trustee in determining an Earning Rate decides to average the earnings, losses and expenses of the Fund over two or more Fund Years or to make provisions for the payment of any actual or potential expenses or taxation liabilities of the Fund, the Trustee must establish and maintain a Reserve Account to or against which the Trustee may:

- (a) credit such amount as the Trustee may retain from the Fund's earnings;
- (b) debit such amount as the Trustee may use to supplement the Fund's earnings; and
- (c) debit such amount as the Trustee may use to pay taxes or expenses;

for these purposes, provided that the Reserve Account must not be in debit at any time.

6. PAYMENT OF BENEFITS

6.1 Overriding Conditions

Despite anything expressed or implied to the contrary in the Rules but subject to Clause 1.4:

- (a) the Trustee must limit, adjust, pay, or delay the payment of a Benefit, or take such other appropriate action as is, in the opinion of the Trustee, necessary to ensure the Fund complies with the Relevant Law;
- (b) no deduction, reduction, forfeiture or other adjustment may be made to or from any Benefit that has accrued, or become payable, to a Beneficiary in breach of the Relevant Law;
- (c) in any case where the Trustee applies for insurance of any part of the Benefit in respect of a Member, such Benefit is reduced to the extent to which the Trustee is unable to effect such insurance on terms acceptable to the Trustee, or by the amount of any such insurance or part thereof which, having been effected, the insurer declares void, or refuses liability for, for any reason;
- (d) a Beneficiary must accept payment of the Benefit calculated by the Trustee in full discharge of all claims on the Fund;
- (e) the Trustee is not liable to provide Benefits greater in amount than can be secured by the assets of the Fund;
- (f) to the extent permitted by the Relevant Law, the Trustee may, at the request of a Member, pay to or apply on behalf of the Member any part or the whole of the Member's Benefit Accounts;
- (g) if any Benefit is under the Relevant Law:
 - (i) required to be applied in a certain manner, including by way of payment to the Relevant Authority, the Trustee must apply the Benefit in accordance with the Relevant Law;
 - (ii) permitted to be applied in a certain manner, the Trustee may apply the Benefit in accordance with the Relevant Law.

6.2 Circumstances in Which Benefit Entitlements Arise

(a) Retirement

Subject to this Section 6, on Retirement the Member receives a Benefit equal to the balance of the Member's Accumulation Account.

(b) Member Age 65 or More - At Member Request

Subject to this Section 6, at the request of a Member who has attained the age of 65, the Member receives a Benefit equal to the balance of the Member's Accumulation Account.

(c) Member Age 65 or More - Ceasing or Reducing Hours of Work

(i) Subject to this Section 6, if a Member has attained the age of 65 but has not attained the age of 75, the Member receives a Benefit equal to the balance of the Member's Accumulation Account on ceasing to be Gainfully Employed on either a full-time or part-time basis.

(ii) Subject to this Section 6, if a Member has attained the age of 75 the Member receives a Benefit equal to the balance of the Member's Accumulation Account on ceasing to be Gainfully Employed on a full-time basis.

(iii) For the purposes of this paragraph (c), the expressions "full-time" and "part-time" have the same meanings as they have for the time being under the Relevant Law.

(d) Termination of Employment with an Employer Sponsor

Subject to this Section 6, on the termination of a Member's employment with an employer who had, or any of whose associates had, at any time, contributed to the Fund in respect of the Member, the Member receives a Benefit equal to the balance of the Member's Accumulation Account.

(e) Death

Subject to this Section 6, on the death of a Beneficiary:

(i) a Benefit is payable equal to the balance of the Beneficiary's Accumulation Account (if any), the balance of the Beneficiary's Retained Benefits Account (if any), the balance of the Beneficiary's Allocated Pension Account (if any) and the proceeds of any insurance policy effected by the Trustee on the life of the Beneficiary under the Rules;

(ii) if there is a Binding Death Benefit Direction pursuant to Clause 6.8 in relation to part or all of the Benefit specified in subparagraph (i), the Trustee must pay that part or all (as the case may be) of the Benefit to the person or persons specified in the Binding Death Benefit Direction in the proportion or proportions of the Benefit specified in Binding Death Benefit Direction;

(iii) if part or all of the Benefit specified in subparagraph (i) is not payable under subparagraph (ii), the Trustee must pay that part or all of the Benefit (as the

case may be) to the Beneficiary's Personal Representative provided that if after making reasonable enquiries the Trustee cannot find such a person then the Trustee may in its absolute discretion pay that part or all of the Benefit (as the case may be) to such person or persons (in such proportions, if paying more than one) as the Relevant Law permits; and

- (iv) if a person entitled to receive the Benefit specified in subparagraph (i) or a share of it in accordance with subparagraph (ii) dies after the Beneficiary but before being paid his or her Benefit, the Trustee must pay the person's Benefit to his or her Personal Representative.

(f) Total and Permanent Disablement

Subject to this Section 6, on the Total and Permanent Disablement (proved to the satisfaction of the Trustee) of a Member, the Member receives a Benefit equal to the balance of the Member's Accumulation Account and the proceeds of any insurance policy effected by the Trustee to provide a benefit on the Total and Permanent Disablement of the Member under the Rules.

(g) Temporary Disablement

Subject to this Section 6, on the Temporary Disablement of a Member the Member receives a Benefit equal to the proceeds of any insurance policy effected by the Trustee to provide a benefit on the Temporary Disablement of the Member under the Rules.

(h) Request for Retained Benefits

Subject to this Section 6, at the request of a Member, the Member receives a Benefit equal to part or all of the balance of the Member's Retained Benefits Account.

(i) Trustee not obliged to reconsider claim

The Trustee must determine any claim by or on behalf of a Member under Clause 6.2(f) or Clause 6.2(g) within a period of 6 months of receiving written notice of the claim, or such longer period it considers necessary. After the expiry of that time, subject to the Relevant Law the Trustee is not obliged to reconsider the claim.

6.3 No Double Counting of Benefits

- (a) If an entitlement to receive a Benefit arises (or would arise, but for this Clause) under more than one paragraph of Clause 6.2, the Trustee must:

- (i) determine the order in which those Benefit entitlements are deemed to have arisen; and
- (ii) in that order, deal with each Benefit in accordance with Clause 6.4, to the extent that the Benefit has not already been so dealt with;

so that the balance of the Member's Accumulation Account and/or the Member's Retained Benefits Account is adjusted before the Trustee determines the amount (if any) of the next Benefit (if any).

- (b) If the Trustee considers that two or more of the entitlements or prospective entitlements referred to in paragraph (a) of this Clause have arisen simultaneously the Trustee may in the Trustee's absolute discretion determine the order of those entitlements as the Trustee sees fit for the purposes of paragraph (a).

6.4 Timing of Payments - Preserved and Retained Benefits

- (a) Subject to Clause 1.4 and this Clause 6.4, the Trustee must, as soon as practicable, pay a Benefit arising under Clause 6.2 out of the Fund in one or a combination of both of the following ways:
- (i) by payment to the Beneficiary;
 - (ii) by payment to an Approved Benefit Arrangement pursuant to Section 11.
- (b) The Trustee must transfer a Preserved Benefit to, or retain a Preserved Benefit in, the Member's Retained Benefits Account if and for so long as the Trustee considers that it is necessary to do so to comply with the Preservation Rules.
- (c) Except in the circumstances described in paragraphs (d) or (e) of this Clause, if a Member requests that payment of the whole or part of a Benefit be deferred, then the Trustee must transfer the amount of the whole or that part of the Benefit to the Member's Retained Benefits Account.
- (d) A Benefit must be paid out of the Fund as soon as practicable if the Member dies.
- (e) The whole or part of a Benefit must be paid out of the Fund as soon as practicable if the Member is 65 years of age or more and the Relevant Law requires that the whole or that part of the Benefit be paid out of the Fund.

6.5 Form of Payment

- (a) Subject to Clause 1.4 and the Relevant Law, Benefits under the Fund are payable as:
- (i) a pension;
 - (ii) an Allocated Pension;
 - (iii) a lump sum; or
 - (iv) a combination of all, or any, of a pension, an Allocated Pension and a lump sum;
- as determined by the Trustee, taking into account the written request of the Beneficiary.
- (b) The Trustee may provide a Benefit payable as a pension by purchasing, in the name of the Beneficiary, an annuity on such terms, and from such institution, as is determined by the Trustee after consulting the Beneficiary and taking into account any Binding Death Benefit Nomination made pursuant to Clause 6.8. Such annuity must, to the extent necessary, comply with the Relevant Law.

- (c) The Trustee may provide a Benefit or part of a Benefit payable as a lump sum by transferring to the relevant Beneficiary an asset or assets of the Fund equal in value, as determined by the Trustee, to the Benefit or part of the Benefit so payable.

6.6 Payment on Behalf of Beneficiary

If it appears to the Trustee that a Member, former Member or other Beneficiary (in this Clause 6.6 referred to as "the recipient") is under any legal disability, or is unable for any reason to satisfactorily deal with an amount otherwise payable to the recipient from the Fund, the Trustee may, subject to the Relevant Law, pay or apply the whole or part of any Benefit payable to the recipient in one or more of the following ways:

- (a) where the recipient is a Member or former Member, to any Dependant of the recipient;
- (b) where the recipient is a Member or former Member, for or towards the maintenance, education, advancement or otherwise for the benefit of the recipient or of any Dependant of the recipient, in such form and manner and subject to such terms and conditions as the Trustee thinks fit;
- (c) where the recipient is a Member or former Member and without limiting the generality of paragraph (b), to a person who appears to the Trustee to be a trustee for (including a trustee appointed by the Trustee under a separate trust established by the Trustee, which trust may be subject to such trusts and powers as the Trustee thinks fit) or a representative, Spouse, Child, parent or guardian of, or a person who has for the time being the care or custody of, the recipient or any Dependant of the recipient, or appears to have the financial expense of the care or custody of the recipient or of any Dependant of, the recipient; and
- (d) where the recipient is not a Member or former Member, to a person who appears to the Trustee to be a trustee for (including a trustee appointed by the Trustee under a separate trust established by the Trustee, which trust may be subject to such trusts and powers as the Trustee thinks fit), a representative, parent or guardian of, or who has for the time being the care or custody of, or appears to have the financial expense of the care or custody of, the recipient.

The Trustee is not under any duty to have recourse to this Clause or to consider whether recourse should be had to it, notwithstanding that the Trustee may have actual notice of any infirmity, lack of fitness or other relevant matter as provided in this Clause.

6.7 Discharge to Trustee

The receipt of any person to whom the Trustee is authorised to make payment is a full and true discharge to the Trustee, and the Trustee is not bound or concerned to see to the application of such payment.

6.8 Binding Death Benefit Directions

If a Beneficiary makes a written direction to the Trustee to pay to a specified person or persons a Benefit in the event of the Beneficiary's death, then for the purposes of Clause 6.1, the direction is a Binding Death Benefit Direction in relation to the Beneficiary to the extent that:

- (a) if there is more than one person specified in the direction, the direction clearly specifies the proportion of the Benefit which each of the specified persons is to receive and does not allocate one such proportion of the Benefit to more than one specified person;
- (b) the Trustee did not advise the Beneficiary in writing prior to the Beneficiary's death that in the Trustee's opinion the direction failed to meet the requirement in paragraph (a) of this Clause;
- (c) the person specified in the direction in relation to a proportion or the whole of the Benefit is alive and is eligible to receive that proportion or the whole of the Benefit (as the case may be) under the Relevant Law;
- (d) the direction has not been revoked in accordance with the Relevant Law; and
- (e) the Trustee is permitted under the Relevant Law to pay a proportion or the whole of the Benefit in accordance with the direction.

7. TRUSTEE'S POWER OF INVESTMENT AND SALE

7.1 General

- (a) The Trustee's investment powers and other powers set out in this Section 7 are subject to the requirements of the Relevant Law, including any requirement to formulate or give effect to an investment strategy.
- (b) The Trustee may, if the Trustee so determines, having regard to the interests of all the Members, allocate particular assets in which the Fund is invested to a Member or Members.

7.2 Authorised Investments

So much of the moneys forming part of the Fund from time to time as are not required immediately for the payment of Benefits or other amounts authorised by the Rules must be invested as soon as practicable in any investments which the Trustee considers appropriate including, and without limiting the generality of the foregoing, in any of the following investments:

- (a) any investment for the time being authorised by the laws of the Commonwealth or any State or Territory of Australia for the investment of trust funds;
- (b) shares, stocks, debentures, notes, bonds or other securities or obligations of any company, whether or not registered in Australia, including rights to subscribe or take up such shares, stocks or debentures;
- (c) on deposit with any bank, building society, credit co-operative or other financial institution in any type of account, whether secured or unsecured, and on such terms as the Trustee determines;
- (d) any policy of life insurance or assurance, or annuity;
- (e) the purchase or acquisition of, or subscription for, any unit or sub-unit in any common fund, property trust or unit trust established or situated anywhere in the world, whether individually or jointly and whether such units or sub-units are fully paid up or whether their issue involves any contingent or reserve liability;

- (f) securities of any government, semi-governmental body or public authority;
- (g) the purchase of land or any estate or interest in land situated in Australia, of freehold tenure or of leasehold tenure, whether subject to tenancies or leases, or mortgages or encumbrances, or not;
- (h) contracts for loans at interest;
- (i) futures, options, and other derivatives.

7.3 **Additional Powers**

The Trustee also has the following powers:

- (a) to pay calls on shares or stock or units forming part of the Fund and to accept transfers of shares or securities;
- (b) to assent to and concur in any arrangement, sale, transfer or exchange of any shares, stock, debentures or other securities modifying any rights, privileges or interests in relation to the Fund and to agree to, and concur in, any scheme or arrangement for the increase or reduction of the value in the capital of any company in which any such shares, stock or debentures forming any part of the Fund for the time being may be invested, or agree to or concur in any rearrangement of its capital or its reconstruction or any arrangement made or proposed to be made by the Trustee for any purpose whatsoever;
- (c) to vary or transpose any investments into or for any other investment or investments of any nature or kind authorised (and to vary the terms of any document or security in relation to any investment authorised) by the Rules;
- (d) to borrow money, and secure the repayment thereof, to secure temporary finance to overcome cash flow difficulties in the payment of Benefits, or for any other purpose acceptable under the Relevant Law;
- (e) to erect buildings on, or make improvements to, freehold or leasehold land, and to sub-divide any land;
- (f) to open and operate bank accounts as required for the purposes of the Fund;
- (g) to deliver to any person, firm or company to which the Trustee has delegated any power or duty of investment under the Rules, or to a custodian, any or all of the assets of the Fund in the manner and upon the terms determined by the Trustee;
- (h) generally to do all acts and things as the Trustee may consider necessary or expedient for the administration, maintenance and preservation of any investment of the Fund and in the performance of the Trustee's obligations under the Rules.

8. **INSURANCE**

- (a) Pursuant to the powers of the Trustee provided in Section 7, the Trustee may effect and maintain policies of insurance, or assurance, or annuities, with one or more insurers or assurers on the life of any Member and secure by such policies the whole or any part of the Benefit payable from the Fund to such Member. The Trustee may

agree from time to time or at any time with the insurer or assurer concerned for any such policy or contract to be varied, modified or surrendered.

- (b) The Trustee may effect and maintain policies of professional indemnity insurance to cover the Trustee's own liability and/or (if the Trustee is a corporation) the liability of directors of the Trustee directly or indirectly related to their responsibilities in respect of the Fund, as the Trustee considers appropriate. Premiums in respect of such cover are payable from the Fund.

9. RECORDS, FINANCIAL ACCOUNTS AND REPORTS

9.1 Fund Records

The Trustee must keep, or cause to be kept, the following records:

- (a) records of all Members and Beneficiaries and of all deaths, withdrawals, and all other matters necessary for the proper administration of the Fund;
- (b) proper accounts to show the income, expenditure, assets and liabilities of, and dealings in relation to, the Fund; and
- (c) such minutes, records of decisions or other records as are required to be kept under the Relevant Law.

The records and accounts to be kept pursuant to this Clause 9.1 must be retained for such period as may be required under the Relevant Law.

9.2 Financial Accounts

The Trustee must, within the period (if any) specified under the Relevant Law, prepare or obtain, and lodge with the appropriate authority, all returns, accounts, statements, certificates and other records required under the Relevant Law and pay all fees due and payable in respect of the same.

9.3 Auditor

The Trustee must appoint an Auditor of the Fund who has access to all accounts, records and other information relating to the Fund. The Trustee must require the Auditor to:

- (a) audit the accounts and records of the Fund;
- (b) provide reports to the Trustee in accordance with the requirements of the Relevant Law; and
- (c) otherwise provide services to the Fund as specified by the Trustee.

The appointment of the Auditor is on such terms as the Trustee may determine, and the Trustee may remove the Auditor at any time and appoint another Auditor.

9.4 Disclosure and Reporting Requirements

The Trustee must, in the manner, to the extent, at such times and to such parties, all as required to comply with the Relevant Law, make available, provide or cause to be provided information in writing or copies of relevant records or documents of the Fund.

10. APPOINTMENT OF ADMINISTRATOR AND ADVISERS

- (a) The Trustee may appoint a competent person or organisation as administrator for the Fund.
- (b) If necessary to perform functions which are required under the Relevant Law, or if the Trustee considers it desirable to do so for the proper administration, maintenance or preservation of the Fund, the Trustee may appoint an Actuary, investment managers, solicitors, counsel, brokers, agents, consultants or such other advisers as the Trustee considers to be appropriate.
- (c) Subject to the Relevant Law, the appointment of an administrator or adviser is on such terms as the Trustee determines in the Trustee's discretion.

11. TRANSFERS

11.1 Overriding Conditions on Payment or Transfer

Despite anything expressed or implied to the contrary in the Rules, in relation to any payment or transfer which is accepted or made pursuant to the Rules, the Trustee:

- (a) may impose such conditions as the Trustee considers necessary in order to ensure compliance with any of the Relevant Law; and
- (b) subject to the Relevant Law, may impose such other conditions as the Trustee thinks fit.

11.2 Transfers from Other Funds

Subject to the Relevant Law, the Trustee may at any time:

- (a) arrange with a Member who is or was a member or beneficiary of another Approved Benefit Arrangement to accept the payment or transfer of cash or other assets in respect of that Member to the Fund, to be applied to such of the Member's Benefit Accounts and on such a basis as is agreed between the Trustee and the Member;
- (b) accept any other transfer to the Fund from an Approved Benefit Arrangement as permitted under the Relevant Law (and for this purpose, deem a person to be a Member);

and must pay the Benefit or Prospective Entitlement represented by the cash or other assets no earlier than the date specified in the trust deed or other relevant instrument governing the Approved Benefit Arrangement from which it was transferred, and no later than the date prescribed under the Relevant Law.

11.3 Transfers to Other Funds

- (a) A Member or Beneficiary may require that the whole or part of his or her Benefit or Prospective Entitlement in the Fund be transferred to an Approved Benefit Arrangement and the Trustee may pay or transfer the amount of the Benefit or Prospective Entitlement or investments of equivalent value, to that Approved Benefit Arrangement.
- (b) Notwithstanding any other provision of the Rules, the Trustee:
 - (i) must transfer, to an Approved Benefit Arrangement, a Benefit or Prospective Entitlement out of the Fund as required by the Relevant Law; and
 - (ii) may transfer, to an Approved Benefit Arrangement, a Benefit or Prospective Entitlement out of the Fund as permitted by the Relevant Law,

and is not required to obtain the consent of the Member or Beneficiary to effect such transfers, unless the Relevant Law so requires.
- (c) The receipt of the Benefit or Prospective Entitlement by the proper officer of the Approved Benefit Arrangement is full and true discharge to the Trustee of all liabilities in respect of the Benefit or Prospective Entitlement and the Trustee is not bound or concerned to see to its application.
- (d) Upon the completion of a payment or transfer in respect of a Member or Beneficiary under this Clause, all of the rights and interests of that Member under this Deed (and all of the rights and interests of any person otherwise entitled to claim in respect of the Member or Beneficiary or on the occurrence of any event or circumstances affecting the Member or Beneficiary) in respect of the Benefit or Prospective Entitlement, are extinguished.
- (e) Where a Member or Beneficiary wishes to transfer the whole or part of a Benefit or Prospective Entitlement, the Member must:
 - (i) provide a written request to the Trustee nominating the Approved Benefit Arrangement to which the transfer is to be made; and
 - (ii) complete and execute such documentation as is required to enable the transfer to be effected to that Approved Benefit Arrangement in accordance with the Relevant Law.

12. TAXATION

12.1 Trustee's Power to make Provision for Tax Liability

The Trustee must make adequate provision to meet any taxation liability of the Fund in accordance with Section 5.

12.2 Trustee's Power to Pay Tax

The Trustee must pay the tax, duties or other governmental imposts the Trustee is lawfully required to pay, whether in respect of contributions, other income of the Fund or on Benefits or other payments out of the Fund.

12.3 Trustee's Power to Transfer Tax Liability

The Trustee may, to the extent permissible under the Income Tax Assessment Act 1936, transfer the tax liability of the Fund to an institution or organisation which consents to such transfer.

12.4 Deduction of Tax

The Trustee must deduct from the Fund, or from any Benefit or other payment made from the Fund, as appropriate, the amount of any tax, duty, or other impost the Trustee is lawfully required to pay.

13. EXPENSES

All costs, charges, insurance premiums and expenses incurred in connection with the establishment, maintenance, administration, investment and operation of the Fund are payable from the Fund and debited to accounts in accordance with Section 5.

14. FORFEITURE OF ENTITLEMENTS**14.1 Conditions of Forfeiture**

If any of the following events or circumstances occur:

- (a) a Member or Beneficiary or any other person assigns or charges or attempts to assign or charge his or her interest in the Fund other than in circumstances which amount to the commission of an act of bankruptcy under the Bankruptcy Act 1966;
- (b) a Member or Beneficiary is declared bankrupt or, in the opinion of the Trustee, is insolvent;
- (c) if, after making reasonable enquiries, a Beneficiary cannot be located for such period (not being longer than 5 years) as the Trustee considers reasonable in the circumstances;

such Member or Beneficiary forfeits all of his or her interest in the Fund or right to receive his or her Benefit, to the extent such forfeiture is not proscribed by the Relevant Law or the Bankruptcy Act 1966 or any other law. If, by virtue of this Clause, a Member no longer has any interest in the Fund, or a right to receive his or her Benefit, then such Member ceases to be a Member of the Fund and any Beneficiary who might otherwise be entitled forfeits all his or her interest in the Fund.

14.2 Application of Forfeited Benefits

Forfeited Benefits are credited to the Foregone Benefits Account.

15. VARIATION OF DEED AND RULES**15.1 Method of Variation**

Subject to Clause 15.3, all or any of the provisions of the Deed and Rules (including this Clause) may be varied (whether by way of addition, deletion or amendment) from time to time by the Trustee:

- (a) by written resolution of the Trustee; or
- (b) by deed executed by the Trustee;

to take effect from the date on which the resolution is made or the deed is executed or from such earlier or later date as the Trustee specifies in the resolution or deed.

15.2 Advice to Members

The Trustee must advise Members and Allocated Pensioners of the nature and purpose of the variation, the effect (if any) on their entitlements or rights, and any other matters required under the Relevant Law, within the time and in the manner provided under the Relevant Law.

15.3 Trustee's Right to Vary Limited

The Trustee's right to vary the Rules is limited to the extent that no variation may be made which is inconsistent with the Relevant Law.

16. NOTICES**16.1 Notice to Members**

Notices are properly given by the Trustee to Members, former Members or Beneficiaries if:

- (a) handed to the Member, former Member or Beneficiary personally; or
- (b) sent by prepaid post to the last known address or place of employment of the Member, former Member or Beneficiary; and

the requirements of the Relevant Law (if any) in relation to the provision of notices are complied with.

16.2 Service by Post

In the case of service by post, notices are deemed to have been effectively given on the third day after the day of posting.

17. WINDING UP OF THE FUND**17.1 Determination of Trustee**

The Trustee may (and must, if required under the Relevant Law) determine that the Fund be dissolved and notify the final balance date for the Fund (in this Section referred to as "the Closure Date") to the Members and Allocated Pensioners. All contributions to the Fund must cease on the day immediately prior to the Closure Date.

17.2 Trustee's Expenses and Payment of Benefits

On the Closure Date the Trustee must realise the Fund and, after providing for the payment of the costs and disbursements of administering and dissolving the Fund, any outstanding tax payable from the Fund and the repayment of any authorised borrowings of the Fund, adjust the value of the Benefit Accounts of each Member and Allocated Pensioner on an equitable basis, such that the Fund is thereby fully allocated to the Benefit Accounts of Members and Allocated Pensioners. The Trustee then:

- (a) must pay the balance of the Benefit Accounts in respect of each Member and Allocated Pensioner to the Beneficiary entitled, or transfer the benefit in accordance with Section 11, but
- (b) must not pay a Benefit to or in respect of a Member other than in the circumstances acceptable under the Relevant Law.

17.3 Power of Trustee in Winding Up of the Fund

The Trustee may do all things necessary or convenient for giving effect to this Section 17.

18. COMPLAINTS, DISPUTES AND PROCEEDINGS

The Trustee has the following powers:

- (a) to settle or submit to arbitration any claims, matters or things relating to this Deed or to the rights of Members, former Members or Beneficiaries;
- (b) to commence, carry on or defend proceedings relating to the Fund or to the rights of Members, former Members or Beneficiaries and to commence, carry on or defend legal proceedings in order to recover damages against any person arising out of any loss suffered by the Fund and the Trustee may abandon, settle, compromise or release any such legal proceedings as the Trustee may consider desirable.