
**SELF MANAGED SUPERANNUATION FUND
TRUST DEED AND GOVERNING RULES FOR**

Escape Superannuation Fund

**Stewardship Accountants Pty Ltd
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REFERENCE SCHEDULE

GOVERNING RULES

This Deed is dated the *27th* day of *June* *2016*

PARTIES

The parties to this Deed are named in the Reference Schedule.

BACKGROUND

- A. The parties to this Deed wish to establish and maintain an indefinitely continuing superannuation fund for the purposes of the provision of benefits for Member(s) and their dependants in accordance with the Superannuation Industry (Supervision) Act 1993.
- B. The Trustee named in the Reference Schedule is the first Trustee.
- C. The Initial Member(s) named in the Reference Schedule are the first Member(s) of the Fund.
- D. It is intended that the Fund will be administered as a Self Managed Superannuation Fund regulated under the provisions of the Superannuation Industry (Supervision) Act 1993.

1. OPERATIVE PROVISIONS

- 1.1 The parties to this Deed hereby establish a superannuation fund which is to be known by the name referred to in the Reference Schedule ("the Fund").
- 1.2 The Fund commences and comes into operation on the date of this Deed.

2. INTERPRETATION AND DEFINITIONS

2.1 Interpretation

In this Deed, unless the contrary intention appears or is implicit from the context:-

- (a) The singular includes the plural and vice versa;
- (b) Headings are for convenience and reference only and do not affect the interpretation of this Deed;
- (c) A reference to a clause, paragraph, sub-paragraph or schedule is a reference to a clause, paragraph, sub-paragraph or schedule of this Deed;
- (d) An expression importing a natural person includes a body corporate, partnership, joint venture, association or other legal entity;
- (e) A reference to a statute, statutory provision or regulation or other instrument includes all amendments, consolidations or replacements thereof and includes all other declarations, modifications or other statutory instruments made under them;
- (f) A reference to a party to a document includes that party's Legal Personal Representatives, successors and permitted assigns;
- (g) A covenant or agreement on the part of or for the benefit of two or more persons binds or benefits them jointly and severally;

- (h) A reference to a body, whether statutory or not, that has ceased to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (i) "Including" and similar expressions are not words of limitation; and
- (j) Any word or expression which is defined in the Act has in this Deed the meaning given to it by the Act. To the extent that a meaning given to a word or expression in this Deed is inconsistent with the meaning given to it by the Act the meaning given by the Act prevails unless the contrary intention appears. Where more than one meaning may be given then the Trustee may determine which meaning applies.

2.2 Definitions

The following words have the following meanings unless the contrary intention appears and subject to this paragraph 2.

"Act" means the SIS Act (and includes the SIS Regulations), the Superannuation Guarantee (Administration) Act 1992 (Cth), the Tax Act, Veterans' Entitlements Act 1986 (Cth), Social Security Act 1991 (Cth), Family Law Act 1975 (Cth), Corporations Act 2001 (Cth), and any other legislation (as may be amended from time to time) that applies to a Self Managed Superannuation Fund and includes any regulations, declarations or orders, exemptions or modifications made under those Acts or any other law, or any requirement of the Regulator, including those which the Fund must satisfy to qualify for the most favourable tax treatment available to a self managed superannuation fund; which the Trustee or the Fund must comply with to avoid any penalty or disadvantage which might be incurred in connection with the operation of the Fund; or which otherwise have application to the entitlement of a Member or other person to a tax deduction in respect of the Fund.

"Account based pension" means a pension first provided on or after 1 July 2007 in accordance with SIS Regulation 1.06(9A)(a) that meets the applicable standards of the SIS Regulation 1.06(9A).

"Auditor" means an approved SMSF auditor as defined in section 10 SIS Act.

"Beneficiary" means a Member, Dependant or other person entitled to receive a benefit under this Deed subject to the SIS Act.

"Cashing Restrictions" has the meaning in SIS Regulation 6.01(2).

"Child" has the meaning in the SIS Act.

"Complying fund" means a fund that complies with section 42A SIS Act.

"Constitutional Corporation" has the meaning in section 10(1) SIS Act.

"Condition of Release" has the meaning in SIS Regulation 6.01(2).

"Deed" means this Deed or any alteration to, addition to or variation made to it from time to time except where the context otherwise requires.

"Dependant" means in relation to a person:-

- (a) their Spouse or widow of a deceased Member;
- (b) their Child;
- (c) any person with whom the Member is or was in an Interdependency Relationship at the relevant time; and
- (d) any person who, in the Trustee's opinion, was financially dependent on the Member at the applicable time.

"Eligible Person" means any person in respect of whom the Trustee may accept contributions under the SIS Act or who may otherwise become a Member of the Fund under the SIS Act.

"Eligible Recipient" means a Member, the Legal Personal Representative of a Member, a Dependant of a Member, a Pensioner, a Reversionary Beneficiary or any other person who is or may become entitled to the payment of a benefit from the Fund, subject to the Superannuation Conditions.

"Employee" has the meaning in section 10 SIS Act.

"Employer" has the meaning in section 10 SIS Act.

"Equalisation Account" means an account kept in accordance with sub-paragraph 33.3.

"Financial Year" means the accounting period selected by the Trustee for the Fund. It must not exceed twelve months and may at times be less than twelve months.

"Gainful Employment" means employment or self employment for gain or reward in any business, trade, calling or occupation or employment as required by the Superannuation Conditions.

"Interdependency Relationship" has the meaning in section 10A SIS Act.

"Legal Personal Representative" has the meaning in section 10 SIS Act.

"Member" means a person who has been admitted to the Fund and where the context so requires or permits or the SIS Act or Superannuation Conditions requires, includes a former Member and a Pensioner or their Legal Personal Representative.

"Member's Benefit" in respect of a Member is the net amount standing to the Member's credit in that Member's accounts including the Employer's contribution account (if any), the Member's contribution account and the vested Employer's contribution account (if any) plus the realisable value (if any) at that time of any policy of insurance owned by the Trustee on the life of that Member or paid for out of that Member's Employer's contribution account (if any), Member's contribution account or vested Employer's contribution account (if any) or other Member's account.

"Minor" means a person under 18 years of age.

"Member Financed Benefits" has the applicable meaning in the SIS Regulations.

"Old-Age Pensions" means a pension referred to in paragraph 51(xxiii) of the Constitution.

"Payment Split" has the meaning in section 90MD Family Law Act 1975.

"Pensioner" means a Retired Member, former Member or the Dependant of a deceased Member, former Member or Pensioner who is in receipt of or who is entitled to a pension.

"Permanently Incapacitated" has the meaning in the SIS Act.

"Preservation age" has the meaning in the SIS Regulations.

"Preserved" means the portion of an account or a benefit that is preserved for the benefit of a Member under the Superannuation Conditions.

"Prior Governing Rules" means rules of the Fund that applied immediately before the date of this Deed, if any.

"Regulated Superannuation Fund" has the meaning in the Superannuation Conditions.

"Regulator" means the Regulator defined in the Act and includes the Commissioner of Taxation, the Australian Prudential Regulation Authority, or the Australian Securities & Investments Commission, as may be appropriate having regard to the provisions of the Act and the nature of the Fund, or any other governmental authority responsible for administering or regulating the laws or rules relating to the concessional taxation in respect of superannuation funds.

"Related Party" has the meaning in section 10 SIS Act.

"Request" has the meaning given by sub-paragraph 26.5.

"Reserve Account" means an account referred to in sub-paragraph 19.1(d) or otherwise established to hold reserves under this Deed.

"Retire" has the meaning given by SIS Regulations 6.01(2) and **"Retirement"** has a corresponding meaning.

"Reversionary Beneficiary" means a person who becomes entitled to a Member's Benefit in respect of a superannuation interest of a Member, after the Member dies.

"Segregated Current Pension Assets" has the meaning in the Tax Act.

"Self Managed Superannuation Fund" has the meaning in the SIS Act.

"SIS Act" means the Superannuation Industry (Supervision) Act 1993 (Cth) as amended from time to time and regulations from time to time made in accordance with that Act.

"SIS Regulations" mean the regulations made under the SIS Act as amended from time to time and includes any applicable modification declaration.

"Splittable Contribution" has the meaning in SIS Regulation 6.40.

"Spouse" has the meaning in section 10 SIS Act.

"Standard" means a standard prescribed by the SIS Act.

"Superannuation Conditions" subject to paragraph 2.5 means:-

- (a) any relevant requirement of the Act or proposed changes to the Act that apply;
- (b) any determination or other writing of the Regulator that the Trustee considers is applicable to the Fund;
- (c) any other ruling or requirement relating to superannuation funds in respect of the above matters that in the Trustee's opinion should be complied with;
- (d) any proposed requirements of the Regulator that may apply to the Fund which the Trustee determines should be complied with to obtain maximum tax concessions for the Fund; and
- (e) any provision of the Act or proposed requirement that must be complied with for an Employer or Member to obtain a tax deduction unless the Employer or Member, as applies, do not need a tax deduction.

"Tax Act" means the Income Tax Assessment Act 1936 and Income Tax Assessment Act 1997 as applicable.

"Temporary incapacity" has the meaning in SIS Regulation 6.01(2).

"Trustee" means the trustee or the trustees for the time being of the Fund and **"Trustees"** has the same meaning.

"Unrestricted non-Preserved benefit" means a benefit payable to or in relation to a Member that is not Preserved at the relevant time of payment and complies with the definition of that term as given by the SIS Regulations.

2.3 Compliance

Despite any other provision of this Deed, including any provision (other than paragraph 3) which states that it is to apply despite any other provision of this Deed:-

- (a) subject to this paragraph, the Trustee must comply with the Superannuation Conditions that apply to the Fund and this Deed is subject to the applicable requirements of the Act.
- (b) all standards, covenants and other requirements of the Act that must be included in this Deed from time to time for the Fund to be a Complying Fund ("mandatory provisions") are deemed to be included in this Deed, whether or not they are specified in the Deed. If there is any inconsistency between any mandatory provision and any other provision of this Deed, the mandatory provision prevails and the other provisions of this Deed are modified or deleted to the extent of the inconsistency. However, if a mandatory provision is no longer required to be included or the Regulator does not require it to be included or complied with, then that "mandatory provision" ceases to be included.

- (c) if a provision of this Deed would otherwise be invalid in whole or in part because it subjects the Trustee to direction by another person then the provision is taken not to subject the Trustee to direction by that person but to give the Trustee the power to treat such a direction as a request only.
- (d) if a provision of this Deed would otherwise be invalid in whole or in part because it permits a person to exercise a discretion without the consent of the Trustee then that provision is taken to require the Trustee's consent for the exercise of the discretion.
- (e) the Trustee must comply with each applicable requirement in the Act.
- (f) the Trustee may:-
 - (i) do or procure to be done any acts, matters or things that in the opinion of the Trustee may be necessary or desirable to comply with the Superannuation Conditions;
 - (ii) refrain from doing any act, matter or thing that would result in a breach of the Superannuation Conditions; and
 - (iii) do anything to enable the Fund to become and continue to be a Complying Fund for the purposes of the SIS Act.
- (g) although it is intended that this Fund remain a Self Managed Superannuation Fund, for any period that the Fund is no longer a Self Managed Superannuation Fund and is a fund of less than five members that may have otherwise have a trustee licensed by the Australian Prudential Regulation Authority then this Deed shall be read subject to that status at that time to permit its continuance and amendment of this Deed as may be necessary.

2.4 Inconsistencies with the Superannuation Conditions

Where it appears to the Trustee that there is any inconsistency or difference between:-

- (a) any provision of any applicable legislation or other laws *and* another provision or provisions;
- (b) the rulings of the Regulator *and* other rulings of the Regulator;
- (c) a provision of this Deed *and* another provision of this Deed; and/or
- (d) anything referred to in any of the above sub-paragraphs, *and* any other thing referred to any other sub-paragraph,

then subject to the Superannuation Conditions, the Trustee may determine, either generally or in respect of any particular application, in their absolute discretion, which provision or ruling applies and the Deed must be construed accordingly.

2.5 Proper Law

This Deed is governed and construed and takes effect in accordance with the laws of the State or Territory of residence of the Trustee or if the Trustee is a Constitutional Corporation, the State or Territory of the address of its registered office unless the Trustee resolves otherwise. Any person having or claiming any interest under this Deed must submit to the jurisdiction of the courts of that State or Territory.

2.6 Saving Provision

To the extent any provision of this Deed would be void or invalid, but for this sub-paragraph ("an invalid provision"):-

- (a) where a reading down or limitation of the operation of the invalid provision would remove the voidness or invalidity, that must be done in construing the Deed;
- (b) where it is not possible to apply sub-paragraph (a), the invalid provision is severed from the Deed; and
- (c) in any event, an invalid provision does not affect the continued operation of the remainder of the Deed.

2.7 Trustee must comply with the Law

The Trustee is not in breach of this Deed if the breach arises from an act or failure that the Regulator waives or does not enforce.

2.8 Power to comply with Family Law

The Trustee may do anything that it considers necessary to comply with the SIS Act and Part VIIIB Family Law Act 1975 (Cth).

3. SOLE PURPOSE TEST

3.1 Core Purposes

The Trustee must ensure that the Fund is maintained solely for one or more of the core purposes or both one or more of the core purposes and for one or more of the ancillary purposes provided in the SIS Act.

3.2 Sole Purpose

Despite any other provision of this Deed, the Trustee must be a Constitutional Corporation unless the Trustees are individuals in which case the sole or primary purpose of the Fund is the provision of Old-Age Pensions.

4. CONSTITUTION OF FUND

4.1 Trusts

The assets of the Fund are vested in the Trustee who stands possessed of the same upon trust to apply the same in the manner and for the objects and purposes of the Fund as set out in this Deed and any amendment.

4.2 Perpetuities

The Fund must be terminated if the rule of law known as the rule against perpetuities applies to the Fund, on the expiration of the maximum period allowed under that rule for the duration of the trusts established under this Deed.

4.3 Trustee

The Trustee may create sub-funds separately for each Member or more than one Member or maintain one fund for the benefit of all Members. A sub-fund must have an investment strategy and accounts for it in the books and records of the Fund and only the Member or Members of that sub-fund have an interest in it.

5. NOTICE OF ELECTION

5.1 Trustee to give notice to become a Regulated Superannuation Fund

The Trustee must give to the Regulator the appropriate notice electing that the SIS Act is to apply in relation to the Fund.

6. STATUTORY COVENANTS

6.1 Section 52B SIS Act

The purpose of this sub-paragraph is explanatory only and is subject to the provisions of section 52B SIS Act (as amended from time to time). Section 52B provides:-

Covenants to be included in governing rules - self managed superannuation funds
Governing rules taken to contain covenants

- (1) If the governing rules of a self managed superannuation fund do not contain covenants to the effect of the covenants set out in this section, those governing rules are taken to contain covenants to that effect.

General covenants

- (2) The covenants referred to in subsection (1) are the following covenants by each trustee of the fund:
- (a) to act honestly in all matters concerning the fund;
 - (b) 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;
 - (c) to perform the trustee's duties and exercise the trustee's powers in the best interests of the beneficiaries;
 - (d) to keep the money and other assets of the fund separate from any money and assets, respectively:
 - (i) that are held by the trustee personally; or
 - (ii) that are money or assets, as the case may be, of a standard employer-sponsor, or an associate of a standard employer-sponsor, of the fund;
 - (e) not to enter into any contract, or do anything else, that would prevent the trustee from, or hinder the trustee in, properly performing or exercising the trustee's functions and powers;
 - (f) to formulate, review regularly and give effect to an investment strategy that has regard to the whole of the circumstances of the fund including, but not limited to, the following:
 - (i) the risk involved in making, holding and realising, and the likely return from, the fund's investments, having regard to its objectives and its expected cash flow requirements;
 - (ii) 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;
 - (iii) the liquidity of the fund's investments, having regard to its expected cash flow requirements;
 - (iv) the ability of the fund to discharge its existing and prospective liabilities;
 - (g) if there are any reserves of the fund—to formulate, review regularly and give effect to a strategy for their prudential management, consistent with the fund's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;
 - (h) to allow a beneficiary of the fund access to any prescribed information or any prescribed documents.

Trustee not prevented from engaging or authorising persons to act on trustee's behalf

- (3) A covenant referred to in paragraph (2)(e) does not prevent the trustee from engaging or authorising persons to do acts or things on behalf of the trustee.

Covenant referred to in paragraph (2)(f)

- (4) An investment strategy is taken to be in accordance with paragraph (2)(f) even if it provides for a specified beneficiary or a specified class of beneficiaries to give directions to the trustee, where:
- (a) the directions relate to the strategy to be followed by the trustee in relation to the investment of a particular asset or assets of the fund; and
 - (b) the directions are given in circumstances prescribed by regulations made for the purposes of this paragraph.

7. STATUTORY REQUIREMENTS

7.1 Self Managed Superannuation Fund

Subject to sub-paragraph 3.2 and despite any other provision of this Deed, the Trustee is empowered to do all things necessary to be done by it to ensure that the Fund satisfies the conditions applicable to Self Managed Superannuation Funds regulated in accordance with the SIS Act.

8. ALTERATIONS TO THE DEED

8.1 Methods to alter Deed

- (a) Subject to this paragraph 8 and the Superannuation Conditions, this Deed may be amended:-
- (i) by deed executed by the Trustee and, where the Superannuation Conditions require it, with the consent of the Members; or
 - (ii) by oral or written resolution of the Trustee and subject to compliance with the Superannuation Conditions.
- (b) For the purposes of this paragraph 8, "amend" includes any variation, modification, alteration or deletion.

8.2 Effective Date

An amendment may be made with immediate or prospective effect. It may be made with retrospective effect unless retrospective effect is not permitted by law.

8.3 Prohibition

Subject to the Superannuation Conditions, this Deed must not be amended in such a way that:-

- (a) a person other than a Constitutional Corporation would be eligible to be appointed as Trustee unless the Deed or any amending deed, provides and will continue to provide after the amendment is made, that the Fund has, as its sole or primary purpose, the provision of Old-Age Pensions;
- (b) the sole or primary purpose of the Fund would be a purpose other than the provision of Old-Age Pensions unless the Deed or any amending deed provides and will continue to provide after the amendment is made, that the Trustee must be a Constitutional Corporation; or
- (c) reduces a Member's accrued Benefit without the Member's consent or causes a breach of the rule against perpetuity.

8.4 Notice to be given to Members following alteration

The Trustee must give to each Member such information or notice in respect of the amendments as may be required by the Superannuation Conditions.

8.5 Amendments affecting Member specific assets to be considered

The Trustee must, when amending this Deed, consider provisions of this Deed, if any, requiring assets to be held for a specific Member pursuant to sub-paragraph 15.6(d) or otherwise held by the Trustee for a specific Member.

9. MEMBERSHIP

9.1 Eligibility

Subject to the Superannuation Conditions:-

- (a) any Eligible Person may make an application in writing to the Trustee in a form approved by the Trustee from time to time to join the Fund; or
- (b) a person may be deemed by the Trustee to be a Member if despite sub-paragraph 9.1(a), a contribution has been accepted by the Trustee in respect of that Member and the Trustee resolves at any time that the person is approved as a Member.

9.2 Trustee may accept or refuse

The Trustee may accept or refuse any application for membership in the Trustee's absolute discretion by written resolution and must notify the person of its decision. The Trustee is not required to assign any reason for any refusal.

9.3 Member bound by Deed

A person upon becoming a Member is deemed to have consented to and to be bound by the provisions of the Deed.

9.4 Minors

Subject to the Superannuation Conditions:-

- (a) A Minor may be a Member of the Fund.
- (b) The Minor's parent or guardian must make the application for the Minor to become a Member, in a form approved by the Trustee.
- (c) Decisions in relation to the Minor's membership must be made by the Minor's parent or guardian until the Minor is 18 years or after the Minor is 16 years provided that the parent or guardian notifies the Trustee in writing that the Minor will be making decisions in relation to the Minor's membership.
- (d) When the Minor is 18 years the Minor becomes a director of the Trustee of the Fund (or a Trustee) provided that the Trustee has done everything necessary to appoint the Minor as a director of the Trustee (or as a Trustee) however this does not apply if the Minor is not permitted by the Superannuation Conditions to become a trustee of the Fund and in that case, any person permitted by the Act may be a trustee.

10. TRUSTEES

10.1 Who can be Trustee

Subject to sub-paragraph 3.2:-

- (a) if the Trustee is a Constitutional Corporation, each Member of the Fund must be a director of that corporation however this does not apply to a Member under a legal disability or otherwise not permitted to become a director of the Trustee of the Fund and in that case any person permitted by the SIS Act may be a director of the corporate Trustee instead of that Member; or
- (b) if the Trustees are individuals, each Member of the Fund must be a Trustee however this does not apply to a Member under a legal disability or otherwise not permitted to become a Trustee of the Fund and in that case any person permitted by the Act may be a Trustee instead of that Member.

10.2 Trustees and SMSF requirements

- (a) The provisions of section 17A SIS Act identify the conditions that must be met for the Fund to become or remain a Self Managed Superannuation Fund.
- (b) If the Fund has individual trustees, the number of Trustees must be more than one but less than five and if the Fund has a corporate trustee, an additional trustee may not be appointed. A corporate trustee and an individual trustee is not permitted.

10.3 Written consent of Trustee required

A person or a corporate trustee and its directors must consent to their appointment in writing prior to the appointment being made as provided by section 118 SIS Act.

10.4 Consent of new Members to Trustee

A person joining the Fund as a Member consents, as a condition of joining the Fund:-

- (a) to the Trustee, at the date of the Member so joining, continuing to act as Trustee; and
- (b) to being appointed as a Trustee of the Fund, or if the Trustee is a Constitutional Corporation, to being appointed as a director of that body corporate;

unless that Member is under a legal disability.

10.5 Chairperson

The chairperson of any meeting of the Trustee does not have in that capacity any second or casting vote.

10.6 Meetings of Members

The Trustee may establish procedures and policies for the regulation of meetings of Members.

10.7 Decisions of Trustee

If required by the Superannuation Conditions, a decision of:-

- (a) the individual Trustees of the Fund; or
- (b) the board of directors of the corporate Trustee of the Fund;

must be taken not to have been made, or to be of no effect, if fewer than two thirds of the total number of the Trustees or directors, as the case requires, voted for it. Otherwise a majority vote is sufficient.

10.8 Vacancy in Office of Trustee

Subject to the Superannuation Conditions:-

- (a) if a person who is a Trustee:-
 - (i) dies;
 - (ii) loses legal capacity;
 - (iii) retires by written notice to the Members and any other Trustee;
 - (iv) is a disqualified person within the meaning of the SIS Act;
 - (v) is suspended or removed under the SIS Act;
 - (vi) has tenure of their office as a Trustee expire; or
 - (vii) is removed from office by written notice of at least two thirds of Members to the Trustee;then that person must immediately cease acting as a trustee.
- (b) if a corporate Trustee is liquidated, in administration or receivership or proceedings are commenced for its winding up, then the corporate Trustee must immediately cease acting as a trustee.
- (c) if the Trustee's continuance in office would result in the Fund no longer satisfying the conditions of the SIS Act applicable to Self Managed Superannuation Funds, then that Trustee must immediately cease acting as a trustee.
- (d) pending any appointment of a Trustee where a Member has died, the deceased Member's Legal Personal Representative may, with the consent of the other Members, act as Trustee in place of the deceased Member/Trustee (or director of a corporate Trustee) in any period commencing on the Member's death and ending on the date the Member's Benefits become payable.
- (e) pending any appointment of a Trustee where a Member is under a legal disability the Member's Legal Personal Representative may with the consent of any other Members, act as Trustee in place of that Member/Trustee (or director of a corporate Trustee) in any period when the Member is under a legal disability or the Legal Personal Representative has an enduring power of attorney from that Member and ending on the date the Member's Benefits become payable.
- (f) the parent or guardian of a Member who is under 18 and who does not otherwise have a Legal Personal Representative may be appointed as a Trustee.

10.9 Self Managed Superannuation Fund – Removal and Appointment of Trustee

- (a) Any appointment or removal of a Trustee or a director of a body corporate Trustee must be made in such manner as will satisfy the provisions of the SIS Act applicable to Self Managed Superannuation Funds.
- (b) Subject to the SIS Act, in addition to any other method provided in this Deed, a Trustee(s) or an additional Trustee(s) may be appointed or a Trustee(s) removed by:-
 - (i) a written resolution of at least two-thirds of the Members; or
 - (ii) a Deed signed by the Members, the Trustee to be appointed and the Trustee at that time or by their duly appointed attorney, Legal Personal Representative, parent or guardian as may be appropriate. If a Trustee's or a director of a corporate Trustee's office is vacated in any manner described in sub-paragraph 10.8(a) or 10.8(b), the signing by such Trustee or director is not required.
- (c) A Trustee cannot be appointed as trustee if they are not eligible to act as trustee of a Self Managed Superannuation Fund under the Superannuation Conditions.
- (d) If no person has the power under paragraph 10 to appoint a trustee, then the Legal Personal Representative of the last Member whose Legal Personal Representative is available to sign a document, has that power.

10.10 Registration

A document or deed appointing or removing a trustee does not need to be registered and any law relating to trustees concerning the registration of such documents or deeds does not apply unless the Trustee resolves otherwise or required by a law that cannot be excluded.

10.11 Vesting Fund Assets

- (a) Unless required by law in a manner that cannot be excluded, any appointment or removal of a Trustee effected pursuant to this Deed is sufficient to vest the assets of the Fund in the relevant Trustees without any further action of any kind.
- (b) Despite sub-paragraph (a), on a change of trustees, the retiring trustee or trustee removed must sign all documents and provide all consents necessary to transfer title of all Fund assets to the new and/or continuing trustee.

11. LIMITATION OF LIABILITY

This paragraph does not apply to the extent that it is inconsistent with the Superannuation Conditions.

11.1 Limitation

- (a) Subject to sub-paragraph 11.1(b), no Trustee or, where the Trustee is a corporation, none of its directors or officers, will be personally liable for any loss, detriment, expense or damage ("**Detriment**") whatsoever incurred by any person in connection with the Fund for any reason and without limitation including:-
 - (i) Any Detriment arising from reliance on professional advice; or
 - (ii) Any Detriment arising from the failure of an investment.

Exception

- (b) Paragraph 11.1(a) does not apply:-
 - (i) to the extent that the Detriment is due to the Trustee's, director's or officer's dishonesty or intentional or reckless failure to exercise the degree of care and diligence that the Trustee, director or officer was required to exercise; or
 - (ii) to the effect that the Trustee is liable under a provision of an applicable statute that cannot be excluded.

11.2 Indemnity

- (a) The Trustee and, where the Trustee is a corporation, its directors and officers are entitled, to the maximum extent permitted by law and in the circumstances referred to in sub-paragraph 11.1(a) and subject to sub-paragraph 11.2(b) to be indemnified from the Fund against all liabilities incurred by each of them in connection with the execution, attempted execution, or in respect of non-execution of the Trustee's powers and discretions under this Deed.

Payment and reimbursement

- (b) Subject to the Superannuation Conditions, the Trustee and its directors and officers may recover from the Fund amounts necessary:-
 - (i) to meet the indemnities referred to above; and
 - (ii) to meet all liabilities whatsoever in connection with the Fund and the exercise of their powers and duties under or in connection with this Deed.

For this purpose and to the maximum extent permitted by law, the Trustee or, where the Trustee is a Constitutional Corporation, its directors and officers have, and may exercise, a lien over the Fund.

12. APPROVAL OF MEMBERS

12.1 Approval of Members Generally

Subject to the Superannuation Conditions, where under the terms of this Deed, in relation to the exercise by the Trustee of any power or authority or otherwise, the resolution, consent, approval or agreement (herein referred to as "resolution") of the Members is required, the passing or rejection of that resolution must be determined by a requisite majority of Members in writing unless all Members of the Fund at the time of signature have signified their consent in writing otherwise.

12.2 Requisite Majority

In the provisions of this sub-paragraph the expression "requisite majority of Members" means:-

- (a) in the case where a two-thirds majority is required by the SIS Act – at least two-thirds; and
- (b) in any other case – at least one-half.

12.3 Notification to Members

The Trustee must within fourteen (14) days of any meeting held under the provisions of this sub-paragraph or such other period as may be required by the SIS Act notify all Members of the result if required by the SIS Act.

12.4 Strict compliance not essential

Any resolution made under this sub-paragraph is not invalidated by reason of any or want of strict compliance with these provisions unless it is shown that there has or may be caused thereby some substantial and irremediable injustice.

12.5 Written Resolution

Despite this paragraph 12, the Members may unanimously resolve to give their approval by signing a document or counterpart documents instead.

13. TRUSTEE NOT TO BE SUBJECT TO DIRECTIONS

13.1 Directions

If the Superannuation Conditions so require, the Trustee, despite anything in this Deed to the contrary, must not be subject, in the exercise of any of the Trustee's powers under the Deed, to direction by any other person.

13.2 Direction taken to be a request

If any provision in this Deed is inconsistent with the preceding sub-paragraph then, despite such provisions, the Trustee must treat the direction as a request and the Trustee is not bound by such provision or request.

14. INVESTMENTS

14.1 Investment Strategy

The Trustee must formulate and give effect to an investment strategy in accordance with the SIS Act. Subject to the SIS Act, a Reserve Account may have a separate investment strategy.

14.2 Loans

The Trustee may not lend money to Members or others except in accordance with the Superannuation Conditions and this Deed.

14.3 Acquisition of assets from Members

The Trustee must not intentionally acquire an asset from a Related Party unless the Superannuation Conditions otherwise permit.

14.4 Borrowing

- (a) The Trustee may borrow money or maintain an existing borrowing of money and assign, pledge, mortgage or charge any of the assets of the Fund as security for any such financial accommodation, if the Superannuation Conditions permit.
- (b) Without limiting sub-paragraph 14.4(a) and subject to the Superannuation Conditions, the Trustee may raise any money in any lawful manner including by drawing, endorsing, accepting or otherwise dealing in any bill of exchange, promissory note or other negotiable instrument. The Trustee may secure the repayment of any moneys so raised with interest at such rate as the Trustee thinks fit and upon any terms and conditions in all respects as the Trustees think fit, and:-
 - (i) any money raised by the Trustees will form part of the Fund; and
 - (ii) interest payable on such borrowings as referred to in this sub-paragraph 14.4 is a proper outgoing of the Fund.

Limited Recourse Borrowing

- (c) Without limiting sub-paragraph 14.4(a) the Trustee has all the necessary powers to enter into any arrangement that complies, to the extent necessary, with sections 67A & 67B SIS Act and subject to those sections (and without limiting them) the Trustee may:-
 - (i) borrow money;
 - (ii) maintain an existing borrowing of money;
 - (iii) assign, pledge, mortgage or charge assets of the Fund as security for a borrowing or financial accommodation;
 - (iv) enter into and execute all documents including documents in connection with acquiring a beneficial interest of an original asset or replacement asset as defined in that section;
 - (v) pay the expenses incurred in any such borrowing from the borrowed money;
 - (vi) refinance or vary the terms of a borrowing; and
 - (vii) do all such things as may be ancillary or necessary including, without limitation, the variation and transposing of any asset so acquired including such acts and the entering into of such deeds or documents as may be necessary with any person or entity holding or to hold legal title to an asset referred to in that section.

Loan Applications & Conditions

- (d) The Trustee may make a loan application to any lender and utilise the services of any custodian and make such arrangements and do such things and execute such documents as may be required to comply with any conditions of approval in respect of such loan.

14.5 In-house assets

The Trustee must take all reasonable steps to ensure that the in-house assets rules applicable to the Fund, if any, are complied with and may only invest in in-house assets if permitted by the Superannuation Conditions. Subject to those conditions the Trustee may continue to hold any existing in-house asset.

14.6 Arms' length dealing required

The Trustee must not, if prohibited by the Superannuation Conditions, make investments unless the Trustee and the other party to the relevant transaction are dealing with each other at arms' length in respect of the transaction.

14.7 Power to invest as if natural persons

- (a) Subject to the SIS Act, the Trustee may make any investment that a natural person may make, whether in Australia or elsewhere.
- (b) The Trustee has power to sell, vary or transpose any investment/asset.
- (c) All investments by the Trustee are subject to compliance with the Superannuation Conditions.

14.8 Other investment powers

Without limiting the preceding sub-paragraph but subject to the limitations in it and subject to the Superannuation Conditions, the Trustee may:

- (a) invest in any investment authorised by the laws of Australia or of any of its States or Territories for the investment of trust funds;
- (b) invest in the purchase of or subscription for preference or other shares or stock or preference or other share or stock options in any company registered in Australia or in any other country;
- (c) invest in the purchase of units or sub units of property or other investment trusts or other common fund;
- (d) deposits with any bank, life insurance company or building society or on loan to any company, organisation or person not being a Member;
- (e) invest in policies of insurance, assurance, endowment, deposit administration or investment;
- (f) invest in the purchase of annuities and deferred annuities from a life insurance company or other organisation;
- (g) invest in the purchase of any real estate;
- (h) invest in deposits or loans;
- (i) invest in instalment warrants or otherwise acquire instalment warrants;
- (j) in any derivative product or derivative contract;
- (k) sell, transfer, hire, lease or dispose of any real or personal property of the Fund, whether at a profit or not;
- (l) grant or take any put or call option for the purchase of any real or personal property of the Fund, whether the sale occurring on exercise of such an option will be at a profit or not;
- (m) buy, transfer, acquire, hire or lease any property;
- (n) invest in its name or under its control the Fund in any one or more of the investments authorised by this Deed with power in the Trustee's absolute discretion either to retain the investment in that form or to sell or convert into money any of those investments for cash or on terms (so as to allow a purchaser any time for payment of the whole or part of the purchase price with or without interest and with or without security) and power in the Trustee's absolute discretion from time to

time to vary or transpose any investments into others authorised by this Deed;

- (o) purchase, take on lease or licence, develop, construct, hold, improve, sell, transfer, convey, surrender, lease, licence or otherwise deal with any real property and, without limiting the generality of this sub-paragraph, to develop any commercial or retail premises and hold or sell, transfer, convey, surrender, lease or licence such premises;
- (p) invest in any property including land even if the property does not earn rent;
- (q) enter into contracts for the purchase of property to be constructed;
- (r) make any other investment whether or not similar to any of the above which the Trustee considers to be appropriate including the purchase of property where the contract for purchase is, amongst other things, subject to approval by any person or authority or entity, of a plan of subdivision or a strata plan or other plan and registration of that plan whether also subject to the carrying out of building or other works; and
- (s) do anything incidental to the exercise of any of the Trustee's powers to invest.

14.9 Nominees for Trustee

Any investment may be held in such names including joint names with others if permitted by the Superannuation Conditions, the name of a nominee or custodian (whether an individual or corporation) as the Trustee from time to time determines to the extent not prohibited by the Superannuation Conditions.

14.10 Continuation of loans and investments to Members

- (a) The Trustee may continue any loans transferred in respect of a Member from another superannuation fund under conditions that will not cause the Fund to fail to satisfy the Superannuation Conditions.
- (b) The Trustee may maintain an existing investment that would not be permitted by the Superannuation Conditions as at the date that this Deed applies if the Superannuation Conditions so permit.

15. INVESTMENT CHOICE

15.1 No Obligation

- (a) The Trustee is not obliged to provide investment choice to Members or Beneficiaries of the Fund except as required by the SIS Act.
- (b) The Trustee may however in their absolute discretion determine to provide investment choice subject to the Superannuation Conditions either generally or only in respect of certain Members or Beneficiaries or certain classes of Members or Beneficiaries of the Fund.

15.2 Investment Strategy

- (a) Where the Trustee determines to provide investment choice, they must establish an investment strategy for each of the investment choices available to Members and Beneficiaries and where appropriate must allocate or designate particular assets of the Fund to be held in accordance with that strategy. The Trustee must notify Members and Beneficiaries of the investment objectives of each of those strategies and provide any other information required for this purpose by the Superannuation Conditions to enable Members and Beneficiaries to make an informed decision regarding the effect of and risks associated with, each of those investment strategies.
- (b) The notification provided must include the various directions that a Member or a Beneficiary can give to the Trustee under sub-paragraph 15.5 and the circumstances in which any such directions can be given or altered.

15.3 Trustee must monitor

The Trustee must monitor each of the investment strategies established under sub-paragraph 15.2 and the assets held in accordance with each strategy in order to ensure that each of those investment strategies is appropriate in respect of Members or Beneficiaries or classes of Members or Beneficiaries to whom each of those strategies is available.

15.4 Selection and direction

- (a) A Member or Beneficiary of the Fund may, where the Trustee has determined to offer investment choice in accordance with sub-paragraph 15.1, select one or more of the investment strategies formulated by the Trustee under sub-paragraph 15.2 and direct the Trustee to invest part or the whole of the monies held in respect of that person in accordance with the strategy or strategies selected by that person under this sub-paragraph.
- (b) Any directions by the Member or Beneficiary must only be given in accordance with the Superannuation Conditions and the Trustee must ensure that the Member or Beneficiary is provided with such information as required by the Superannuation Conditions in order to enable the Member or Beneficiary to make an informed decision.

15.5 Member Document

- (a) A Member or Beneficiary who wishes to select one or more investment strategies pursuant to sub-paragraph 15.2 must give to the Trustee such documents as the Trustee requires and must clearly set out details of the investment strategy or strategies selected by the Member or Beneficiary.
- (b) The Trustee is not bound to act on any such document if it breaches any of the requirements of the Superannuation Conditions.

15.6 Asset specific investments

- (a) Except to the extent permitted by the Superannuation Conditions, the Trustee is not bound to make a particular investment in respect of a Member or Beneficiary of the Fund.
- (b) Where a Member or Beneficiary wishes to select particular investments (whether those investments comprise one or more assets) a request to the Trustee must be made for an additional investment strategy or strategies for those particular investments ("asset specified investment strategy") to be formulated by the Trustee and for that strategy or those strategies to be made available to that Member or Beneficiary in accordance with sub-paragraph 15.2.
- (c) The Trustee may in their absolute discretion approve or reject any requests made under this sub-paragraph.
- (d) Pursuant to this provision, the Trustee may make a specific rule or otherwise bind the Trustee to ensure that any such asset or investment forms part of the Member's account to the extent that no other Member shall be entitled to any part of that asset or investment. If an asset is transferred to the Trustee of the Fund on terms that for stamp duty reasons or otherwise require it to be held by the Trustee to the exclusion of any other Member, other than the transferor Member(s) then the Trustee shall do such things and execute such documents as are necessary to ensure that the property is so held. (See also sub-paragraph 8.5)

15.7 Advice to Members

The Trustee must, if required by the SIS Act, advise Members and Beneficiaries of the investment strategy or strategies which will be adopted by the Trustee in respect of those Members or Beneficiaries or classes of Members or Beneficiaries who decline, or otherwise do not select an investment strategy.

16. POWERS OF TRUSTEE

16.1 Discretionary Powers of Trustee

Subject to the Superannuation Conditions, the Trustee has all the powers of a natural person. The Trustee in the exercise of the authorities, powers and discretions vested in the Trustee has an absolute and uncontrolled discretion and may exercise or enforce or delegate (by power of attorney or otherwise) all or any of the authorities, powers or discretions from time to time or may refrain from exercising all or any of such authorities, powers or discretions from time to time and their decision as to the interpretation and effect of this Deed is final and binding on all parties.

16.2 Additional Powers

Subject to the Superannuation Conditions and without limiting the preceding sub-paragraph, the Trustee also has the following powers:-

- (a) to insure or re-insure and to self insure any risks contingencies or liabilities of the Fund;
- (b) to open and operate a bank account at any bank and to make regulations for the operation of such bank accounts including the signing and endorsing of cheques in connection therewith;
- (c) to institute or defend or otherwise deal with any legal proceedings in respect of the Fund;
- (d) to be indemnified or to give indemnities to or on behalf of any person or entity the Trustee thinks fit;
- (e) to enter into any contract and do all such acts matters and things as the Trustee may consider necessary or expedient for any matter or purpose in respect of the Fund or this Deed;
- (f) to engage the services of any company, person or firm as the Trustee may consider necessary for the proper administration and management of the Fund or to obtain expert advice;
- (g) to appoint an Auditor of the Fund from time to time at such remuneration and on such other conditions as the Trustee thinks fit;
- (h) to deduct and pay from the Fund the amounts of administration and other costs including any tax or duty payable by the Trustee in connection with the Fund and to debit any of the accounts of the Fund (including an account representing Member Financed Benefits) with such amounts in such manner as the Trustee may determine and which must not cause the Fund to fail to comply with the Superannuation Conditions;
- (i) to deduct from any benefit or other payment hereunder any tax or duty payable whether from or in respect of it and whether payable by the person entitled thereto or the Fund and must then pay that tax or duty to the relevant authority and the person is entitled to receive only the net benefit or payment after the deduction has been made;
- (j) to do anything incidental to the exercise of any of the Trustee's powers;
- (k) to delegate, in writing, the exercise of all or any of the powers or discretionary authorities hereby conferred on the Trustee and execute any powers of attorney or other instruments necessary to effectuate such purpose;
- (l) to transfer or pay from the Fund, on a Member's request, any amount in the Member's account provided that such transfer or payment is permitted by the Superannuation Conditions;
- (m) such other powers as are necessary, desirable or appropriate to the fulfilment of the purposes of the Fund and its proper and efficient maintenance, management, operation, promotion and advancement and its compliance with and exercise of powers authorities and discretions available under the Superannuation Conditions; and
- (n) such other powers conferred on a Trustee by statute or general law in addition to the powers conferred by this Deed.

16.3 Trustee's Interest

Subject to the Superannuation Conditions, the Trustee has power generally to exercise or concur in exercising all the Trustee's powers and discretions contained in this Deed or otherwise conferred not withstanding that:-

- (a) any person being a Trustee;
- (b) any person being a director or shareholder of a Trustee; or
- (c) any person being a relative of a Trustee or any person being a relative of a director or shareholder of a Trustee hereof (being a company)

has or may have a direct or personal interest, whether:-

- (i) as Trustee of any other settlement;
- (ii) in his/her personal capacity;
- (iii) as shareholder or director;
- (iv) member or partner of any company or partnership;
- (v) as a relative of the Trustee or relative of a director or shareholder of a Trustee or relative of a Member or relative of a partner of any company or partnership;
- (vi) as a unitholder in any unit trust or beneficiary of any other trust including, without limitation, a discretionary trust or otherwise; or
- (vii) as a relative of a unitholder in any unit trust or beneficiary of any other trust including, without limitation, a discretionary trust or otherwise;

in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and even if the Trustee for the time being is the sole Trustee.

17. NOTIFICATION OF SIGNIFICANT ADVERSE EFFECTS

17.1 Trustee to give notice of significant adverse effect

If the Trustee becomes aware of the occurrence of an event having a significant adverse effect on the financial position of the Fund, they must give such notice as may be required by the Superannuation Conditions.

18. INSURANCE

18.1 Life Insurance

Subject to the Superannuation Conditions, the Trustee has power from time to time to effect policies of insurance upon the life of any Member to secure payment upon death of the Member or the happening of any other contingency in respect of that Member of such amount as the Trustee in their absolute discretion thinks fit and to renew any such policies for such period as the Trustee may think fit and the Trustee has power to accept an assignment of any policies of insurance effected in respect of a Member.

18.2 Annuities

The Trustee has power from time to time to effect annuity or deferred annuity policies upon the life of any Member or any of the Member's Dependants of such amount as the Trustee determines and the Trustee has power to accept an assignment of such annuity or deferred annuity policies effected in respect of a Member.

18.3 Powers

Policies must be issued in the names of or assigned to the Trustee and must be held by the Trustee upon and subject to the provisions of this Deed and the Trustee may enforce, surrender, sell or otherwise deal with any such policies as they in their absolute discretion think fit provided that the Trustee may also arrange for annuity or deferred annuity policies to be issued in the name of a Beneficiary.

18.4 Evidence to be provided by Member for insurance

A Member must provide any evidence that may be required from such Member in order to secure cover under any insurance policy and the Trustee is not bound to seek completion of such policy if evidence satisfactory to the insurance company is not provided.

18.5 Premiums

Subject to the Superannuation Conditions, the Trustee may debit such accounts of the Fund as they determine with the applicable insurance premiums.

18.6 Power to retain Prior Insurance Policies

- (a) Where under any Prior Governing Rules of this Fund, provision was made for purchasing policies of any type of insurance and paying the premiums of those insurance policies, the Trustee may, in their absolute discretion, continue those policies and do such things as may be necessary in that regard.
- (b) The Trustee, in their absolute discretion, may vary the policies, subject to the Superannuation Conditions.

19. ACCOUNTS

19.1 Trustee to keep accounting records

The Trustee must keep such minutes, records and reports as they consider appropriate for the proper administration of the Fund and such further records, minutes and reports as may be required by the Superannuation Conditions and may:-

- (a) keep such accounting records as correctly record and explain the transactions and the financial position of the Fund;
- (b) keep its accounting records so as to enable the preparation of the accounts and statements in accordance with the Superannuation Conditions;
- (c) keep its accounting records so as to enable those accounts, statements and returns to be conveniently and properly audited in accordance with the Superannuation Conditions; and/or
- (d) keep a Reserve Account to which may be credited or debited such amounts as the Trustee determines from time to time subject to the Superannuation Conditions.

19.2 Balance Sheet

The Trustee must as soon as practicable after the expiration of each Financial Year cause to be drawn up such:-

- (a) balance sheets and statements of financial position;
- (b) operating statements;
- (c) other financial accounts and statements as are required by the Superannuation Conditions; and/or
- (d) such other statements as the Trustee thinks fit.

19.3 Accounts and statements to be prepared

The Trustee may prepare such accounts and statements additional to those described in this paragraph as are required by the Superannuation Conditions or otherwise, as they think fit.

19.4 Audit

If required by the Superannuation Conditions, the Trustee must ensure that the accounts and statements of the Fund are audited.

19.5 Maintenance of reserves

- (a) This sub-paragraph is subject to the Superannuation Conditions.
- (b) The Trustee may maintain reserves of the Fund.
- (c) Subject to section 52(g) SIS Act and the investment strategy applicable to the reserve, a Member is not entitled to any property held in a Reserve Account and the Trustee is not required to allocate such property.
- (d) The Trustee has, in relation to Reserve Accounts, all the powers applicable to the Fund.

20. ROLLOVER

20.1 Trustee may pay rollovers

The Trustee may pay benefits to an eligible rollover fund or other fund on a Member's request or as may be permitted by the Superannuation Conditions.

21. MEMBER ACCOUNTS

21.1 Trustee to keep Member and Employer accounts

- (a) Subject to complying with the Superannuation Conditions, the Trustee may keep such Member Accounts in respect of Member and Employer contributions (if any) as they think fit, including accounts and sub-accounts in respect of Segregated Current Pension Assets, containing such particulars as the Trustee determines.
- (b) Sub-accounts or sub-funds or otherwise may be kept in respect of a Member or more than one Member.
- (c) Contributions or other property held by the Trustee in a Member's account must be paid or transferred in accordance with this Deed and the Superannuation Conditions and part of that Fund not required by the Superannuation Conditions to be so paid or transferred may be dealt with as permitted by this Deed and subject to the Superannuation Conditions.

21.2 Power to retain prior categories of membership and vesting

- (a) Where under any Prior Governing Rules of this Fund or under any fund from which a benefit has been transferred, provision was made for categories of membership or for vesting of contributions, the Trustee may, in their absolute discretion, continue to apply or adopt those provisions or provisions similar thereto as the Trustee may reasonably determine.
- (b) The Trustee may treat that benefit so transferred in that manner despite the provisions of this Deed, it being the intention of this provision to give the Trustee the power to retain and continue to treat that benefit in a similar manner to its treatment under those prior or other governing rules.
- (c) This provision is subject to compliance with the Superannuation Conditions.

21.3 Details of accounts

Without limiting sub-paragraph 21.1 and subject to the Superannuation Conditions, a Member Account may (or must if required by the Superannuation Conditions) include:-

- (a) an Employer Contribution Account showing:-
 - (i) contributions by any Employers to that account;
 - (ii) sums which the Trustee determines are to be credited or debited to the account in order to provide the benefits payable to or in respect of the Member in accordance with the Deed; and
 - (iii) the portion of the account that is Preserved and the conditions of such preservation.

- (b) a Member Contribution Account showing:-
 - (i) contributions by the Member to that account;
 - (ii) sums which the Trustee determines are to be credited or debited to the account in order to provide the benefits payable to or in respect of the Member in accordance with the Deed; and
 - (iii) the portion of the account that is Preserved and the conditions of such preservation.
- (c) Any such Account may, subject to the Superannuation Conditions, be debited or credited and such other entries may be made or particulars recorded as the Trustee deems to be appropriate including provisions for reserves.
- (d) Without limiting the discretion in sub-paragraph (c) and the Superannuation Conditions and subject to the Member's consent if required by the Superannuation Conditions, the Trustee may debit and or credit such accounts, amounts which the Trustee determines are appropriately created or debited including a Payment Split, Splittable Contributions, amounts to be transferred to a Reserve Account under this Deed, expenses, losses and benefit payments (whether lump sum or pension) and taxes.

22. SEGREGATED CURRENT PENSION ASSETS

- 22.1** The Trustee may subject to the Superannuation Conditions, transfer and segregate in the books and records of the Fund any of the assets of the Fund for the sole purpose of discharging the current pension liabilities of the Fund out of those assets or any other purpose permitted by the Superannuation Conditions.
- 22.2** The transfer values and annual valuations of the Segregated Current Pension Assets must be determined as may be required by the Superannuation Conditions.
- 22.3** The Trustee may, in accordance with the Superannuation Conditions, re-transfer assets segregated in order to meet the requirements of the Superannuation Conditions applicable to the Segregated Current Pension Assets.
- 22.4** The Trustee may accordingly create separate pension benefit accounts in respect of pensions payable under this Deed as the Trustees determine.
- 22.5** The Trustee may take any action not prohibited by the Superannuation Conditions to revert segregated assets so that they are no longer segregated, with the consent of the relevant Member where required by the Superannuation Conditions.

23. VALUATION OF THE FUND AND ALLOCATION OF PROFITS OR LOSS

23.1 Valuation

The Trustee must at the end of each Financial Year, if required by the Superannuation Conditions and may at any time, value the assets and liabilities of the Fund and any surplus or deficiency including unrealised gains or losses revealed by such valuation must be separately credited or debited to the profit and loss account of the Fund. For the purpose of effecting a valuation, the Trustee has an absolute discretion in selecting the valuation basis for any asset or liability provided that such basis must not be one which causes the Fund to fail to satisfy the Superannuation Conditions.

23.2 Profit or loss distribution

The Trustee may in their absolute discretion determine the amount of profit or loss of the Fund that must be credited or debited to and amongst the Member Accounts and any other accounts that the Trustee nominates in such proportions and such manner as the Trustee decides and may set formulae or interest rates for this purpose provided that the Trustee must in the exercise of their discretions under this sub-paragraph act in a manner that is in accordance with the Superannuation Conditions. If the Trustee maintain reserves the Trustee may first determine what amount of the profit or loss is to be allocated to the Reserve Accounts, and the balance (if any) credited or debited in accordance with this Deed.

23.3 Other Debits

Subject to the Tax Act and the Superannuation Conditions, the Trustee may debit any accounts of the Fund in respect of taxation liabilities or any other outgoings in such manner as the Trustee determines.

24. CONTRIBUTIONS

24.1 Acceptance of contributions – General

The Trustee may accept any contribution from any contributor unless the Fund is not permitted by the Superannuation Conditions to accept a contribution.

24.2 Acceptance of Co-Contributions

Without limiting sub-paragraph 24.1, the Trustee may accept contributions from the Government in the form of a co-contribution, unless the Fund is not permitted to do so by the Superannuation Conditions.

24.3 Acceptance of Member contributions

Without limiting sub-paragraph 24.1, the Trustee may accept contributions that are made in respect of a Member in accordance with SIS Regulation 7.04.

24.4 Child Contributions

The Trustee may accept child contributions in respect of a Minor if permitted by the Superannuation Conditions.

24.5 Contributions in Cash or Assets

Any contribution must be paid either in cash or by transfer of assets provided that the assets transferred must be investments permitted by this Deed. Any such transfer of an asset must be made upon the terms and conditions required by the Superannuation Conditions, and must not be made if the Trustee or an agent or custodian trustees or delegate of the Trustee is prohibited by the Superannuation Conditions from acquiring the asset.

24.6 No Obligation to Contribute

In the absence of any agreement to the contrary neither a Member nor an Employer are under any obligation to make a contribution to the Fund and a Member may remain a Member of the Fund notwithstanding a contribution is not made in respect of that Member in respect of any year.

24.7 Ineligible Contributions

If the Trustee at any time ascertains that any contribution has been accepted in breach of the provisions of the Superannuation Conditions, the Trustee must take such action as may be necessary to comply with the Superannuation Conditions including refunding the relevant amount on request by a Member.

24.8 Non-acceptance of Contributions

The Trustee may, subject to the Superannuation Conditions, return any contribution even if such contribution is permitted to be accepted by the Trustee under the Superannuation Conditions.

24.9 Allocation of Contributions

Subject to SIS Regulation 7.08, within 28 days (or within a longer period that is reasonable in the circumstances if within 28 days it is not reasonably practicable to so allocate or such other period as the Regulator or the Superannuation Conditions permits) of the end of the month of receipt of a contribution the Trustee must allocate the contribution to the Member of the Fund.

25. SPOUSE CONTRIBUTIONS – SPLITTING AMOUNTS

25.1 Application to roll over, transfer or allot an amount of contributions

- (a) Subject to the SIS Regulations and in particular Division 6.7, a Member may, in a Financial Year, apply to the Trustee to roll over, transfer or allot an amount of benefits, for the benefit of the

Member's Spouse, that is equal to an amount of the Splittable Contributions made by, for, or on behalf of the Member in:-

- (i) the last Financial Year that ended before the application; or
- (ii) the Financial Year in which the application is made - where the entire Member's Benefit is to be rolled over or transferred in that year.

(b) The applicant must specify in the application, the amount of the benefit from:-

- (i) the Member's taxed Splittable Contributions; or
- (ii) the Member's untaxed Splittable Contributions;

that the Member seeks to split for the benefit of the Member's Spouse.

25.2 Decision on application

- (a) The Trustee may accept an application only if it is made in accordance with the SIS Regulations.
- (b) If the Trustee accepts an application in accordance with this provision the Trustee must, subject to the Regulations, and in any case within the period prescribed by the SIS Regulations, roll over, transfer or allot the amount of benefits for the benefit of the receiving Spouse.
- (c) The Trustee is permitted to do all such things as may be necessary to give effect to these provisions and words in these provisions have the same meaning as contained in Division 6.7 of the SIS Regulations.

26. BENEFITS

26.1 Mode of Payments of Benefits

Benefits shall be paid as provided by this Deed.

26.2 Payments of Benefits Generally

Subject to this Deed and the Superannuation Conditions, benefits are payable to an Eligible Recipient, if cashing restrictions do not apply and if:-

- (a) the Member or Eligible Recipient as appropriate, has made a Request to the Trustee to do so; or
- (b) benefits are otherwise required to be paid;

and the Trustee shall pay those benefits in such manner as the Trustee may in the Trustee's absolute discretion decide or in accordance with the request or requirement or otherwise as the Superannuation Conditions require.

26.3 When Benefits are Payable

Subject to this Deed and the Superannuation Conditions, a benefit may be payable:-

- (a) If a Member:-
 - (i) retires from Gainful Employment as provided by the SIS Act;
 - (ii) reaches Preservation age;
 - (iii) reaches age 65;
 - (iv) is Temporarily Incapacitated or Permanently Incapacitated;
 - (v) suffers a terminal medical condition as provided by the SIS Act;
 - (vi) suffers severe financial hardship (payment must first be approved by the Regulator if the SIS Act requires);
 - (vii) qualifies on compassionate grounds (defined in SIS Regulation 6.19A);
 - (viii) satisfies any other condition of release required to be satisfied by the Superannuation Conditions;
 - (ix) becomes entitled to the payment of a temporary total disablement insurance policy on the life of the Member (the proceeds of the policy may be paid to the Member if the Superannuation Conditions permit); or
 - (x) who is a temporary resident, permanently departs Australia and requests payment in writing of their benefit in accordance with the SIS Regulations.

- (b) in any circumstances where the SIS Act requires that a benefit is to be paid.

26.4 Types of benefits payable

- (a) An Eligible Recipient may, subject to the Superannuation Conditions, make a written request, subject to sub-paragraph 26.5, to be paid any one or more (including any combination) of the following:-
- (i) lump sum;
 - (ii) pension; and/or
 - (iii) any other benefit payment permitted by the Superannuation Conditions.
- (b) Benefits payable to an Eligible Recipient must not exceed the interest of the relevant Member in the Fund except, if permitted by the Superannuation Conditions, to the extent that the Trustee resolves otherwise, with the written consent of the Eligible Recipient.

26.5 Election for payment of benefit

- (a) This sub-paragraph is subject to the Superannuation Conditions.
- (b) If entitled to a benefit, an Eligible Recipient may in writing request the Trustee to pay the benefit to that Eligible Recipient ("**Request**"). Unless the Trustee determines otherwise, the Request shall be made before the benefit is paid or commenced to be paid.
- (c) The Request may, unless the Trustee determines otherwise, and subject to the Superannuation Conditions, include, but is not limited to:-
- (i) the type of benefit;
 - (ii) the proposed date for payment of a lump sum or a proposed date of commencement of payment of a benefit;
 - (iii) the amount of a lump sum;
 - (iv) the amount that is to support a pension payment;
 - (v) the tax characteristics of any amount;
 - (vi) notification that the Member has satisfied a condition of release;
 - (vii) the frequency of payment of periodical amounts;
 - (viii) the name of one or more Reversionary Beneficiaries;
 - (ix) whether the entitlement of a Reversionary Beneficiary is subject to the terms of any Nomination or whether the entitlement is paramount and any Nomination is subject to any Reversionary Beneficiary's entitlement;
 - (x) the order and/or contingencies in which Reversionary Beneficiaries may become entitled;
 - (xi) whether the Eligible Recipient wishes the Trustee to segregate any specific assets to the pension account; and
 - (xii) any other provision that is not inconsistent with the requirements of the Superannuation Conditions.
- (d) Subject to this provision, the Trustee shall, in relation to a Request consider which parts must be complied with and which parts the Trustee is not bound to comply with (for example, a part that does not comply with the SIS Act) and shall notify the Eligible Recipient accordingly who may accept or withdraw their Request as they wish prior to commencement of any payment. The Trustee may then record the terms of the benefit payment. The Trustee and the Eligible Recipient may enter into a pension or other agreement on terms agreed by them.
- (e) The Trustee may make an additional payment to a former Member's account in the Fund if the Trustee determines that it is just and equitable to do so.
- (f) If a pension is payable, the Trustee may (or must as the case may be) pay a pension or any other type or combination of pensions. Without limitation, these include:-
- (i) Account based Pensions;
 - (ii) Transition to Retirement Income Streams;
 - (iii) Non-commutable income stream for Temporary incapacity;
 - (iv) Allocated Pensions (generally must have commenced before 19 September 2007); and
 - (v) Market Linked Pension (generally must have commenced before 19 September 2007).

- (g) Subject to this paragraph, if a pension is to be paid, it must be paid in accordance with this Deed or if a pension commenced before the date of this Deed, in accordance with the applicable Superannuation Conditions at that time then the Trustee may continue to pay that pension unless the Trustee and the Eligible Recipient agree otherwise.
- (h) An annuity may be purchased by the Trustee instead of paying a Pension and if the Eligible Recipient agrees, the annuity may be transferred to the Eligible Recipient.

26.6 Minimum Benefit

The Benefits payable to an Eligible Recipient shall be at least the minimum benefit required to be paid by the Superannuation Conditions in respect of that Eligible Recipient.

26.7 Member to provide evidence of entitlement

- (a) The payment of any benefit is subject to the Trustee being satisfied that the person claiming the benefit is entitled to the benefit and may require that person to produce such evidence, perform such acts and execute such documents as the Trustee may reasonably require to be satisfied of the person's entitlement. The Trustee may postpone the payment of any benefit until the requirements of this sub-paragraph have been met.
- (b) If the Superannuation Conditions are altered in a manner that must be complied with then nothing in this Deed or any pension agreement or Trustee decision shall require the Trustee to act in a manner that is inconsistent with the Superannuation Conditions, even if to do so would alter in some manner a benefit payment.

26.8 Preserved Benefits

- (a) Any benefit that is required to be Preserved under the Superannuation Conditions must not be paid to or in respect of the Member at a date earlier than allowed from time to time by the Superannuation Conditions.
- (b) If nominated by the Member, the Trustee may transfer any Preserved benefit to another superannuation fund, an approved deposit fund or a deferred annuity or such other superannuation entity as the Superannuation Conditions allow.
- (c) If the Fund holds benefits that were not the subject of preservation prior to the date of this Deed or the date of adoption or application of this Deed then nothing in this Deed operates in a way that has the effect of preserving those benefits unless the Superannuation Conditions require it.

26.9 Restricted non-Preserved benefits and Unrestricted non-Preserved benefits

- (a) Restricted non-Preserved benefits may be paid only if a condition of release is satisfied or when permitted by the SIS Act.
- (b) Unrestricted non-Preserved benefits may be paid on a request to the Trustee by an Eligible Recipient.

26.10 Member otherwise has no interest

Except as provided in this Deed and subject to the Superannuation Conditions, an Eligible Recipient has no interest in the Fund.

26.11 Unclaimed monies

If the Trustee cannot find a person entitled to a benefit then that benefit or part of that benefit may be paid or otherwise dealt with by the Trustee in such manner as the Trustee decides, subject to the Superannuation Conditions and subject to any applicable law relating to unclaimed monies.

26.12 Trustee may transfer assets in specie

Subject to the Superannuation Conditions, the Trustee may, with the agreement of the Eligible Recipient, transfer investments of the Fund of equivalent value to such benefit in lieu of payment of the same in money. The Trustee may take into account such associated costs, taxes or other expenses of such transfer as they think fit and make adjustments accordingly, subject to the Superannuation Conditions.

27. BENEFITS PAYABLE ON DEATH

27.1 Benefit payable on death

Subject to the Superannuation Conditions and to paragraphs 26 and 28, if a Member dies:-

- (a) the payment of the death benefit or a permitted rollover or transfer of the Benefit shall be made at the time required by the Superannuation Conditions or otherwise within a reasonable time.
- (b) the Trustee may in relation to a death benefit determine any matter referred to in sub-paragraph 26.5(c)(i) to 26.5(c)(xii) inclusive and having done so shall act accordingly.
- (c) the Trustee shall pay the benefit to such of the deceased Member's Dependants as the Trustee decides and otherwise to the Member's Legal Personal Representative.
- (d) the Trustee is not bound by a non binding death benefit nomination but may consider any such nomination.
- (e) a death benefit may be paid by the Trustee as a lump sum unless the Beneficiary requests otherwise.
- (f) if, after making inquiries that the Trustee regards as reasonable, the Trustee is unable to establish that there are any Dependants or a Legal Personal Representative of the deceased Member, the Trustee may, subject to the Superannuation Conditions:-
 - (i) pay the benefit to a person or persons selected by the Trustee; or
 - (ii) treat the benefit as a forfeited benefit and apply it in a manner provided by the Superannuation Conditions or by this Deed; or
 - (iii) pay the benefit to a Reserve Account in the Fundunless the Trustee is required to treat the Benefit as unclaimed monies under any applicable law.

27.2 Deferment of payment of benefit

Subject to the Superannuation Conditions, the payment of any benefit under this Deed which is not a Preserved benefit may, at the request of the Eligible Recipient and with the consent of the Trustee, be deferred until the Eligible Recipient requests payment of the benefit.

27.3 Payment of benefits to Minors

Subject to the Superannuation Conditions, where a person to whom benefits are payable is a Minor, the Trustee may pay the benefit to any other person for application on behalf of that Minor and the receipt of the person to whom the benefit is so paid will be a complete discharge to the Trustee in respect of that benefit.

27.4 Deduction of income tax

The Trustee may deduct from any benefit payable the amount of any tax that is calculated by the Trustee to be payable in respect of that benefit and will pay any amount deducted as may be required by law.

28. DEATH BENEFIT NOMINATIONS

28.1 Binding Nomination

- (a) Subject to the SIS Act and SIS Regulations, a Member may make a binding death benefit nomination ("**Nomination**") pursuant to which the Trustee must pay a death benefit provided that the death benefit is paid to either:-
 - (i) a Dependant; or
 - (ii) the Member's Legal Personal Representative.
- (b) Subject to the Superannuation Conditions, a Nomination may direct the Trustee as to:-
 - (i) the proportion or amount or value or particular asset to comprise the benefit or the particular reserves to be utilised;

- (ii) the type of benefit to be paid which may be a Lump Sum or Pension or combination of these and in the case of a pension, the name of any Reversionary Beneficiary(s); and
 - (iii) whether the Nomination is to take precedence over a Reversionary Beneficiary's entitlement to a benefit.
- (c) A Member who makes a Nomination under this provision, may amend or revoke the Nomination by giving to the Trustee notice of the amendment or revocation. For the purposes of this sub-paragraph, a Nomination includes any amendment pursuant to this sub-paragraph (c).
- (d) Any Nomination may be revoked by written notice signed by the Member and given to the Trustee and any Nomination or, amendment of a Nomination must:-
 - (i) be in writing; and
 - (ii) be signed and dated by the Member in the presence of 2 witnesses, being persons:-
 - (A) each of whom has turned 18; and
 - (B) neither of whom is a person mentioned in the Nomination; and
 - (iii) contain a declaration signed, and dated, by the witnesses stating that the Nomination (or amendment) was signed by the Member in their presence.
- (e) A Nomination under this provision will not lapse by expiration of a period of 3 years, or any other period, but may lapse if the Nomination given by the Member specifies that it is to lapse after a period specified or an event specified.
- (f) Subject to this paragraph, the SIS Act and the SIS Regulations, a Nomination may be in such form as the Trustee determines.
- (g) If the Trustee is unable to lawfully act upon the Nomination then the Trustee may pay the relevant benefit to the Member's Legal Personal Representative or to the Member's Dependents or any one or more of them and in such proportions as the Trustee in its absolute discretion determines, not being inconsistent with the Superannuation Conditions.
- (h) A Nomination requiring a benefit (including a death benefit) to be paid to a Spouse of a Member is automatically revoked if proceedings have commenced under the Family Law Act 1975 (Cth) or similar laws seeking a dissolution of a relationship (including, but not limited to a marriage) between that Member and Spouse, or if proceedings under that Act have been instituted for orders concerning property following their separation.
- (i) A Member may give a nomination to the Trustee that is expressed as non-binding on the Trustee and in that event the Trustee is under no obligation to comply with it, but may, in exercising its discretion, take into account that nomination.
- (j) A Nomination that is binding on the Trustee is invalid to the extent that if the Trustee did comply with it, the Trustee would be liable to a penalty or commit an offence or result in a benefit, or part of a benefit, being payable to a person who is not permitted by the SIS Act to be paid such benefit.

29. PENSIONS

29.1 Payment of pensions

- (a) The Trustee may, at its discretion, or must if required by the Superannuation Conditions, pay a pension if requested by a Member.
- (b) Subject to the Superannuation Conditions and this Deed, a pension may be paid in such amounts and on such conditions as agreed in writing by the Trustee and the Member.
- (c) A benefit may be paid as a pension provided that the pension is taken to be a pension for the purposes of the SIS Act and the payment of the pension does not result in the Fund failing to comply with the Superannuation Conditions.

- (d) Those parts of the SIS Regulations that provide standards for the payment of a pension are incorporated in, and form part of these rules.
- (e) The Trustee may declare in writing a rule specifying the terms of a pension paid or to be paid in accordance with the SIS Regulations and such rule shall apply to that pension and the recipient's consent to that rule must be obtained, if required by the Superannuation Conditions. Without limiting the form of writing such writing may include an agreement or a document signed by the Trustee and the Eligible Recipient or a resolution of the Trustee and the consent in writing of the relevant Eligible Recipient.
- (f) The Trustee may to the extent required by the Superannuation Conditions create separate pension accounts and may also create sub-funds for pensions.

29.2 Pensions conditions

- (a) Any pension paid to a Member must comply with any standards contained in the Superannuation Conditions.
- (b) Subject to the Superannuation Conditions, in providing a pension to a Member, the Trustee may in its discretion apply any amount from a Member's account and/or a Reserve Account.

29.3 Annuities

The Trustee may, in its absolute discretion (and with the Member's consent if the Superannuation Conditions require it) (including where an Old-Age Pension is required to be paid), provide pensions payable under this Deed by applying a Member's Benefit to the purchase of an annuity that meets the requirements of the Superannuation Conditions.

29.4 Imputation Credits

Subject to the Superannuation Conditions, the Trustee may, in its absolute discretion, debit amounts to the accounts of Members to whom current pensions are not being paid and credit corresponding amounts to the accounts of Members to whom current pensions are being paid to compensate the latter for not obtaining the benefit of dividend imputation credits on investments in the form of shares in companies.

29.5 Cessation of pensions

When the Member's Benefit is reduced to nil, any pension payable under this Deed ceases to be payable and the person who was receiving the pension ceases to be entitled to any further benefits.

29.6 Periods when Beneficiary may not receive benefits

A benefit is not taken to meet the provisions of SIS Regulation 1.06 by reason only that payments of benefit to the Beneficiary have been properly suspended during a period when the Beneficiary is the holder of a paid public office.

30. PENSION RESERVES

Subject to the Superannuation Conditions, where it considers it appropriate, the Trustee may:-

- (a) obtain the advice of an actuary regarding the amount of pension payments, any variation to the amount of those payments, commutations, the establishment, monitoring or treatment of pension reserves in accordance with this sub-paragraph, or any other relevant matter;
- (b) establish pension reserves in relation to the funding of pension obligations relating to particular beneficiaries; and/or
- (c) where a pension benefit liability to which a pension reserve relates no longer exists, or the amount of the pension reserve exceeds the expected liability, arrange for any assets or excess assets in the pension reserve to be applied in any manner whatsoever that the Trustee considers fair and reasonable, including for the general purposes of the Fund, but having special regard to the interests of the Beneficiary to whom the pension benefit related and that Beneficiary's Dependents.

31. DEDUCTION FOR DETRIMENTAL PAYMENTS AFTER MEMBER'S DEATH

Payments or adjustments of a Member's interest from or in any account for taxes, tax deductions or tax credits or other entitlements in respect of a Member whether deduction entitlements under section 296-470 Tax Act relating to a Member's death or disablement or under section 295-485 Tax Act (if that provision so permits) in respect of anti-detriment deductions may be made by the Trustee, subject to the Superannuation Conditions.

32. CONVERSION OF PENSIONS

At the request of a Member, or if the Superannuation Conditions permit, at the request of an Eligible Recipient, as may be applicable and subject to the Superannuation Conditions, the Trustee may:-

- (a) convert any pension (whether an allocated pension or any other type of pension) to an account based pension or any other pension permitted to be commenced under the SIS Act and any such pension may be so converted with or without commuting the pension that is being converted;
- (b) cease payment of a pension;
- (c) return the remainder of any pension account balance or other permissible benefit amounts to the Member's accumulation account for the purposes of commencing a new pension or other permissible benefit or otherwise;
- (d) merge, consolidate or commute one or more pension streams, pension account balances or other permissible benefit amounts into the Member's accumulation account or accounts;
- (e) take such action as may be necessary or desirable to include a Reversionary Beneficiary in the terms of a pension; and/or
- (f) take such other action as may be necessary or desirable as determined by the Trustee to give full effect to this provision.

33. FORFEITED BENEFITS ACCOUNT

33.1 Forfeited benefits account may be kept

- (a) Subject to the Superannuation Conditions, the Trustee may keep an account for the receipt of amounts forfeited from Member Accounts and any other credit balances that cannot be otherwise allocated under the provisions of the Deed. The account is to be known as the Forfeited Benefits Account.
- (b) A benefit may not be forfeited if that would result in the Fund failing to comply with the definition of a Self Managed Superannuation Fund in the SIS Act.

33.2 Application of forfeited benefits

The Trustee may in their absolute discretion apply amounts held in the Forfeited Benefits Account in the manner and to the purposes permitted by the Superannuation Conditions and, if permitted, these may include:-

- (a) welfare benefits to assist in events of financial hardship, sickness, accident or other misfortune causing hardship;
- (b) supplementary benefits for Retired Members;
- (c) additional benefits for current Members on an equal basis, or on a pro rata basis among all Members or, among Members on the basis of economic needs;

- (d) payment of administrative expenses of the Fund;
- (e) payment of a Member's own contribution to relieve hardship;
- (f) payment to an Employer in recompense for loss or damage as the consequence of Employee misconduct; and/or
- (g) payment to an Employer in the form of assessable income.

33.3 Equalisation Account

- (a) The Trustee may at any time establish an Equalisation Account of the Fund and may transfer to the credit of that account any forfeited benefits or any amounts from an income account in the Fund.
- (b) Any monies held in the Equalisation Account do not form part of any Member Account and any income derived by the Fund on the monies held in the Equalisation Account is to be credited to the Equalisation Account.
- (c) The Equalisation Account is to be used by the Trustee in accordance with any applicable investment strategy relating to reserves to stabilise the investment earnings of the Fund and to provide for such contingencies as the Trustee considers appropriate.
- (d) This sub-paragraph 33.3 is subject to the Superannuation Conditions.

33.4 Lien

- (a) Subject to the Superannuation Conditions, the Trustee has at the date of payment of a benefit to a Member a lien over that benefit in respect of all amounts owed by the Member to the Fund; and any loss or expense incurred by the Trustee in consequence of the Member's fraud, dishonesty, misappropriation or other misconduct in respect of the Fund including the costs to the Trustee of recovering the same where the loss, expense or costs have been quantified and constituted a debt owing by the Member to the Trustee in their capacity as Trustee.

Certificate

- (b) A certificate signed by the Trustee stating the amount of the lien over the Member's Benefit claimed by the Trustee is prima facie evidence in the hands of the Trustee against all claimants of the amount owing to the Fund under the preceding sub-paragraph and is sufficient authority to the Trustee to retain in the Fund out of the amount of benefit to which the Member would otherwise be entitled the amount of such lien and the balance, if any, of the benefit which is not so retained in the Fund must be paid to or in respect of the Member.

33.5 Bankruptcy

Subject to the Superannuation Conditions and any mandatory provision of the Bankruptcy Act that cannot be excluded, no interest (other than a vested interest) in relation to a Member shall vest in them if the Member commits an act of bankruptcy or becomes an insolvent under administration and that interest may be dealt with as the Trustee decides.

34. TRANSFER OF BENEFITS

34.1 Trustee to make arrangements

- (a) If the Superannuation Conditions permit the Trustee may make such arrangements as they think proper for the payment or transfer to the Fund of monies or assets and other rights and benefits. Without limitation such arrangements may be made with any Member or other trustee or entity permitted by the Superannuation Conditions to contribute to or to make such payment or transfer to (or from) the Fund.

- (b) The Trustee may make arrangements about any matter in relation to such payment or transfer which in their opinion is necessary or desirable, subject to the Superannuation Conditions.
- (c) A payment or transfer may be made to the trustee of a successor fund without the consent of the relevant Member, if permitted by the Superannuation Conditions.

34.2 Transferred amounts to be held according to Deed

Subject to the Superannuation Conditions, the Trustee must hold any monies or assets so paid or transferred to them according to the terms and conditions of this Deed subject to sub-paragraph 21.2.

34.3 Application of transferred amounts

On any such payment or transfer of monies or assets:-

- (a) the amount of the entitlement of the Member concerned is to be credited to his or her Member Account in the manner resolved between the Member, the Trustee and the Trustee of the Fund from which the Member is transferring;
- (b) any such amount required to be preserved is to be identified and held by the Trustee subject to the preservation requirements of the Superannuation Conditions; and/or
- (c) except to the extent required by the Superannuation Conditions, the money or assets so transferred must not be subject to preservation. Where the Fund holds benefits that were not the subject of preservation in a prior fund then nothing in this Deed is to have the effect of preserving those benefits unless the Superannuation Conditions require it.

34.4 Transfers and Rollovers

Subject to the Superannuation Conditions the money and assets comprising any benefit may with the approval of such Member, where such approval is required by the Superannuation Conditions, be paid or transferred to or invested in or rolled over (as the case may be) or other money or asset which may be dealt with in accordance with this provision:-

- (a) another superannuation fund nominated by the Member of which such Member is or intends to become a Member and which is a complying fund;
- (b) an Approved Deposit Fund nominated by the Member;
- (c) an annuity that will comply with the SIS Regulations;
- (d) an eligible roll over fund as defined in the SIS Act;
- (e) such other superannuation entity as the Superannuation Conditions permit; or
- (f) internally within the Fund to the credit of any account.

34.5 Amount and Assets Remain Preserved

Any amount or asset dealt with under this paragraph that is required to be preserved remains preserved for so long as the SIS Act requires.

34.6 Application of Preserved benefits

The money and assets comprising any Preserved portion of a benefit payable to a Member at a date after his or her leaving the Fund may be:-

- (a) retained in the Fund; or
- (b) transferred to a superannuation entity provided that such transfer is not inconsistent with the Superannuation Conditions.

The receipt of the trustee of that other fund or scheme or the corporation issuing the policy is a complete discharge to the Trustee in respect of any money or assets so paid or transferred.

35. DISCLOSURE OF INFORMATION

35.1 Trustee must provide information

The Trustee must provide such information, reports or otherwise to such persons, superannuation entities or otherwise as may be necessary to comply with the Superannuation Conditions.

36. NOTICES

36.1 Notices to be given by the Trustee

Notices may be given by the Trustee to Members and Dependants either personally or by sending the same by pre-paid letter posted to the address last known to the Trustee or the address last known to the Employer.

37. WINDING UP OF FUND

37.1 Winding Up

Subject to the Superannuation Conditions and if so required, with the Trustee's consent, the Fund may be wound up by the Trustee as at a date determined by the Trustee on the occurrence of any of the following events:-

- (a) if there are no assets of the Fund;
- (b) if there are no Beneficiaries of the Fund;
- (c) all Members agree to wind up the Trust; or
- (d) the Trustee determines that it is not reasonably justified to continue to operate the Fund.

37.2 Payments of Benefits on Winding Up

The Trustee:-

- (a) shall roll-over or transfer to an eligible rollover fund or other fund as permitted by the Superannuation Conditions the Member's Benefit that the Trustee cannot pay to the Member in respect of each Member and any applicable reserve or surplus; and
- (b) may adjust each Member's Benefit to account for any surplus or deficiency arising from the winding up of the Fund.

37.3 Surplus

- (a) If after the Member's Benefits are provided for in accordance with sub-paragraph 37.2 there is a surplus, subject to any requirements of the Superannuation Conditions, the Trustee must pay the surplus to, or for the benefit of:-
 - (i) any Members;
 - (ii) any former Members; and
 - (iii) any Dependants of any Members;as the Trustee determines.
- (b) If under sub-paragraph 37.3(a) the Trustee determines that the surplus is to be paid to or for two or more persons, the Trustee must, in its absolute discretion, determine the proportions each person will be paid.

37.4 Subject to preservation

Subject to the Superannuation Conditions and in so far as it is within the power of the Trustee to so do, in dealing with the benefit of any Member in the winding up of the Fund the Trustee must observe all the provisions of this Deed relating to the transfer, payment and preservation of benefits and must not act otherwise than as permitted by those provisions.

38. COMPLAINTS

38.1 Establishment of complaints procedure

If required by the Superannuation Conditions, the Trustee will establish such reasonable procedures under which enquiries and complaints may be dealt with.

REFERENCE SCHEDULE

Name of Fund:-

Escape Superannuation Fund

Parties:-

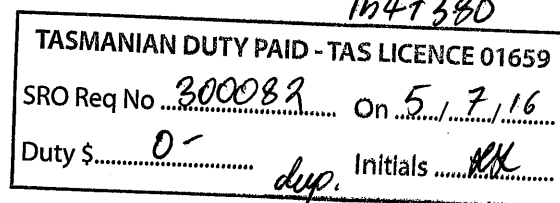
(a) Trustee(s):-

Escape Estates Pty Ltd
A.C.N. 613 278 023
17 VICTORIA ESPLANADE
BELLERIVE TAS 7018

(b) Initial Member(s):-

Grafton, David John
17 VICTORIA ESPLANADE
BELLERIVE TAS 7018

Grafton, Jennifer Jane
17 VICTORIA ESPLANADE
BELLERIVE TAS 7018



Executed as a deed on the date appearing on page 1.

Executed for and on behalf of

Escape Estates Pty Ltd
A.C.N. 613 278 023

in their capacity as Trustee



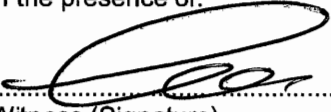
Director

Director or Secretary

OR

Sole Director / Secretary

Signed Sealed and Delivered by
Grafton, David John
in their capacity as Initial Member
in the presence of:



Witness (Signature)

Signed Sealed and Delivered by
Grafton, Jennifer Jane
in their capacity as Initial Member
in the presence of:



Witness (Signature)



Grafton, David John

colin curlewis.

Print Name of Witness

Jennifer J. Grafton

Grafton, Jennifer Jane

DAVID RODNEY PIPER

Print Name of Witness

Escape Unit Trust

**Stewardship Accountants Pty Ltd
Shop 62A, Stockland Mall
197-215 Condamine Street
Balgowlah NSW 2093**

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THIS DEED is made on the date and between the parties described in Schedule "A" and is given the name as described in Schedule "B".

BACKGROUND

- (A) It is intended by this Deed that the Trustee will accept the monies paid by the unit holders who have signed this Deed which are to be invested under this Deed and the Trustee may from time to time accept further funds or otherwise for investment under this Deed.
- (B) The Trustee agrees to hold the assets of the trust upon the trusts and subject to the terms and conditions of this Deed.

DEFINITIONS

- 1. Unless the contrary intention appears or the context otherwise requires in this Deed and in any instrument agreement or other document made entered or executed or issued under it, the terms and expressions set out in Schedule "B" have the meanings described in that Schedule.

INITIAL UNITS

- 2.
 - (a) The Trustee intends on or after execution of this Deed to accept from the other party or parties who have executed this Deed such sums of money as are set out opposite their names on the page they have signed and the beneficial interest in the Trust Fund is to be divided into units of \$1.00 each and those parties are deemed to be the holders of their respective units and the Trustee may issue to each of those parties who have paid the sum stated opposite their names, certificates in the form annexed or similar form.
 - (b) The Trustee may accept further cash from time to time before the Commencement Date to be held on the Trusts of this Deed and if any addition is made to the Trust Fund under the provisions of this sub-clause an additional number of units of \$1.00 each will ipso facto be created equal to the amount of cash so paid.
 - (c) Each payment under clause 2 (b) must be accompanied by an application for the number of units which will be created on payment and the applicant will be entered on the register as the holder of the units created pursuant to clause 2 (b). All applications made are to be in the form set out in the First Schedule to this Deed or similar form.
 - (d) When in the opinion of the Trustee sufficient funds have been received for the purposes of the Trust the Trustee may so inform the unit holders and after such date no further units may be created except pursuant to and in conformity with the provisions of this Deed.

ISSUE OF FURTHER UNITS

- 3.
 - (a) If at any time and from time to time in the opinion of the Trustee it is expedient to do so the Trustee may determine the amount of further moneys to be raised for the purposes of this Trust ("the Additional Sum") and the following provisions have effect;

- (i) the net value of the Trust Fund (excluding the Additional Sum) as determined by the Trustee in accordance with Australian accounting principles is to be ascertained;
 - (ii) the net value of the Trust Fund determined in accordance with clause (i) of this sub-clause is to be divided by the number of units in issue and the quotient adjusted to the nearest cent is the value of a unit in the Trust Fund ("New Unit Price").
 - (iii) the Additional Sum is to be divided by the New Unit Price and the resulting figure adjusted to the nearest whole number is the number of additional units ("New Units") which may be offered for subscription at the New Unit Price in accordance with the next sub-clause of this clause.
- (b) (i) New Units must (unless the holders of not less than 75% of the units issued for the time being at a meeting of the unit holders duly called otherwise decide) be offered by the Trustee firstly for subscription at the New Unit Price to all the unit holders in proportion as nearly as may be to their then existing holdings of units.
- (ii) That offer will be made by notice to each unit holder specifying the number of New Units offered to that unit holder and the New Unit Price and shall carry the right to accept the offer in respect of any smaller number of units so offered and the New Unit Price shall carry the right to accept the offer in respect of any smaller number of units and shall limit the time (not being less than 30 days unless the offeree consents in writing to shorter period) within which the offer if not accepted shall be deemed to be declined.
- (iii) Any units declined or not accepted by any unit holder within such time must be offered in the same manner and in the said proportion to those unit holders who have accepted and thereafter units not accepted must be so offered to unit holders until finally it appears to the Trustee that no unit holder is willing to accept any further units. Any units so offered and which it appears to the Trustee no unit holder is willing to subscribe for may be disposed of as the Trustee thinks fit.
- (c) If at any time the value of a unit exceeds one dollar (\$1.00) the Trustee may, if it sees fit, without making any addition to the Trust Fund create such number of additional units as may be required for the purpose of reducing the value of each unit for the time being to one dollar (\$1.00) or any multiple of \$1.00. Each unit holder on the date of such creation shall be entitled to that number of the additional units so created which the number of units held by that unit holder bears to the total number of units issued and outstanding immediately before the date of such creation and a new Certificate may be issued to each unit holder in respect of the additional units to which such holder is so entitled.

TRUST

4. The Trustee holds the Trust Fund in trust for the unit holders upon the terms and subject to the provisions of this Deed.

AUTHORISED INVESTMENTS

- 5.1 (a) After the Commencement Date the Trust Fund held and received by the Trustee shall be invested by the Trustee within a reasonable time in any investment in which a Trustee may invest and any Authorised Investments (see Schedule "B") chosen by the Trustee provided that any cash in the hands of the Trustee at any time may be retained for such purposes connected with the management, improvement and development or other purposes of any land, buildings, plant machinery, business and equipment or otherwise being Authorised Investments which have been acquired as the Trustee may determine.
- (b) Any Authorised Investments may at any time be sold by the Trustee and in this case (except where the sale has been made for the purpose of winding up the Trust) the proceeds of such sale are to be re-invested as soon as convenient by the Trustee in the acquisition of Authorised Investments.

BORROWING

- 5.2 (a) The Trustee has power to borrow with or without security for any of the purposes of this Deed and may give security for any such borrowing over any of the investments of the Trust Fund .
- (b) Any borrowing may be by way of overdraft accommodation from a Bank or by way of secured or unsecured loan or from any corporation or by way of deposit or otherwise.
- (c) Security may be given by a legal mortgage or equitable fixed or floating mortgage or charge or assignment or lien or in any other form the Trustee determines.

NO PRINCIPAL/AGENT RELATIONSHIP

6. Nothing in this Deed shall be construed so as to constitute the relationship of principal and agent between the unit holders and the Trustee, the relationship of partners between the unit holders and the Trustee or the unit holders inter se nor any contractual relationship between the unit holders inter se.

TRUSTEE

- 7.1 The Trustee must manage the Trust Fund and any business for the time being carried on by the Trustee pursuant to the Trust Deed and without limitation the Trustee agrees to:

Management

- (a) use its best endeavours to ensure that the management of the Trust Fund is carried on and conducted in a proper and efficient manner;

Insurance

- (b) ensure that adequate fire, storm and tempest, burglary, public risk and workers compensation and other insurance is maintained with respect to all properties of the Trust Fund as the Trustee considers appropriate;

Deposits

- (c) deposit all receipts from the management, development and operation of the Trust Fund into a separate account and pay all current expenses and outgoings with respect to the Trust Fund and provide such reserves for future and contingent liabilities as it considers necessary;

Accounts

- (d) (i) keep or cause to be kept proper books of account of all sums of money received and expended by or on behalf of the Trust Fund and the matters in respect of which such receipt and expenditure takes place and of all sales and purchases of investments and of the assets and liabilities of the Trust Fund;
- (ii) without limitation must keep or cause to be kept such accounting and other records in respect of any business for the time being carried on by the Trustee pursuant to the provisions of this Deed, as will sufficiently explain the transactions and financial position of the said business and enable true and fair profit and loss accounts and balance sheets and any other accounts from time to time required to be prepared in respect of the said business and cause those records to be kept in such manner as to enable them to be audited;

Balance Sheet

- (e) As soon as practicable after 30th June (or such other accounting date as may be determined by the Trustee) in each year prepare or cause to be prepared a profit and loss account showing the calculation of the income of the Trust Fund for the period to 30th June or other accounting date (as the case may be) and a balance sheet as at the date to which the profit and loss account is made up.

Trustee May Employ Agents

- 7.2 (a) The Trustee may instead of acting personally engage, employ and pay a Solicitor, accountant, broker, agent, merchant or any other person to transact any business or do any act required to be done in connection with the Trust Fund including the receipt and payment of money and is entitled to be allowed and be paid all charges and expenses so incurred and is not responsible for the default of any such person engaged or employed or for any loss occasioned thereby.

Professional Fees

- (b) A Trustee being a solicitor, accountant, broker, agent, merchant or other such person is entitled to charge and be paid all usual professional or other charges for any business or act done by him or her or their firm or entity or employees in connection with the Trust including any business or act which a Trustee not being such a person could have done personally but which might reasonably be required to be done by such a person. The Trustee is entitled to retain for the Trustee's absolute use and benefit any fees or other form of remuneration payable to the Trustee for acting as a Director, employee or agent of any company in which the Trustee has invested the Trust Fund or any part of it in acquiring shares under this Deed. The Trustee is entitled to retain for the Trustee's absolute use and benefit any salary, wages or other form of remuneration payable to the Trustee by a partnership of which the Trustee becomes a Member in pursuance of the powers in this Deed.

Trustee May Act Despite Personal Conflict of Interest

- 7.3 (a) The Trustee is entitled to appointment to any position whatsoever in any company, firm, trust or organisation despite the fact that such appointment will or may cause conflict with the Trustees duties under this Deed.
- (b) Any company, firm, trust or organisation in which the Trustee is in any way interested may deal and enter into contracts with the Trustee provided that the Trustee previously declares the nature of their interest in such company, firm, trust or organisation and in any dealing or contract.
- (c) Inadvertent failure to make such disclosure will not operate to avoid or render voidable any such dealing or contract if such disclosure is made within a reasonable time after the inadvertent omission being discovered.
- (d) The Trustee will not be disqualified from dealing or contracting with itself beneficially and is empowered to enter into contracts with the Trust, despite clause 7.3(b).
- (e) The Trustee may in such manner as it determines declare any interest including by entry in the Minute Book of the Trust.
- (f) If the Trustee invests the Trust Fund or any portion in shares in any company referred to in this clause 7.3 the following provisions have effect:-
- (i) The Trustee is not obliged to investigate the accounts, management or control of any such company;
 - (ii) if the Trustee is appointed a Director the Trustee may vote or refrain from voting at any meeting of directors as the Trustee may think fit notwithstanding that the Trustee may have a personal or other interest in the matter in which such vote is exercised.
- (g) Despite any rule of law or equity to the contrary and without obtaining the order of any court or any independent legal advice the Trustee may exercise or concur in exercising all powers and discretions conferred on it by this Deed or by law even though it or any person being a trustee or any person being a director or shareholder of the Trustee (being a Company) has or may have a direct indirect or personal interest (whether as a shareholder or director or member or partner of any Company or partnership or otherwise) in the mode or result of exercising such power of discretion or may benefit directly or indirectly as a result of the exercise of any such power or discretion and even if the Trustee for the time being is the sole Trustee.
- (h) If all of the unit holders consent in writing to the Trustee acquiring an investment as part of the Trust Fund, the unit holders are to be taken as having waived all rights they may have against the Trustee at law or under this deed with respect to the Trustee's acquisition of the investment. This sub-clause applies whether the consent of the unit holders was obtained on, prior to or after the date the investment was acquired by the Trustee. The Trustee is under no obligation to seek or obtain such consent.

Liability of Trustee

- 7.4 In the execution of the Trusts powers and authorities no Trustee is liable for any loss to the Trust Fund arising by reason of any investment made in good faith or the negligence or fraud of any person or agent employed by that Trustee or by any other Trustee although the employment of such person or agent was not strictly necessary or expedient or by reason of any mistake or omission made in good faith by any Trustee or by reason of any other matter or thing except fraud on the part of the Trustee who is sought to be made liable.

INDEMNITY TO TRUSTEE

- 7.5 The Trustee is indemnified and held harmless out of the Trust Fund against all claims, costs, damages, losses, fees, expenses, taxes, duties and impositions which arise in connection with or in consequence of this Deed or the Trusts hereby created except to the extent that the same arise in a manner for which the Trustee is accountable under the preceding clause provided that the right of the Trustee to enforce the indemnity conferred is limited to the Trust Fund and the Trustee has no right of indemnity, reimbursement or recompense whatsoever against any of the unit holders.
- 7.6 The right of the Trustee to be indemnified under clause 7.5 is limited to the assets of the Trust Fund in the hands of or under the control of the Trustee and does not extend to enable the Trustee to recover any loss or obtain reimbursement for any liability incurred from any unit holder or other person beneficially entitled to any unit.

TRUSTEE'S POWERS

Generally

8. In addition to any other power, authority or discretion vested in the Trustee by this Deed or by law, the Trustee has the following general powers and the following Trustee powers of investment which do not limit the powers, authorities and discretions otherwise vested in the Trustee by this Deed or by law.

Delegation

- 8.1 The Trustee may in writing delegate the exercise of all or any of the powers or discretions or authorities hereby conferred on it and execute any powers of attorney or other instruments necessary to effectuate such purpose.

Carry on Business

- 8.2 The Trustee has the following absolute powers and discretions which it may exercise itself and jointly with any other person or persons:
- 8.2.1 To commence acquire and carry on any business which the Trustee may decide can be conveniently carried on or which it is desirable that the same should be commenced, acquired or carried on in the interests of the Trust Fund or the unit holders and without limitation:-
- (i) To acquire and undertake the whole or any part of the business property and liabilities of any person or Company which the Trustee from time to time considers is capable of being conveniently or profitably carried on or utilised in connection or conjunction with any business in which the Trust is for the time being engaged or which in the Trustee's opinion is calculated directly or indirectly to enhance the value of or render profitable any of the Trust's property and rights.

Intellectual Property

- (ii) To apply for, purchase or otherwise acquire patents, patent rights, copyrights, trademarks, formulas, licences, concessions, designs, secret processes, technical information, franchises and other rights, privileges, and concessions which may seem capable of being used for any of the purposes of the Trust or the acquisition of which may seem calculated directly or indirectly to benefit the Trust and to use, exercise, develop or grant licences in respect of, or otherwise turn to account, the property rights and information so acquired.

Lands and Buildings

- (iii) To purchase, take on lease or in exchange or otherwise acquire any lands and buildings or any estate or interest therein and to improve, develop, sell, mortgage, transfer lease, let, subdivide and without limitation in any other manner dispose of or deal with or use such property or rights or any of them or any part.

Dealers

- (iv) To carry on business as dealers in property both real and personal of all kinds whatsoever and to exploit the same whether by sale, leasing, hire purchase or otherwise as the Trustee considers desirable.

Subdivide

- 8.2.2 To carry on any business on any property which may be acquired by the Trustee and to divide, subdivide, build, repair, wreck, improve, exploit and manage such property as the Trustee may think fit.

Lease

- 8.2.3 To let any property in such parts at such rentals upon such terms and conditions (including, without limiting the generality thereof, the grant or reservation of any necessary easements or rights) and to such tenants as the Trustee considers to be in the best interest of the Trust Fund .

Rents

- 8.2.4 To collect rents, occupation fees, licence fees and all other income in relation to any property or business and to issue receipts.

Legal Proceedings

- 8.2.5 To execute and prosecute legal proceedings of any kind and in any Court to enforce any contract entered into or to recover damages for breach of any such contract.

Surrender Leases

- 8.2.6 To cancel, terminate or accept surrenders of leases; to institute and prosecute legal proceedings of any kind and in any court to oust tenants and recover possession of any part of any property; and to sue for and recover rent and damages for breach of any lease; to sue or prosecute trespassers or any other persons for damage to any part of any property; and to abandon, settle, compromise and release any such action or suit when expedient.

Expenses and Taxes

- 8.2.7 To pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the management of the Trust Fund or to the exercise of any power, authority or discretion herein contained or carrying out or performing the trusts hereof which the trustee may at any time incur including all income tax or other taxes payable in respect of the Trust Fund costs in any way connected with the preparation and execution of this Deed and all stamp duty, settlement duty, gift duty, probate duty, revenue duty or any other impost or monies of whatever nature payable in respect of these presents or the gift or settlement hereby effected or in respect of any additional monies or investments paid or transferred to the Trustee upon the trusts hereof and whether under the law of the Commonwealth of Australia or of any of the States or Territories thereof or of any other country.

Repairs

- 8.2.8 To repair, renovate, decorate and maintain any chattels personal or any land including all fittings, fixtures, furnishings, furniture and equipment therein and the grounds and outhouses thereof.

Advertising

- 8.2.9 To advertise any property or any part thereof and to display signs and notices thereon.

Rules

- 8.2.10 To impose rules and regulations governing the conduct of the occupants of any building or any other property.

Superannuation

- 8.2.11 To employ and superannuate such managers, staff and servants and engage such contractors as may be necessary or desirable and to engage the services of lawyers, engineers, architects, accountants, auditors, agents and any other professional or technical advisers and to pay any person or corporation whose services are engaged out of the Trust Fund to make all such bonus payments to employees and other persons and such payments by way of superannuation or otherwise as the Trustee determines, or other returns required in connection with the Trust or its income by the law of any State or Territory or of the Commonwealth of Australia.

General

- 8.2.12 To hold, use, purchase, construct, demolish, maintain, repair, renovate, reconstruct, develop, improve, subdivide, exploit, transfer, convey, surrender, let, lease, exchange, take and grant options, mortgage, charge, pledge, reconvey, release or discharge or otherwise deal with any real or personal property and in particular for shares, debentures or securities of any Company and with or without deferred, restricted, qualified or special rights relating thereto.

Life Insurance

- 8.2.13 To purchase, acquire or effect any reversionary or deferred property or rights of any description or any life or life-endowment or sinking-fund or term or other policy or policies of insurance of whatsoever nature and at or subject to any premium or premiums whether single or payable periodically and with or subject to any options, rights, benefits, conditions or provisions whatsoever. The Trustee has power to pay out of the income or capital of the Trust Fund as it in its absolute discretion thinks fit all sums payable from time to time for premiums or otherwise for the effecting or maintenance of any such policy or policies whether owned by the Trustee or otherwise or for the exercise or enjoyment of any option, right or benefit thereunder and any surrender of any such policy or policies shall for all the purposes of this deed be deemed to be a sale thereof.

Trustee Vests as if Absolute Owner

- 8.2.14 To invest the Trust Fund and deal with and manage and transpose and realise such investments entirely as it thinks fit and with such powers in all respects as if the Trustee was the absolute owner and the Trustee shall not be accountable in any way for any loss arising out of the making of any investment or out of the failure to realise any investment or out of its management of any investment.

Shares

- 8.2.15 To apply and invest all moneys at any time forming part of the Trust Fund in any such investments whether involving liabilities or not or upon personal credit with or without security and upon such terms and conditions as the Trustee in its absolute discretion thinks fit. To this end the Trustee has the same powers in all respects as if it were absolute owner beneficially entitled including, without limitation, the subscription for, the taking up on allotment /issue and the purchase of any shares, warrants, stocks, bonds, mortgages, debentures, obligations or securities of any government authority or company incorporated in any part of the world and the taking of and the purchase or acquisition of the whole or any part or share of interest in (including a minority part or share or interest in) any business or partnership and the goodwill and assets thereof and the purchase or acquisition of any real or personal property in any place or country or any part or share or interest therein and even though the same may not be income producing or may be wasting or speculative. To exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto. The Trustee may make or purchase any such investments for cash or in consideration of any annuity or otherwise and upon such terms and conditions as the Trustee in its absolute discretion thinks fit and it may make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and it may agree to pay for any such investments wholly or in part from any future moneys which may come into its hands, including dividends, profits, interest or other income paid or payable in respect of any such investments.

Directorships

- 8.2.16 To act as a Director and to exercise all rights and privileges and perform all duties appertaining to any shares or stock for the time being subject to the trusts thereof with liberty to assent to any arrangements modifying such rights, privileges or duties and to agree to any scheme or arrangement for the reconstruction or the increase or reduction of the capital of any company and for any such purpose to deposit, surrender or exchange any of the said shares or stock or the title thereto and to pay any calls or contributions or other necessary expenses in connection with any such shares or stock or any such scheme or arrangement as aforesaid.

Loans

- 8.2.17 To advance and lend moneys to and to borrow, raise moneys from and to secure by mortgage, bill of sale, lien or charge fixed or floating, legal or equitable or otherwise howsoever the payment of any money to any persons, firms, companies, corporations or Governmental or Municipal bodies, upon such terms with or without security or interest as the Trustee deems fit. The Trustee is hereby expressly empowered to join with any other company or person in executing any mortgage or other document for the purpose of securing the payment of money to any other person or company and if the Trustee is a Company to give and to execute a registrable floating charge over the assets of the Company and the assets of the Trust Fund held by it as Trustee and to give and execute any other charge or security registrable under the Corporations Act or other Act governing such charges or registrable securities as enacted or applicable in the place of proper law relating to the Trust.

Borrow

- 8.2.18 Without limiting clause 5.2, the Trustee may borrow or raise moneys to be used in deriving income or gain in augmentation of the Trust Fund even though the Trust Fund may already be wholly invested or applied or that the money to be borrowed or raised may exceed the sum or value of the Trust Fund .

Guarantees

- 8.2.19 (i) To give any guarantee or indemnity for payment of money or the performance of any contract, obligation or undertaking by any person, firm, company, corporation or association (including a unit holder) and to agree to pay and to pay and to charge the Trust Fund with the payment of any money.
- (ii) To guarantee and indemnify the borrowings of others (including a unit holder) and to pledge or charge in any manner the assets of the Fund to support such guarantees and indemnities.
- (iii) Without limiting the above, to give any mortgage, charge, pledge or security of any kind over the Trust Fund or any assets of the trust to secure the borrowings or liabilities of unit holders or others.
- (iv) To act in accordance with this clause even if the Trustee is also a unit holder and/or if the Trustee will receive a benefit of any kind arising from such act.

Liabilities

- 8.2.20 To apply the whole or any part of the capital or income of the Trust Fund in or towards payment of any liability undertaken by the Trustee in relation to the acquisition or property intended to form part of the Trust Fund.

Businesses

- 8.2.21 To acquire, carry on or join in carrying on any business either alone or in partnership with any other person or persons at the discretion of the Trustee during such period as it thinks proper with power for that purpose to employ such part or parts of the capital of the Trust Fund as it thinks fit. To employ at such salary as it thinks fit as manager of such business any person or persons (whether Trustees or a Trustee of or otherwise interested in the Trust Fund or not) or to leave the entire management of such business to any partner and to renew partnerships and generally to act in all matters relating to such business or businesses as if it were beneficially entitled thereto and without responsibility for loss.

Agents

- 8.2.22 To employ or engage any manager, solicitor, accountant or agent to transact all or any business of whatever nature required to be done in the premises including the receipt or payment of money and the Trustee shall decide the remuneration to be allowed and paid and all charges and expenses so incurred.

Determination of Capital and Income

- 8.2.23 To determine whether any real or personal property or any increase or decrease in amount, number or value of any property or holdings of property or any receipts or payments, gains or losses from, for or in connection with any real or personal property shall be treated as and credited or debited to capital or to income and generally to determine all matters as to which any doubt, difficulty or question may arise under or in relation to the execution of the Trust and powers of this settlement; and every determination of the Trustee in relation to any of the matters aforesaid whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustee in relation to the Trust Fund, shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.

Counsel's Opinion

- 8.2.24 To take and act upon the opinion of any Junior, Senior or Queen's Counsel practising in the place of proper law of the Trust whether in relation to the interpretation of this Deed or any other document or statute or as to the administration of the trusts hereof without being liable to anyone in respect of any act done by them in accordance with such opinion. This provision does not oblige the Trustee to act in accordance with any such opinion and nothing in it prohibits the Trustee from applying to the Court if it so determines or acting on the opinion of the or other Counsel.

Accountancy Work

- 8.2.25 If the Trustee is so qualified, to carry out accountancy and financial services including management and taxation consultancy and all other work necessarily carried out by a public accountancy business but not including auditing or liquidation services.

Bank Accounts

- 8.2.26 (i) To open in the name of the Trustee or in the name of a person or corporation as nominee of the Trustee, or in the joint names of the Trustee and any other or others (and in accordance with all customs, practises and usages as may apply) any cheque, savings or other account with any bank or financial institution anywhere as the Trustee thinks fit, with full power to operate on any such account and to do so with the power to act in accordance with all terms and conditions applicable to such accounts whether relating to costs and charges in relation to such accounts or anything else.
- (ii) By itself or by its authorised officer or agent to draw, endorse, make, accept, guarantee, discount, execute, issue or be a party in any way to a commercial bill, promissory note, bill of exchange, bill of lading, letter of credit, hypothecation, facility or any negotiable or transferable instruments.
- 8.2.27 (i) To authorise a bank or financial institution to pay bills of exchange drawn upon the banking account of the Trustee by the Trustee or the Trustee being a company by its authorised officer.
- (ii) To recognise as a valid endorsement on any bill of exchange or promissory note the endorsement of the Trustee or such authorised officer.
- (iii) No bank acting in pursuance of any authority herein shall be deemed privy to a breach of trust on the ground only of notice that the person giving the authority was a Trustee.

Occupation

- 8.2.28 To allow any unit holder to occupy, have custody of or use any immovable property, chattels, real or personal property for the time being forming part of the Trust Fund on such terms or conditions as to rent inventories repair replacement insurance outgoings or otherwise at all as the Trustees shall think fit and so that no Trustee shall be liable for any loss or damage which may occur to any property so forming part of the Trust Fund during or by reason of any such occupation custody or use except insofar as such loss or damage shall be occasioned by the conscious and wilful default or neglect of such Trustee.

Foreign Exchange

- 8.2.29 To deal in foreign currency and to enter into foreign currency contracts (including, without limitation, forward exchange contract, currency hedge contracts, currency options and future contracts) and/or financial market products derivatives (including, without limitation, interest rate swaps, currency swaps, forward interest rate contracts, forward exchange rate contracts and options.

Derivatives

- 8.2.30 To enter into any derivatives transaction(s) including but not limited to any contract or purchase or sell or deal in any derivatives product, including any interest rate swap, currency swap, currency option, interest rate option, swaption, smart forward, money market transaction, foreign exchange transaction, margin foreign exchange transaction, futures transaction, forward rate agreement, forward rate bill transaction, synthetic forward exchange transaction, deposit transaction, currency transaction, interest rate transaction, bond option, commodity (including precious metals, electricity or energy) option or other transaction, credit derivative, equity

derivative, capital market transaction, securities buy-back transaction or sell-back transaction and any other product traded, or transaction undertaken, on financial markets (whether on an exchange or not) from time to time and at any future time and synthesis or derivative of any of them and any option on any transaction or product referred to in this paragraph and otherwise to do and perform all things so as to operate, utilise or deal with the facilities of any stock or futures exchange either directly or through any broker or agent in any market in any part of the world.

Master Agreements - Derivatives

8.2.31 To enter into any master agreement(s) being any agreement (however described) that sets out the terms of, or otherwise relates to, any derivative transaction, and which is published or prepared by any bank, financial institution, domestic or international financial industry body or association, and any schedule, annexure, annex, supplement, addendum (however described) to, or of, that agreement.

Mortgages - Derivatives

8.2.32 To give and execute any mortgage, charge or other security over all or any part or parts of the assets of the Trust as may be required to secure the payment or the performance of any contract obligation under or in connection with any transaction of the type referred to in paragraph 8.2.30 or 8.2.31 above.

Other Acts

8.2.33 To do all such other acts matters or things as the Trustee thinks fit.

Third Parties not on Notice

8.2.34 (i) Despite clause 7.3, no person dealing with the Trustee shall be concerned to enquire as to the adequacy of the powers of the Trustee in relation to such dealing or as to the proper exercise by the Trustee in relation to such dealing or as to the proper exercise by the Trustee of any of the powers, authorities and discretions vested in the Trustee by the provisions of this Deed or as to the propriety or regularity of any transaction affecting the Trust Fund or any of the assets thereof or to see to the application of any moneys paid to the Trustee or to any corporation at the Trustee's direction and in the absence of fraud on the part of any such person dealing with the Trustee, such dealing shall be deemed so far as the safety and protection of such person is concerned to be within the powers of the Trustee and to be valid and effectual accordingly and the receipt of the Trustee or the receipt of any person or corporation paid as aforesaid at the direction of the Trustee shall effectually discharge any such person dealing with the Trustee from all liability in respect thereof.

(ii) Despite clause 7.3, no mortgage, charge or other security given or created by the Trustee at any time to or in favour of any person or corporation over or in respect of the Trust Fund or any part thereof shall be invalid by reason of any error or omission whether of law or fact on the part of the Trustee or its legal or other advisers or by reason of any breach of duty or trust whatsoever unless it shall have been proved to be committed, made or omitted in personal conscious fraudulent bad faith by the Trustee and all persons claiming any beneficial interest in, over or to the Trust Fund shall be deemed to have had notice of the provisions of this clause.

- (iii) If the Trustee enters into any arrangement with any lender or with any other financier or other party, no such lender, financier, or other party shall be concerned to inquire whether there is any necessity for any borrowing, finance or other dealing by the Trustee or as to the purpose for which such borrowing, finance or other dealing is required nor as to the application of any monies so borrowed or financed.

Trading Facilities

- 8.2.35 To enter into any trading facility whether in connection with a flexible trading facility or margin lending facility with any financial institution or other entity and to execute all such documents and comply with such terms and conditions as may apply to such facility and the Trustee shall be entitled to be indemnified out of the assets of the Trust to satisfy any liability properly incurred by the Trustee arising out of such facility.

Option Facility

- 8.2.36 To enter into any option agreement relating to any lending or financing facility, agreement or transaction.

UNIT HOLDERS REGISTER

9. The Trustee must keep and maintain an up-to-date Register of the registered unit holders and enter into that Register the names of the registered holders and the number of units in respect of which they are registered and the distinct numbers of the Certificates held by them respectively. Any change of address on the part of any registered holder shall be notified to the Trustee. No notice of any Trust, express, implied or constructive, may be entered upon the Register.

DISTRIBUTION OF INCOME

10. (a) The Trustee may determine whether a receipt or gain or outgoing is to be treated as being on account of capital or income or partly on account of one and partly on account of the other. If the Trustee does not make a determination under this sub-clause prior to midnight on 30 June in a financial year, the amount which under the provisions of the Act represent the net income (within the meaning of s 95 of the Income Tax Assessment Act, 1936 "the Act") for that year in relation to the Trust Fund is the income of the Trust Fund for the purposes of this deed.
- (b) The unit holders (in the same proportions as they hold units in the Trust Fund as at the end of the financial year) are presently and absolutely entitled to the net income of the Trust Fund for that financial year.
- (c) If in any financial year the net income of the Trust Fund within the meaning of Section 95 of the Act exceeds the net income of the Trust Fund as determined under clause 10(a), the excess shall, unless otherwise determined by the Trustee prior to the end of that financial year, be held upon trust as if such excess was part of the net income of the Trust Fund as determined under clause 10(a).
- (d) The Trustee may determine that a part of the income is to be retained by the Trustee ("Retained Moneys"). Retained Moneys must be dealt with in the same manner as set out in clause 10(e).
- (e) Net income of the Trust Fund to which a unit holder is entitled at the end of a financial year and which has not been distributed ceases to form part of the Trust Fund and is to be held by the Trustee as a separate fund upon trust absolutely for

the unit holder entitled (without however any entitlement to interest or earnings on such amount and any interest or earnings form part of the Trust Fund). The Trustee has power in respect of the assets of each separate fund to mix and invest them with the assets of the Trust Fund for ease of administration.

- (f) The Trustee may at any time make an interim distribution from the Trust Fund as an advanced payment to the unit holders and on account of their entitlement to the net income under clause 10(b).
- (g) The Trustee may at any time distribute any part of the capital of the Trust Fund among the unit holders in the same proportion as they hold units in the Trust Fund.

UNIT CERTIFICATES

- 11. (a) Each unit holder may be issued with a Certificate in the form in the second schedule or similar form however if a Certificate is not issued this does not affect the rights of a unit holder.
- (b) Every Certificate may be signed by or on behalf of the Trustee and may specify the name of the unit holder and the number of units to which it relates and may bear a distinctive number or letter.

TRANSFERS OF UNITS

- 12.1 Every unit holder is entitled to transfer the units or any of the units for the time being held by the holder by a transfer in writing in the form set out in the third schedule or such other form as the Trustee may from time to time approve provided that the transferee has in the first place been approved by the Trustee. Such approval may not be unreasonably withheld.
- 12.2 Every transfer must be signed by both the transferor and the transferee and the transferor is be deemed to remain the holder of the units the subject of the transfer until the name of the transferee is registered in the Register as the holder of such units.
- 12.3 Every instrument of transfer must be duly stamped if required by law and left with the Trustee and must be accompanied by the Certificate.

PRE-EMPTION

- 12.4 (i) Despite anything appearing in clauses 12.1 to 12.3 above inclusive any units proposed to be transferred must either be consented to in writing by all unit holders or must first be offered to the unit holders (other than the transferor) collectively and individually and so that they rank for acceptance *pari passu* in proportion to the units held by them and so that if any unit cannot be so apportioned such unit shall be offered to them in the order determined by lot and the Trustee shall cause the lots to be drawn accordingly.
- (ii) The person proposing to transfer any units ("the Proposing Transferor") must give notice in writing ("Transfer Notice") to the Trustee that the Proposing Transferor desires to transfer the same. The Transfer Notice constitutes the Trustee as agent for the sale of the units to the other unit holders at the net value to be fixed for the purpose by the Trustee. A Transfer Notice may include several units and in that case operates as if it were a separate notice in respect of each. A Transfer Notice is not revocable except with the Trustee's written consent.

- (iii) The Trustee must then determine the net value of the Trust Fund in accordance with Australian accounting principles. The net value of the Trust Fund so ascertained shall be divided by the number of units issued to all unit holders and the quotient shall be the net value of each unit.
- (iv) If the Trustee shall within the space of forty-five days after being served with a Transfer Notice arrange with the other unit holders to purchase the units ("the Purchasing Members") and gives notice to the Proposing Transferor, the Proposing Transferor is bound on payment of the net value to transfer the units to the Purchasing Members.
- (v) If a sale is effected between a Proposing Transferor and the Purchasing Members the price of such unit or units must be paid by the Purchasing Members to the Proposing Transferor within one calendar month from the date of the Trustee's giving notice to the Proposing Transferor.
- (vi) If in any case the Proposing Transferor after having become bound fails to transfer the unit the Trustee may receive the purchase money and must then cause the name of the Purchasing Members to be entered in the Register as the holders of the unit and shall hold the purchase money in trust for the Proposing Transferor. The receipt of the Trustee for the purchase money or of so much thereof as shall be payable shall be a good discharge to the Purchasing Members and after their names have been entered in the register in purported exercise of the Trustee's power, the validity of the proceedings may not be questioned by any person.
- (vii) If a sale is not effected by the Trustee the Proposing Transferor may subject to clause 12.1 transfer the unit as the Proposing Transferor sees fit however the price must be the net value of the unit determined in accordance with sub-clause (iii) of this clause.

TRANSMISSION OF UNITS

- 13. (a) In case of the death of any one of the joint unit holders of any unit, the survivor or survivors will be the only persons recognised by the Trustee as having any title to or interest in such units.
- (b) The legal personal representative of a deceased unit holder of units (not being one of several joint holders) shall be the only person recognised by the Trustee as having any title to such units.

- (c) Any person becoming entitled to any units in consequence of the death, legal incapacity or liquidation of a unit holder of such units upon producing evidence that such person sustains the character in respect of which they propose to act under this sub-clause or of their title as the Trustee thinks sufficient and in the case of a legal personal representative of a deceased unit holder (not being one of several joint holders) upon making a declaration in the form set out in the Fourth schedule or similar shall, on delivering the Certificate comprising the units to the Trustee for cancellation, be registered as the holder of those units and is entitled to a new Certificate in their name.
14. The Trustee will recognise the unit holder or their legal personal representative as the only persons having any right or interest in the units in respect of which the unit holder is registered or in the Certificate representing the same. The Trustee need not, except as ordered by a Court of competent jurisdiction, be bound to take notice of any trust or equity affecting any unit or certificate or the rights incidental thereto and the receipt of such unit holder or their legal personal representative for any money payable or any property transferred to a unit holder, is sufficient discharge to the Trustee.

MEETINGS

15. (a) The Trustee may at any time convene a meeting of the unit holders and the Trustee, at the request of the unit holders who at the date of the requisition hold between them not less than 25% of the units, must proceed to convene a meeting of the unit holders.

Notice

- (b) Not less than seven days' notice shall be given to unit holders of every such meeting (except where all unit holders otherwise agree in writing) and the notice must specify the general nature of the business to be transacted.

Chair

- (c) At a meeting convened at the request of the unit holders a person nominated by the meeting (being a unit holder or in the case of a company, their duly appointed representative) is to preside and at any other meeting convened by the Trustee a person nominated by it (whether or not a unit holder) is to preside. The Chairperson does not have a casting vote (in the event of an equality of votes) in addition to the vote or votes to which they may be entitled as a unit holder.

Poll

- (d) Every question arising at any meeting mentioned in this clause may be decided in the first instance by a show of hands unless-
- (i) it is a question which under this Deed must be decided by a specified majority of the votes of the unit holders or
 - (ii) if a poll is demanded.
- (e) A poll may be demanded by any unit holder before or immediately after any question is put to a show of hands.

One Vote Per Unit

- (f) Upon a poll every unit holder present in person or by proxy shall have one vote for every unit held by him or her. Joint holders shall be entitled to only one vote being that of the first named holder on the Register.

Quorum

- (g) The quorum for a meeting is unit holders or unit holder present in person or by proxy not being less than two in number (unless the number of unit holders is one in which case a quorum shall be one) and holding (or representing by proxy) a total of not less than twenty-five per centum (25%) of the units.

Adjournment

- (h) The Chairperson may with the sanction of the meeting adjourn it to such time and place as the Chairperson shall determine. The Chairperson shall adjourn any meeting at which a quorum is not present.

Proxy

- (i) Votes at a meeting of the unit holders may be given either personally or by proxy. A proxy may be in the usual or common form or in such other form as the Trustee may approve. A company being a unit holder may vote by any authorised representative who may speak or demand a poll and generally act as a proxy on its behalf.

Resolution without Meeting

- (j) If all unit holders sign a document that states they are in favour of the resolution in the terms set out in that document then the document is deemed to satisfy any provisions of this Deed requiring a resolution or meeting of unit holders and shall be deemed to have been made on the latest date appearing on that document.

AUDITOR

- 16. (a) The Trustee may appoint an auditor of the Fund who holds office subject to this clause or until such time as the auditor may voluntarily retire by notice in writing.
- (b) If at any time unit holders holding at least 75% of units then issued by resolution at a duly convened meeting or by notice in writing, request the Trustee to terminate the appointment of any auditor, then the Trustee shall by notice in writing to the auditor remove the auditor, and the Trustee may then appoint another auditor to take their place.
- (c) The auditor may be the auditor of the Trustee.

TRUSTEE'S REMUNERATION

- 17. The Trustee may be paid by way of remuneration for its services as Trustee for each period of one year during the continuance of this Deed such reasonable fee as the unit holders shall from time to time by resolution determine.

TRUSTEE'S APPOINTMENT, RETIREMENT

18. (a) The Trustee may retire upon giving written notice to the unit holders of its desire to do so and the unit holders may by resolution appoint a new Trustee.
- (b) If the Trustee dies or being a company goes into liquidation or ceases to carry on business or a Receiver, an official Manager or Administrator is appointed, the unit holders shall forthwith by resolution remove the Trustee from its appointment under this Deed and appoint another Trustee.
- (c) The Trustee may be removed and another Trustee may be appointed by resolution of a meeting of the unit holders duly convened and of which notice has been given to the Trustee, if such resolution is passed by a majority of unit holders present in person or by proxy and holding between them not less than 50% of the units then issued.
- (d) Any removal and/or appointment under clause 18 may be by Deed signed by the Trustee and by the new Trustee as appropriate and may but need not be also signed by the unit holders or the legal personal representatives of the holders. This provision does not require a Trustee whose office is vacated or who is removed in terms of clause 18(a) or (b) to sign that Deed.

TERM OF TRUST – VESTING DATE

19. (a) The Trust created by this Deed, unless previously determined under these provisions, shall continue until the Vesting Date.
 - (b) If at a meeting of unit holders duly convened under any of the provisions of clause 15, a resolution is passed by a majority of unit holders present in person or by proxy and holding between them not less than 75% of the units then issued that the Trust hereby created shall be determined, the Trustee shall determine it accordingly.
20. On determination of the Trust under clause 19 the following provisions have effect -
- (a) The Trustee must as soon as practicable sell, call in, convert into money or cause to be sold called in and converted into money the investments of the Trust Fund and divide the proceeds of the sale and all undistributed income less all profit, costs and charges and expenses among the unit holders in proportion to the number of units of which they are respectively registered as the holders.
 - (b) The Trustee must as soon as practicable after the determination of the Trust give to each unit holder notice thereof and of the impending distribution.
 - (c) The Trustee may postpone the sale, calling in and conversion of any part of the investments of the Trust Fund for such time as it thinks it desirable to do so in the interests of the unit holders and shall not be responsible for any loss attributed to such postponement.

- (d) The Trustee may retain in its hands or under its control for as long as it thinks fit such part of the Trust Fund as in its opinion may be required to meet any outgoings or liabilities (actual or contingent) in respect of the Trust Fund or any of the investments thereof provided that any investments so retained, to the extent that they are ultimately found not to be required, shall remain subject to the Trust for conversion and distribution contained in sub-clause (a).

RE-PURCHASE OF UNITS

21. (a) After the Commencement Date any unit holder may at any time in writing request the Trustee to re-purchase all or any of the units they hold in their name and such holder must at the same time deliver to the Trustee the relevant Certificate together with a form of request to re-purchase duly executed.
- (b) If the Trustee approves of the re-purchase (and it may in its absolute discretion decline to do so) the following clauses (b) to (h) inclusive apply. The Trustee shall cause a valuation to be made of the net asset value of the Trust Fund according to Australian Accounting principles.
- (c) The value of the Trust Fund as ascertained pursuant to sub-clause (b) shall be divided by the number of units issued to all unit holders and the quotient shall be the re-purchase price for each unit however if the investments of the Trust Fund sold by the Trustee pursuant to sub-clause (e) of this clause realise less than the value placed on such investments under the provisions of sub-clause (b) of this clause, then the amount realised by the sale of such investments shall be substituted for the value of the re-purchase price of each unit under the provisions of this sub-clause.
- (d) Upon the value of each unit for the purposes of re-purchase being known, the Trustee shall notify the unit holders who lodged the re-purchase request.
- (e) If in the opinion of the Trustee the circumstances so warrant and the Trustee can so arrange, the Trustee may borrow monies in order that cash shall be available in the Trust Fund to make payments required under this clause and otherwise the Trustee shall realise such investments as shall be necessary to re-purchase the unit or units.
- (f) Such monies shall be used by the Trustee in satisfaction of the re-purchase and on such payment being made the units re-purchased shall be cancelled and shall not be re-issued and appropriate entries must be made in the Register.
- (g) The costs of any valuation of the investments of the Trust Fund made pursuant to this clause shall be paid out of the Trust Fund however all other expenses of a re-purchase of units including stamp duty shall be paid by the unit holder making the request.

- (h) Despite any other provision of this Deed, the Trustee shall not re-purchase the units if any one or more unit holder or holders agrees to purchase the units at the value determined as above. Such units shall be offered to the unit holders as if the re-purchase notice were a Transfer Notice and the provisions of clause 12 hereof shall apply in the like manner as if the re-purchase notice was a Transfer Notice.

VALUATION

22. At any time after the Commencement Date if unit holders holding between them not less than 75% of the units then issued, by writing signed by them so request or if at a duly convened meeting a majority of unit holders present in person or by proxy and holding between them not less than 75% of the units then issued so resolve, a valuation of the investments of the Trust Fund must be made by the Trustee. The cost of any valuation of the Trust Fund made pursuant to this clause shall be paid out of the Trust Fund.

NOTICES

23. (a) Any notice required to be given to a unit holder or to the Trustee shall be deemed to have been duly given if it is in writing and either delivered or sent by post in a prepaid envelope addressed, if to the unit holder, to their address appearing in the register, or if to the Trustee addressed to the address last notified for such purpose and shall be deemed to be served on the second day following that on which the same is posted.
- (b) Service of such notice or document on any one of several joint unit holders is effective service on the other joint unit holders.

AMENDMENT OF TRUST

24. The Trustee may with the consent of a resolution in respect of which unit holders holding not less than 75% of the units then issued shall have voted in favour at any time by deed make any amendment or addition to this Deed which it has approved having regard to all the circumstances of the case and provided that any such amendment or addition will not prejudice the interest of unit holders without their written consent and after the execution of any such amending deed this Deed shall take effect as amended.

VARIATION

25. All unit holders shall be entitled to the benefit of and shall be bound by the terms and conditions of this Deed and any amending deed.

MANAGED INVESTMENT PROVISION

26. The number of unit holders must not exceed 20 and nothing in this Deed shall permit the issue of units if this would result in the number of unit holders exceeding this number.

UNIT HOLDERS NOT LIABLE TO INDEMNIFY TRUSTEE

- 27.1 No Unit Holder shall be under any obligation to indemnify the Trustee or any creditor against any liability or obligation incurred by the Trustee in the exercise of its duties, rights and powers under this Trust or arising therefrom or in the course of carrying on any business pursuant to these trusts or for any deficiency in the Trust Fund.

UNIT HOLDERS NOT LIABLE

- 27.2 The Trustee shall not have any power or authority to enter into any contract that may so bind the unit holders personally either jointly or severally, or call upon them or any one or more of them for any payment.
- 27.3 All persons or corporations extending credit to, contracting with, or having any claims against the Trust and or the Trustee shall not look to any unit holder for the payment of any such contract or claim, or for the payment of any debt, damages claim, judgment or decree, or for any money that may otherwise become due or payable by the Trustee, so that the unit holders, present or future, shall not be personally liable for any such liability or obligation.
- 27.4 Nothing in this clause affects the liability of a unit holder to pay any unpaid and outstanding consideration for the issue of units to a unit holder under the provisions of this Deed.
- 27.5 The Trustee expressly waives, releases, forfeits and abandons all rights and remedies which it otherwise might have at law or in equity to recover from a unit holder moneys by reason of any right of indemnity or subrogation notwithstanding that any such right may not be able to be satisfied or discharged in whole or in part out of the assets comprising the Trust Fund.

TRUSTEE UNIT HOLDER

28. Despite any other provision of this Deed the Trustee may be and may become a unit holder.

JURISDICTION

29. The proper law of this Deed shall be the laws of TAS unless the Trustee determines that the proper law shall be that of some other place which the Trustee considers reasonably connected with this Trust.

SCHEDULE A

DATE OF DEED: 27th June 2016

PARTIES:

Escape Investments Pty Ltd
A.C.N. 613 279 977
17 VICTORIA ESPLANADE
BELLERIVE TAS 7018

FIRST PART (herein called "the Trustee")

and the (several) parties who execute this Deed or sign an application for units or a transfer of units containing an agreement with the Trustee under which the applicant for or transferee of units agrees to be bound by the provisions of this Deed.

SECOND PART

INITIAL SUM: \$10.00

1547385

TASMANIAN DUTY PAID - TAS LICENCE 01659	
SRO Req No 300082	On 5/7/16
Duty \$ 0-	Initials <i>dep.</i>

SCHEDULE B

Definitions

"AUTHORISED INVESTMENTS" means

- (a) any investment not prohibited by law that a Trustee may invest in;
- (b) without limitation, all property whether real or personal movable or immovable of all kinds wherever located and without limitation and any investment that the Trustee is expressly or impliedly permitted to acquire or hold under any other provision of this Deed including without limitation those referred to in clause 8 and below;
- (c) real and personal property, any debt, any chose in action and any estate, interest, right or power whatsoever in or over property;
- (d) any business or interest therein and any partnership interest and any interest in another trust;
- (e) chattels personal of every description or interest therein;
- (f) shares, stock, units, debentures, notes, obligations or any other security in any company or corporation whether such shares, stock, units, debentures, notes or other security be listed on any Stock Exchange or not, and whether the same be fully paid or partly paid or subject to special, deferred or other rights or otherwise;
- (g) loans and deposits at call or otherwise, with or without security, for any term with any person, firm or company and in particular with any Bank, financial institution or any authorised dealer in the short term money market in Australia;
- (h) units of any fixed or flexible trust;
- (i) any hire purchase or rental agreement and any lease or licence of any kind whatsoever;
- (j) freehold or leasehold land or land of any tenure in any of the States of the Commonwealth of Australia or in any of its Territories.

"CHILD" includes an adopted child.

"MARRIED PERSON" includes a defacto partner/spouse.

"SPOUSE" includes a defacto partner/spouse.

"THE COMMENCEMENT DATE" means the date on which the Trustee notifies pursuant to clause 2 (d) hereof of the receipt of sufficient moneys for the purpose of the trust and in the absence of such notification such date as the Trustee determines either expressly or by necessary implication appears to have determined.

"THE TRUST FUND" means and comprises:

- (i) the amounts referred to in Schedule "A" initially paid to the Trustee being the total of the amounts set opposite the names of the unit holders;
- (ii) further cash accepted by the Trustee under the provisions of this Deed;
- (iii) all investments representing the said sum and said cash;
- (iv) the proceeds of the sale, redemption or repayment of any such investments;

- (v) all investments representing the re-investment in accordance with the provisions herein of any property forming part of the Trust Fund;
- (vi) the proceeds of any borrowing by the Trustee in pursuance of this Deed;
- (vii) any net income which is not distributed;
- (viii) all investments and property into which the above may be converted or which by the exercise of any of the powers herein contained may accrue to or otherwise become subject to the trusts hereof.

"THE TRUST" means this Trust named

Escape Unit Trust

"THE VESTING DATE" means whichever is the earlier date of

- (i) the day being the seventy-ninth anniversary of the execution of this deed;
- (ii) the day being the day upon which the period commencing on the date hereof and continuing until the expiration of twenty years after the death of the last to die of the lineal descendants now living of his late Majesty King George the Fifth expires.

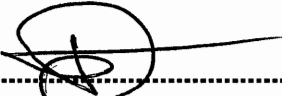
Executed as a Deed on the Date of this Deed.

Executed for and on behalf of

Escape Investments Pty Ltd

A.C.N. 613 279 977

(Trustee)


.....
Director

.....
Director or Secretary

OR

.....
Sole Director / Secretary

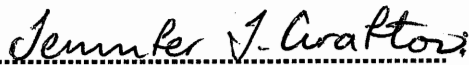
Executed for and on behalf of

Escape Estates Pty Ltd ATF Escape Superannuation Fund

(A.C.N. 613 278 023)

(Corporate unit holder)

.....
Director


.....

Director or Secretary

Amount to be paid to

and accepted by

the Trustee pursuant

to clause 2(a): \$10.00

OR

.....
Sole Director / Secretary