



**EXPONENTIAL NOMINEES SUPERANNUATION FUND
TRUST DEED AND RULES**

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THIS TRUST DEED takes effect as at the date referred to in Schedule B and is made by the Parties identified in Schedule B.

PURPOSE

The Fund is established and maintained for the purpose of providing superannuation and other authorised benefits for those persons who shall become members of the superannuation fund hereby created and for their Dependants and for such other purposes as the Regulator may approve. The Trustee has agreed to be the initial trustee of the Fund.

NOW THIS DEED WITNESSES THAT:

Upon signing this Trust Deed, the Trustee and the Principal hereby establish a superannuation fund in accordance with the provisions of Schedule A to commence on the date referred to in Schedule B, and which shall be so named as identified in Schedule B.

**SCHEDULE A
THE DEED**

Interpretation

In this Trust Deed and in all forms, documents and reports issued hereunder or in connection herewith:

- 1.1 "Acts" means the following to the extent they regulate the operations of a Complying Superannuation Fund:
- (a) the Superannuation Industry (Supervision) Act 1993 (Cth) ("SIS"),
 - (b) the Superannuation (Resolution of Complaints) Act 1993 (Cth),
 - (c) the Superannuation Guarantee (Administration) Act 1992 (Cth),
 - (d) the Corporations Act 2001 (Cth) (the "Corporations Act"),
 - (e) the Income Tax Assessment Acts 1936 and 1997 (Cth) (together, the "Tax Act"),
 - (f) the Family Law Act 1975 (Cth) (the "Family Law Act"),
 - (g) Regulations prescribed under these Acts, and
 - (h) any other, replacement or additional Commonwealth or State law or regulations, administrative rulings, circulars, guidelines or instruments which relate to superannuation arrangements and which apply to the Fund or any other present, future or proposed legal requirements which the Trustee is legally obliged to comply with, or which the Trustee must comply with, to obtain the maximum tax concessions available to the Fund, including any proposed requirements which the Trustee believes will have retrospective effect and any provisions of the above items which are necessary to be complied with in order for any Pensions paid by the Fund to satisfy any applicable statutory requirements.
- 1.2 "Administrator" has the meaning set out in Rule 16.2.
- 1.3 "Amend" or "amend" includes alter, delete, vary, extend, substitute for and modify, and "Amendment" has a corresponding meaning.
- 1.4 "Complying Superannuation Fund" has the meaning set out in the Tax Act.
- 1.5 "Employer" means any party who agrees to adopt the obligations of the Employer pursuant to this Deed and where the word Employer is used in relation to a Member who is an employee, it means the Employer by which the Member is for the time being, and from time to time, being employed.
- 1.6 "Fund" or "Plan" means the superannuation fund hereby constituted and the investments, income, cash and property from time to time held by or on behalf of the Trustee upon the trusts hereof for the benefit of the Members and their Dependants.
- 1.7 "Member" means a person who is engaged in employment as defined by, or pursuant to, the Acts or who otherwise satisfies the requirements relating to participation conditions in the Acts, who has applied for membership and who has been accepted as, or who has otherwise been admitted as, a Member of the Fund in accordance with the provisions of this Deed and who remains a Member of the Fund in accordance with the provisions of this Deed.
- 1.8 "Participant" means a Member and anyone who is contributing to the Fund on behalf of a Member.
- 1.9 "Principal" means the party or parties defined in Schedule B as the Principal and the personal representatives, heirs and assigns of such a party or parties or any other person who with the approval

of the Trustee, and in accordance with any other procedures set out in the Rules, assumes this role as the Successor of the Principal.

- 1.10 "Regulated Superannuation Fund" has the meaning set out in SIS.
- 1.11 "Regulator" has the meaning set out in SIS.
- 1.12 "Rules" means the Rules and regulations (as amended from time to time) which govern the administration of the Fund as set out in Schedule A to this Deed.
- 1.13 "Successors" means an entity who at law succeeds another party for the purposes of this Deed and includes the personal representatives, heirs and assigns of the relevant person.
- 1.14 "Tax" includes any impost or duty imposed by a State or Federal Government or governmental authority.
- 1.15 "Trust Deed" or "this Deed" means this deed and the Rules, as amended from time to time.
- 1.16 "Trustee" means the Trustee or Trustees for the time being of the Fund whether original, additional or substituted, including its Successors.
- 1.17 A reference to the exercise of a discretion exercisable by the Trustee refers to a discretion exercisable in the absolute and unfettered discretion of the Trustee.

Rules deemed to be part of Deed

2. The Rules shall be deemed to form part of the Trust Deed. Any references to a Deed in this document shall be deemed to be references to the Trust Deed including the Rules.

Declaration of Trust

3. The Trustee declares that it will hold all the assets and income of the Fund upon the trusts hereby created for the benefit of the Members of the Fund and that it will administer the Fund in accordance with this Deed and the Rules and in accordance with the requirements of the Acts.

Trustee and Fund

- 4.1 The Trustee may be removed as Trustee of the Fund in accordance with the procedure set out in Rule 16.10.
- 4.2 The Trustee must be a Constitutional Corporation (as defined in the Acts) or the Trustee must provide old-age pensions, provided always that this Clause 4.2 shall not prevent or preclude the Trustee from being such a corporation as well as providing such old-age pensions and provided always that this Clause 4.2 shall not prevent or preclude the Trustee from being a natural person and providing old-age pensions.

4.3 For the avoidance of doubt, it is expressly declared that the Trustee:

- (a) may be one or more natural persons; or
- (b) be a natural person who is a member of the Fund,

where the Rules provide that the sole or primary purpose of the Fund is the provision of old-age pensions and a reference to:

- (c) the Trustee includes a reference to the Trustee constituted as one or more natural persons (referred to in Rule 16.11(a) as an individual Trustee); and
- (d) the Trustee retiring or being removed under Rules 16.9 and 16.10 includes a reference to an individual Trustee retiring or being removed.

Amendment of Trust Deed and Rules

- 5.1 The Trust Deed and the Rules (other than Clause 4.2 of this Deed) may, subject to any restrictions contained in the Acts, be amended by deed executed, or by resolution made, by the Trustee and Principal PROVIDED THAT no Amendment shall retrospectively reduce or adversely affect the accrued value of the benefit in the Fund of any Member without the written approval of the Regulator or of any such Member whose consent is required under the Acts.
- 5.2 Where an Amendment is made to the Trust Deed or the Rules the Trustee shall, where, and in the manner required by the Acts, provide the Members with a written explanation of the nature and purpose of the Amendments and the effects thereof upon the Members' entitlements in the Fund.
- 5.3 The Trustee and the Principal hereby appoint the Administrator as its attorney for the purposes of making any amendments to this Trust Deed considered by the Administrator necessary or desirable to give effect to any requirement or provision of the Acts or otherwise for the more efficient or better operation of the Fund.

Amalgamation

- 6.1 The Trustee, with the approval of the Principal, shall have the power to amalgamate the Fund with another superannuation fund having a similar purpose and nature as this Fund, PROVIDED THAT:
- (a) there shall be no reduction in the value of the accrued benefits of any Member hereunder;
 - (b) there shall be no costs charged to the Members hereunder in connection with the said amalgamation; and
 - (c) any requirements of the Acts, and in particular, SIS, are satisfied.
- 6.2 The Trustee shall provide each Member with details of the amalgamation if and when required by the Acts.

Compliance

- 7.1 (a) Notwithstanding anything express or implied to the contrary in any other provision of this Deed, if there is a conflict between this Clause 7 and any other provision of this Deed (including any other provision which purports to override this clause) this clause prevails.
- (b) The Trustee is fully empowered (without being obliged) to comply with any provision or standard of the Acts which is not a requirement.
- (c) Where a provision of the Acts is required to be included in this Trust Deed in order to comply with the Acts, such provision is deemed to be included in this Trust Deed for so long as the provision is required to be so included.
- (d) It is hereby declared that the provisions or requirements referred to in clause 7.1(c) include:
- (i) any provision or requirement which is necessary for the Fund to operate, and be treated as, a self managed superannuation fund for the purposes of the Acts; and
 - (ii) any provision or requirement of the Acts relating to the provision of a Pension which is or may be provided by the Fund.
- 7.2 The Trustee is deemed to comply with the Acts and this Trust Deed if:
- (a) the Regulator is satisfied that the Trustee has complied with the Acts;
 - (b) the Regulator determines that the Fund will be treated as if it had complied with the Acts;
or
 - (c) the Regulator has advised the Trustee that it will not take action against the Trustee or the Fund in respect of a failure to comply with the Acts.
- 7.3 To the extent that any provision (or part of a provision) in this Trust Deed conflicts with Part 6 of SIS, the Acts or any other provision or requirement of the Acts:
- (a) that provision (or part of a provision) must be read down, changed, construed or severed to avoid such conflict; and
 - (b) to the extent that such conflict cannot be avoided, the provision (or part of a provision) will be of no effect.
- 7.4 If a provision of this Trust Deed would otherwise be void because it:
- (a) subjects the Trustee to direction by another person; or
 - (b) permits a person to exercise a discretion without the consent of the Trustee,
- the Trustee's consent is required for the giving of the direction or the exercise of the discretion.
- 7.5 Without limiting any provision in this Clause 7, the following provisions of the Acts (and any corresponding

regulations) apply despite any other provisions of this Trust Deed, for so long as they apply to the Fund:

- (a) section 52 of SIS (Covenants to be included in governing rules);
- (b) section 56 of SIS (Indemnification of trustee from assets of entity);
- (c) section 57 of SIS (Indemnification of directors of trustee from assets of entity);
- (d) section 58 of SIS (Trustee not to be subject to direction);
- (e) section 59 of SIS (Exercise of discretion by person other than trustee);
- (f) section 60 of SIS (Amendment of governing rules); and
- (g) section 60A of SIS (Dismissal of trustee of public offer entity).

7.6 Despite any contrary provisions in this Trust Deed the Trustee will only pay a Member's benefit to, or to the order of, that Member or as otherwise permitted by the Acts in respect of that Member.

7.7 The Trustee must hold all relevant licences and authorities as required under the Acts from time to time.

Transfers of Entitlements

8.1 If a Member requests the Trustee in writing that all or part of their entitlement or benefits in the Fund be paid or transferred to such person or other body as the Member may nominate:

- (a) if such payment or transfer would be required by SIS, the Trustee must; and
- (b) in all other cases the Trustee may pay or transfer the amount of that Member's entitlement or that part of it to that person or other body requested within such period of time as specified by, and subject to, SIS.
- (c) Before a payment or transfer is made in accordance with this Clause 8.1, if required by SIS, the Trustee must provide the Member with information that relates to the payment or transfer of their entitlement from the Fund and that satisfies the relevant provisions of SIS.
- (d) If the Trustee requires further information in relation to the request made by the Member pursuant to this Clause 8.1, the Trustee must, if required by SIS, ask the Member for the information required as soon as practicable after receiving such request from the Member.

8.2 The Trustee:

- (a) may refuse to carry out a request made by the Member pursuant to Clause 8.1 if:
 - (i) such refusal is in accordance with the relevant provisions of SIS; or
 - (ii) its power to pay or transfer a Member's entitlement has been suspended by the Regulator pursuant to the relevant provisions of SIS; or

- (b) may:
 - (i) refuse to carry out a request made by the Member pursuant to Clause 8.1 if its power to pay or transfer a Member's entitlement has been varied by the Regulator pursuant to the relevant provisions of SIS; and
 - (ii) in the event that the Trustee's power to pay or transfer a Member's entitlement has been varied in accordance with Clause 8.2(b)(i), the Trustee may, subject to the consent of the Member, pay or transfer a Member's entitlement in accordance with such variation.
- 8.3 If, pursuant to Clause 8.2, the Trustee refuses to carry out a request made by the Member in accordance with Clause 8.1, it must inform the Member of the reason for such refusal or variation.
- 8.4 A payment of any amount of a Member's entitlement made pursuant to this Clause 8 will be in complete discharge and satisfaction of the Trustee's obligations to the Member in respect of that amount of the Member's entitlement.

Adjustment of Benefits

9. Subject to SIS, the Trustee may adjust the benefits of a Member to take account of:
- (a) any contributions which have not been paid;
 - (b) any tax, costs or expenses of the Fund;
 - (c) any incorrect, inaccurate or misleading information supplied, or lack of information supplied, in respect of a Member;
 - (d) any refund or repayment of co-contributions and any other amounts as required by the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* (Cth);
 - (e) payment splitting or any splitting of superannuation interests for the purposes of, or pursuant to, Part VIIIIB of the Family Law Act; and
 - (f) for any other purposes of, or as otherwise permitted by or under, the Acts.

SCHEDULE A THE RULES

Constitution

- 1.1 The superannuation fund as hereunder constituted shall be administered by the Trustee so as to comply with the provisions of the Acts to the intent that the Fund shall qualify, unless the Trustee determines otherwise, for the taxation concessions afforded under the Tax Act to Complying Superannuation Funds and contributions thereto.

Interpretation

In the Trust Deed and in all forms, documents and reports issued hereunder or in connection herewith:

- 2.1 "Accumulation Account" or "Account" means the account or accounts established and maintained under the Fund for or in respect of a Member.
- 2.2 "Allocated Pension" means a pension paid or purchased or to be paid or purchased in accordance with Rule 28 and this Deed and the Acts.
- 2.3 "Annuity" includes an eligible annuity (and eligible policy) as defined in the Tax Act.
- 2.4 "Approved Deposit Fund" means a fund described as an approved deposit fund in the Acts.
- 2.5 "Auditor" means the Auditor for the time being appointed under Rule 15.2 and qualified in terms of the Acts to audit the Fund.
- 2.6 "Authorised Investments" has the meaning in Rules 6.1(a) and 6.1(c) or as permitted by the Acts.
- 2.7 "Beneficiary" in respect of a Member means:
- (a) a Dependant; or
 - (b) the legal personal representative of the Member; or
 - (c) any other person to whom the Trustee is permitted to pay a death benefit in accordance with the Acts.
- 2.8 "Category" means, with respect to a Member, the category of membership (if any) designated by the Principal.
- 2.9 "Defined Benefits Pension" means a pension paid or purchased or to be paid or purchased in accordance with Rule 27 and this Deed and the Acts.
- 2.10 "Dependant" means:
- (a) the Spouse and any child of a Member;
 - (b) any other person who, in the opinion of the Trustee, was wholly or partially dependent on the

Member in any way recognised by or under the Acts for the purposes of ascertaining dependency; and

(c) any person with whom the Member has an Interdependency Relationship,

at the time of their death or other relevant time.

- 2.11 "Eligible Person" means a person (including a director) who in accordance with this Deed is eligible for participation of a self managed superannuation fund and who remains eligible for participation in this Fund as determined by the Trustee.
- 2.12 "Financial Year" means a 12 month period ending on 30th June.
- 2.13 "Fund Salary" means, in relation to a Member, his or her wage, salary or remuneration as most recently advised to the Trustee.
- 2.14 "Gainfully Employed" means in relation to a Member employed for reward or gain as defined in SIS and in the case of an employee means employed with an Employer and "Gainful Employment" has a corresponding meaning.
- 2.15 "Interdependency Relationship" has the meaning set out in SIS.
- 2.16 "Mandated Employer Contributions" has the meaning set out in SIS.
- 2.17 "Market Linked Pension" means a pension paid or purchased or to be paid or purchased in accordance with Rule 26 and this Deed and the Acts.
- 2.18 "Member" means a person who has been accepted by the Trustee as a member of the Fund and has not ceased to be a member.
- 2.19 "Member's Account" and "Account" mean, in relation to a Member, that Member's account within the Fund as set out in Rule 5.1.
- 2.20 "Normal Retiring Age" means sixty-five (65) years or other age determined by the Trustee consistently with the requirements of the Acts.
- 2.21 "Pension" means a benefit payable at a yearly rate by instalments and which may take the form of:
- (a) an Allocated Pension;
 - (b) a Market Linked Pension;
 - (c) a Defined Benefit Pension;
 - (d) any other fixed pension; and
 - (e) any other pension capable of being paid by the Fund under the Acts.
- 2.22 "Pooled Superannuation Trust" means a fund described as a pooled superannuation trust in the Acts.

- 2.23 "Preservation Standards" means the standards prescribed pursuant to SIS with respect to the preservation of benefits for superannuation fund members as set out in Rule 11.
- 2.24 "Reasonable Benefit Limits" and "RBL" mean the maximum amount of concessional tax benefits a Member is permitted by the Acts to receive.
- 2.25 "Register of Members" means the register maintained by the Trustee to record the names and addresses of the Members of the Fund and the Register may be maintained in electronic form.
- 2.26 "Roll-Over Institution" means an Approved Deposit Fund, superannuation fund, deferred annuity, immediate annuity, allocated annuity or any other Annuity and any other institution or contract that accepts eligible termination payments (as defined in the Tax Act) from or in respect of a Member.
- 2.27 "Spouse" has the meaning set out in SIS.
- 2.28 "Total and Permanent Disablement" means incapacity or invalidity to such a degree that, in the opinion of a registered medical practitioner or practitioners required by the Trustee, the Member has ceased to be Gainfully Employed and is unlikely ever to work again in a position for which he or she is reasonably qualified by education, training or experience except that where the Trustee has taken out an insurance policy in respect of the Member for the payment of the benefit the definition used in that insurance policy shall, other than for the purposes of Rule 11.2(b), be the definition used for Total and Permanent Disablement.
- 2.29 Words denoting any gender include all other genders; the singular includes the plural and vice versa; words implying persons shall include corporations.
- 2.30 Reference to a provision of the Acts, or any of them, is deemed to include any provision amending or replacing the same.
- 2.31 Where a power or discretion is vested in the Principal and the Principal comprises more than one party, that power or discretion must be exercised jointly by those parties unless the Trust Deed expressly provides the contrary.

Membership

Nomination for Membership

- 3.1 The Principal may nominate any one or more persons and/or their Spouses (whether legal or de facto) in each case being an Eligible Person to become a Member of the Fund. Membership of the Fund may consist of such Categories of membership, as the Principal may advise the Trustee. The Principal may specify the Category of membership to which each nomination for membership applies.

Admission of Nominated Person

- 3.2 The person so nominated may accept the nomination of membership under the Category of membership specified by the Principal by applying to the Trustee to become a Member of the Fund and, upon acceptance of the application, the Trustee shall enter the Member's name in the Register of Members.

- 3.3 Notwithstanding Rule 3.2 a person may be admitted by the Trustee to membership of the Fund without making any application for membership to the Trustee.

Refusal of Application

- 3.4 The Trustee shall not be required to designate any reason for declining an application for membership of the Fund.

Commencement of Membership

- 3.5 Membership commences at the beginning of the day of entry of the Member's name in the Register of Members or at the discretion of the Trustee, the end of such day, or such other time or day it may determine. The Trustee shall provide each new Member with such information as required by the Acts as relates to new membership of a fund.

Cessation of Membership

- 3.6 A person shall cease to be a Member of the Fund immediately upon the earliest to occur of the following, subject to the Trustee's determination that that person is no longer a Member of the Fund:
- (a) the date upon which payment of all the Member's benefits is made to the Member or at the Member's direction or otherwise in accordance with this Deed;
 - (b) the Member's death;
 - (c) there is no credit balance remaining in a Member's Account and in this case unless otherwise determined by the Trustee only when the Trustee, as a consequence, has removed that Member's name from the Register of Members; and
 - (d) the person being ineligible to be a Member of the Fund in accordance with the Acts.

Trust Deed Binding

- 3.7 Each Member and each Participant will be bound by the provisions of the Trust Deed, as amended from time to time, provided that a Principal or Employer is not required to contribute to the Fund unless it enters into an agreement with the Trustee to this effect.

3.8 Special Participation Arrangements

A Participant may agree with the Trustee that the participation of the person is subject to, or is varied in accordance with, the conditions contained in an agreement, including the amount of contributions to be made or amounts to be paid in respect of a Participant. Such agreement is binding on all interested persons without the need to amend this Deed.

Contributions

Minimum Contributions

- 4.1 A Participant may contribute to the Account of a Member all contributions which the Participant has

agreed with the Trustee or the Member (as the case may be) to make to the Fund.

Additional Contributions

- 4.2 Notwithstanding Rule 4.1, the Trustee may from time to time in its absolute discretion accept such other contributions or such other amounts from a Participant or other person as it determines.

In Specie Contributions

- 4.3 The Trustee may, subject to any contrary provision of the Acts, accept contributions, transfers and roll-overs *in specie*, other than as cash.

Payment to Administrator

- 4.4 The Trustee may arrange for any contribution (including any transfer of assets and earnings thereon or the proceeds of an insurance policy) to be paid directly to the Administrator as agent of the Trustee and any such contribution shall be deemed to be a contribution to the Trustee for the purposes of this Deed.

Ineligible Contributions

- 4.5 The Trustee shall not accept any contributions otherwise than in accordance with the Acts. The Trustee shall not accept any contributions in respect of a Member who is a non resident of Australia for taxation purposes unless the acceptance of such contributions does not cause the Fund to cease to be a resident regulated fund as defined by the Acts. The Trustee is entitled to rely upon the Member's representations of their residency status. For these purposes the term "contribution" excludes benefits rolled over pursuant to Subdivision AA of Division 2 of Part 3 of the Income Tax Assessment Act 1936.
- 4.6 If the Trustee at any time ascertains that contributions have been received from a Participant in breach of the Acts, the Trustee shall hold such amounts on separate trusts for the purpose of refunding (subject to the Preservation Standards if applicable) such contributions less any charge incurred in respect of insurances for cover against death and/or disability which has been provided in relation to those contributions, as well as any applicable administration costs, taxes or duties.

Member's Account

Account

- 5.1 The Trustee may establish within the Fund and in the name of each Member, separate Accounts:
- (i) to receive all contributions and transfers made for the benefit of each Member under Rule 4 or Rule 11.5;
 - (ii) to pay a Pension for the Member; and
 - (iii) for any other purposes determined by the Trustee.

Expenses

- 5.2 The Trustee may pay out of the Fund or out of the Member's Account as the Trustee shall decide, those expenses relating directly or indirectly to the operation (including termination), maintenance, investments and insurances of the Fund, including brokerage, service charges, stamp duties, income tax, capital gains tax and any other Governmental charges and the administration expenses of the Fund including but not limited to any fees paid to the Administrator, or to any accounting, actuarial, legal, audit, record-keeping, reporting, management, consulting or other fees payable pursuant to the Trustee's exercise of its powers under Rule 16.3.

Income

- 5.3 The Trustee shall credit the Account of each Member with such proportion of the net investment income of the Fund as the Trustee, in its absolute discretion considers equitable to all Members and subject to Rule 6.4. For the purposes hereof, "net investment income" means all interest, dividends, rent and other income of the Fund, less the expenses applicable to the Fund as provided by Rule 5.2 and any allocation to reserves as provided by Rule 5.5.

Capital Profits or Losses

- 5.4 The Trustee shall credit or debit to the Account of each Member as the case requires such proportion of any capital profits or losses made on the investments of the Fund (whether realised or unrealised) as the Trustee, in its absolute discretion, considers equitable to all Members.

Reserves

- 5.5 The Trustee shall, subject to first formulating and giving effect to a suitable strategy for their prudential management as required by the SIS Act, have the power to create reserves within the Fund in order to avoid large fluctuations in investment returns to Members, to provide for any Tax payable by the Fund and for any other purposes determined by the Trustee; for these purposes the Trustee shall have the power to appropriate, out of the investment income and capital profits (whether realised or unrealised) made on the investments of the Fund, such amounts as the Trustee, in its absolute discretion, determines. Such reserves may be held, in the Trustee's sole discretion, in respect of a particular Member or of all the Members. The Trustee shall have the power to appropriate from the said reserves such amounts at such times as the Trustee, in its absolute discretion, shall determine.

Valuation

- 5.6 The Trustee shall cause a valuation of the Fund to be conducted at least once in each Financial Year. The Trustee shall cause any investment of the Fund to be valued in accordance with any applicable requirements of the Acts.

Investments

Authorised Investments

- 6.1(a) The Trustee shall invest the Fund in Authorised Investments. The Trustee shall have the power, subject to this Deed and in particular Rule 6.2, to sell, vary, transpose and replace the investments held for the Fund from time to time. For the purposes of this Rule "Authorised Investments" means

such investments as the Trustee would be entitled to make if it were absolutely entitled to the Fund beneficially and without limiting the generality of the foregoing includes:

- (1) Annuities, whether immediate or deferred, and including allocated annuities;
- (2) bills of exchange or other negotiable or transferable instruments issued, accepted or endorsed by a Banking Corporation (as defined in the Corporations Act) or its subsidiary or any deposit of money fully secured by such a bill of exchange or other instrument;
- (3) bonds, notes, deposits, stock or other securities issued and/or guaranteed by the Government of the Commonwealth of Australia or of any State or Territory thereof or by any statutory body constituted by an Act of Parliament of the Commonwealth of Australia or any State or Territory thereof;
- (4) debentures issued by any company, the shares of which are quoted on the official list of any of the Australian Stock Exchanges, or by the subsidiary of such a company;
- (5) deposits with any Banking Corporation (as defined in the Corporations Act) or its subsidiary, or with any building society in Australia or with an authorised dealer in the official short term money market accredited as such by the Reserve Bank of Australia;
- (6) land (including tenements and hereditaments, corporeal and incorporeal, and every estate and interest therein, whether vested or contingent, freehold or leasehold, and whether at law or in equity, in severalty or otherwise) and all improvements (if any) erected or to be erected thereon and all furniture, carpets, fittings, machinery plant and other movables installed or to be installed therein and/or used in connection therewith or any interest therein, and the reconstruction, renovation, subdivision or development of any such land;
- (7) loans secured by mortgage, sub-mortgage, charge, transfer, assignment, lease or corporate hire purchase over any of the investments in Rules 6.1(a) and 6.1(c) whether ranking as a first or subsequent mortgage, sub-mortgage, charge, transfer, assignment, lease or corporate hire purchase and whether any such loan is made in the name of and is contributed by the Trustee alone or by the Trustee jointly with another or others or is held in the name of a nominee;
- (8) participation in any capacity in any synthetic investment, including a futures contract, hedge contract, swap contract or option contract, whether or not related to any other property forming part of the Fund;
- (9) policies of life insurance including investment contracts constituted as a policies of life insurance;
- (10) a policy or bond issued by a registered friendly society in any State or Territory in Australia;
- (11) Pooled Superannuation Trusts;
- (12) shares of any company listed on the Australian Stock Exchange or any listed exchange and the term shall include ordinary, preferred, deferred, contributing and other class of shares, stock or debenture (whether convertible or otherwise), unsecured notes (whether registered or not) option certificates, rights, letters of allotment and variable interest stock bonds or

obligations; and

- (13) units, shares or other interests in any unit trust, mutual fund, bona fide pooled investment fund or like instrument howsoever named and whether the investments thereof be in Australia or elsewhere, and whether or not the units, shares or other interests are traded on a stock exchange.

6.1(b) It is expressly declared that without limitation to the general power of the Trustee to invest in any Authorised Investments capable of being made under the Acts as referred to Rule 6.1(a), the Trustee is empowered to undertake any investment or activity in which it would be capable of engaging as a natural person, including but not limited to:

- (1) the carrying on or participation in a business;
- (2) investing in non-listed companies; and
- (3) investing in trusts or other investment vehicles, or purchasing units in trusts or other investment vehicles held by or related to or associated with or offered by the Trustee, the Principal or any Member or a person related to or associated with the Trustee, the Principal or any Member; or
- (4) otherwise dealing or transacting with a person referred to in subrule (3) above.

except where such investment or activity is not permitted by the Acts and provided always that all formal requirements, authorisations and consents required under the Acts in respect of such investments have been obtained.

6.1(c) Such investments or activities undertaken by the Trustee in accordance with Rule 6.1(b) shall also be Authorised Investments for the purposes of this Deed.

Investment Restrictions

6.2 The Trustee covenants that:

- (a) it shall not make any investment which shall cause the Fund to fail the investment standards or requirements laid down from time to time by the Regulator or the Acts;
- (b) it shall not make a loan (either directly or indirectly) to a Member or the Member's Spouse (including de facto) except to the extent permitted by the Acts;
- (c) it shall neither borrow money for the Fund nor charge any of the assets of the Fund except to the extent permitted by the Acts; and
- (d) it shall not acquire an asset from a Member except as permitted by the Acts.

6.3 Where, for whatever reason, an investment held for the Fund ceases to be an Authorised Investment, the Trustee may, in its discretion, realise that investment and re-invest the proceeds in any Authorised Investment.

Investments for Particular Members

- 6.4 The Trustee may, subject to and in accordance with the Acts, undertake to invest separately in respect of such Member or Members of the Fund as requested or directed in writing by the Member or by the Principal. The Trustee shall record on whose behalf any such specific investments are made. In such an event the income and profits (less losses) arising from such specific investments and any costs or charges applicable thereto shall be allocated to the relevant Member's Account or Accounts (as the case may be) and the Trustee shall not be responsible or liable for any difference in investment performance of that Member's Account or Members' Accounts compared with the Account of any other Member or Members.
- 6.5 With respect to any Authorised Investment generally, including any investment made pursuant to a request given under Rule 6.4, the Trustee shall not, subject to the Acts, be responsible or liable for the holding, performance or non-disposition of the investment including:
- (a) the suitability of; or
 - (b) the potential profitability of; or
 - (c) monitoring the performance or progress of; or
 - (d) any loss incurred in relation to; or
 - (e) loss of opportunity cost in relation to
- that investment.

Insurance

- 7.1 (a) The Trustee may arrange and maintain an insurance policy for the benefit of a Member and/or the Dependents of the Member in the event of the Member's death or Total and Permanent Disablement. The type, the amount and the terms of this policy and the identity of the insurance company shall be as directed by the relevant Member or, in the absence of such a direction, by the Trustee. A Member may be included in a group insurance policy. For the purposes of effecting, increasing or otherwise varying any such policy, the Trustee may from time to time require any Member or applicant to:
- (i) be medically examined, or
 - (ii) submit other evidence of health, habits or pastimes, or
 - (iii) provide proof of age to the satisfaction of the insurer, or
 - (iv) take such other actions as may reasonably be required by the Trustee or the insurer.
- (b) If, after an application for membership has been accepted, any statement made or evidence submitted to the Trustee is found to contain any mis-statement, error, mistake or suppression the Trustee may make such adjustments as it, in its discretion, considers appropriate to the benefits to be provided for that Member and/or the contributions (if any) to be paid by that

Member.

- (c) If any Member or applicant refuses to undergo such medical examination or to undertake any other action which may reasonably be required for the aforesaid purposes, or does or omits to do anything that would or might vitiate the policy, or result in the policy monies or any part thereof not becoming payable, the Trustee may adjust the benefits to be provided in respect of that Member or applicant in such manner as the Trustee considers appropriate.
 - (d) Where the Trustee applies or has applied for insurance of any part of the benefit of a Member, that Member's benefit shall, subject to Rule 9.6, be reduced by the amount of any such insurance or part thereof which the insurer refuses (or refuses to grant on terms acceptable to the Trustee) or by the amount of any such insurance or part thereof which having been effected the insurer declares void or otherwise restricts (including withholding payment) for any reason.
 - (e) The Trustee may defer the payment of a benefit or other amount secured by a policy until the proceeds of the policy are paid by the insurer.
- 7.2 Where the Trustee arranges a policy to provide benefits for a Member in the event of accident to, or sickness or disablement of the Member, the terms and conditions pertaining to such benefits shall be as set out in, and subject to the said policy, notwithstanding the definition of Total and Permanent Disablement in Rule 2.28.
- 7.3 The premiums for any policy held for a Member shall be paid out of that Member's Account or out of the Fund as determined by the Principal with the consent of the Trustee. The Trustee shall retain custody and control of the policy and, subject to any contrary direction by the Member, may in its discretion make any decision or exercise any right in respect of it. The Trustee shall receive all monies payable under the policy and shall credit the relevant Member's Account with that Member's proportion of the proceeds.
- 7.4 The Trustee shall not be liable to maintain any insurance policy, in particular, but without limiting the generality of this Rule, where the amount standing to the credit of the relevant Member's Account is insufficient to pay the premiums, or where contributions to the Member's Account have ceased or where for any reason the Trustee determines to discontinue the insurance. In such circumstances, the Trustee may, but is not obliged to, transfer the policy to the Member in respect of whom it was effected.

Retirement Benefit of Member

Benefit Due

- 8.1 With respect to any benefit accumulated in a Member's Account, the Trustee covenants that it shall comply with the Preservation Standards and any standards laid down with respect to the maximum or minimum age at which a Member is required or permitted to be paid his or her benefit from the Fund.
- 8.2 Subject to Rule 8.1, the primary benefit of a Member, other than a death benefit under Rule 9 or a disablement benefit under Rule 10, shall become payable upon such Member ceasing Gainful Employment or an arrangement for Gainful Employment on or after the Normal Retiring Age. Otherwise the Trustee may pay a benefit on the Member becoming entitled or obliged under the Acts

to receive the benefit or in other circumstances permitted by the Acts.

Benefit Value

- 8.3 Subject to Rules 8.12 and 17.1, the capital value of a Member's benefit at any time shall be the amount standing to the credit of the Member's Account, less any applicable taxation or expense.

Payment Mode

- 8.4 Subject to the Acts:
- (a) where the Trustee is a Constitutional Corporation, benefits shall be paid as a lump sum unless an election has been made by the Member or other relevant beneficiary and agreed to by the Trustee to have the benefit paid as a Pension or Annuity;
 - (b) where the Trustee comprises individuals, benefits shall be paid as a Pension or Annuity unless an election has been made by the Member or other relevant beneficiary and agreed to by the Trustee to have the benefit paid in whole or in part by way of lump sum (or by instalments of a lump sum) or by transfer in specie; and
 - (c) unrestricted non-preserved benefits, as that term is defined in the Acts, may be paid at any time but the Trustee is not required to so pay such benefits.

Pension

- 8.5 The Trustee shall apply that part of the capital value of a Member's benefit which is:
- (a) required or permitted under the Acts to be paid as a Pension or Annuity; and
 - (b) selected by the Member pursuant to Rule 8.4(a) to be paid as a Pension or Annuity; and
 - (c) approved by the Trustee pursuant to Rule 8.4(a) to be paid as a Pension or Annuity,
- to pay or purchase such Pension or Annuity.
- 8.6 In the case of a Pension to be paid or purchased pursuant to Rule 8.5:
- (a) in the case of a Market Linked Pension, the terms on which any such Market Linked Pension is to be paid or purchased shall be in accordance with Rule 26;
 - (b) in the case of a Defined Benefits Pension, the terms on which any such Defined Benefits Pension is to be paid or purchased shall be in accordance with Rule 27; and
 - (c) in the case of an Allocated Pension, the terms on which any such Allocated Pension is to be paid or purchased shall be in accordance with Rule 28; and
 - (d) in the case of any other Pension, the terms on which any such other Pension is to be paid or purchased shall be in accordance with the Acts from time to time.
- 8.7 If the Member and the Trustee do not agree on the Member's selection of any such Pension or

Annuity, or the terms on which any such Pension or Annuity is to be paid or purchased, the Trustee, in its discretion, shall select the Pension and/or Annuity, and purchase or pay such a Pension or Annuity on behalf of, or to, the Member as it considers appropriate.

Annuity

- 8.8 Where all or part of the Member's benefit has been applied to the purchase of an Annuity, the terms and conditions of that Annuity shall be deemed to be the terms of the Member's Pension for the purpose of this Rule.

Pension Commutation

- 8.9 The Trustee, may upon being advised of the election of the Member in accordance with Rule 8.4 change the composition of the Member's benefit as between lump sum and Pension benefits (as the case may be) to reflect that election, subject to this Deed and any relevant conditions laid down from time to time by the Regulator or the Acts.

Transfer or Benefit in Specie

- 8.10 (a) Policy of Insurance

Where a Member or a Dependant of that Member is entitled to receive benefits from the Member's Account and the same includes any interest in an insurance policy on the life of the Member, the Trustee may, in its absolute discretion, assign the policy to the Member or to the Dependants in lieu of paying the cash value thereof. Upon assignment, neither the Trustee nor the Employer shall be liable to pay any further premiums under the said policy.

- (b) Transfer of Investments

The Trustee may, with the consent of a Member or a Dependant to whom a benefit is payable, transfer investments of the Fund of equivalent value to the Member or Dependant instead of paying the whole or part of the amount otherwise payable pursuant to the provisions of this Deed PROVIDED THAT the Trustee is satisfied that such transfer will not cause the Fund to breach any requirements of the Regulator or the Acts.

Release

- 8.11 Upon the payment of a benefit hereunder, whether in cash or by the transfer of Authorised Investments, the following shall constitute a good and valid discharge to the Trustee of the Trustee's liabilities and obligations in respect of the payment of benefits:
- (a) with respect to a single lump sum benefit, the encashment of the Trustee's cheque for the benefit;
 - (b) with respect to a lump sum benefit payable by instalments or a pension, the encashment of the Trustee's final cheque for each such instalment or pension;
 - (c) with respect to a pension benefit effected by the purchase of an Annuity, the payment by the Trustee for that Annuity;

- (d) with respect to the transfer of a Member's benefits to another superannuation fund or Approved Deposit Fund or other Roll-Over Institution, the encashment by the trustee of the recipient fund or the cheque representing the transfer of the cash benefit, and the valid transfer to the recipient trustee for such Authorised Investments as are being transferred in specie;
- (e) with respect to the payment of all or part of a Member's benefit in specie, the valid transfer to the Member for such insurance policies and investments as are being transferred in specie.

Maximum Benefit

- 8.12 Despite anything in this Deed to the contrary, but always subject to the Acts, the maximum benefit of a Member shall be limited to the person's maximum reasonable benefit limit unless:
- (a) the Principal otherwise directs the Trustee; or
 - (b) the Trustee otherwise determines, provided that the Trustee has no obligation to so determine or give consideration to so determining.

Death Benefit

- 9.1 If a Member dies prior to becoming entitled to receive his or her retirement benefit and while there is a credit balance in his or her Account, the Trustee shall pay a death benefit under this Rule 9. The capital value of the death benefit shall, subject to Rule 9.6, be the amount accumulated in the Member's Account and calculated in accordance with Rule 8.3, including the proceeds of any insurance carried by the Trustee on the life of the Member.
- 9.2 If the Member dies after becoming entitled to receive his or her retirement benefit but before that benefit has been paid, the Trustee shall pay a death benefit under this Rule 9. The capital value of the death benefit shall be the amount accumulated in the Member's Account and calculated in accordance with Rule 8.3.
- 9.3 The Member may, by notice in writing to the Trustee from time to time, nominate which of his or her Dependants or legal personal representative, the Member would prefer to receive the death benefit payable under this Rule 9, and the proportion payable to each such nominated Dependand or legal personal representative. In the event that one of the nominated Dependants is the Member's Spouse and they cease to be married, the Spouse shall cease to be a nominated Dependand unless the Member subsequently advises otherwise.

Such nomination will have the effect of:

- (a) a direction to the Trustee if the Trustee confers on the Member the facility to give such a direction; or
 - (b) otherwise not being binding on the Trustee.
- 9.4 The Trustee:
- (a) shall pay the death benefit in accordance with a Member's direction under Rule 9.3(a) to the

extent the Trustee is permitted by the Acts; or

- (b) may take into consideration a Member's nomination under Rule 9.3(b), provided that the Trustee alone shall have the power to decide which of the Member's Dependants (if any) and/or legal personal representative shall be paid the death benefit and the proportion payable to each such person, notwithstanding the Member's nomination.
 - (c) Where the Trustee cannot pay all or part of a Member's death benefit pursuant to paragraph (a) above, the Trustee may pay the benefit:
 - (i) in accordance with any default arrangements agreed with the Member; or
 - (ii) in the absence of any such agreement, in accordance with the provisions of Rule 9.4(b).
- 9.5 If a Member has no Dependants or legal personal representative living at the date of payment of the Member's death benefit hereunder, the Trustee shall pay the death benefit to such other person it determines as permitted by the Acts.
- 9.6 The Trustee and a Member may agree in writing that, upon that Member's death while a Member of the Fund, the Member's death benefit shall be any insurance carried by the Trustee on the life of the Member and that the amount accumulated in the Member's Account shall be dealt with in accordance with Rule 14 and neither the Member nor any person claiming through the Member shall have any interest in or right to that accumulated amount.
- 9.7 Notwithstanding any provision of the Trust Deed to the contrary:
- (a) the Trustee may at any time admit persons to membership of a death benefit membership category, the terms of which shall be as formulated by the Trustee and disclosed to the Member or the Member's Dependants, as the Trustee determines is appropriate; and
 - (b) the Trustee must pay death benefits in respect of such a member according to the terms of the category.
- 9.8 Nothing in this Rule 9 shall prevent, preclude or otherwise affect, or shall be taken to prevent, preclude or otherwise affect, the ability of the Trustee to pay a Member's benefits to that Member's reversionary beneficiary or Beneficiaries, Dependants or other persons in accordance with Rules 26, 27 or 28 (as applicable). To the extent that Rule 26, 27 or 28 is applicable in the circumstances and to the extent of any inconsistency between the terms of Rule 26, 27 or 28 and this Rule 9, the terms of Rules 26, 27 or 28 (as applicable) shall prevail.

Disablement Benefit

Total and Permanent Disablement

- 10.1 In the event that a Member establishes Total and Permanent Disablement to the satisfaction of the Trustee, the Member shall be paid a Total and Permanent Disablement Benefit. The capital value of the Total and Permanent Disablement Benefit shall be the amount calculated in accordance with Rule 8.3 including the proceeds of any total and permanent disablement insurance carried by the Trustee

on the life of the Member, provided that such amount does not exceed the maximum Total and Permanent Disablement Benefit (if any) permitted by the Regulator.

Sickness and Accident Benefit

- 10.2 If a Member satisfies the Trustee that he or she is absent from work and is unable to perform the normal duties of his or her occupation due to sickness or accident, the Trustee at the request of the Member may apply all or part of the Member's Account in payment of an income to the Member during such period of absence, even though the Member (if an employee) may remain in the service of the Employer. In determining the amount of such income the Trustee shall have regard to any benefit payment received on a policy effected pursuant to Rule 7.2, the Reasonable Benefit Limits and any other requirements of the Acts or the Regulator.

Portability and Preservation of Benefits

Covenant

- 11.1 The Trustee covenants as follows:

- (a) that it shall comply with the Preservation Standards with respect to all contributions made to the Fund;
- (b) that, where it accepts a transfer of cash or Authorised Investments into the Fund for the benefit of a Member, it shall comply with the Preservation Standards with respect to benefits arising from the amounts described in Rule 11.3 so transferred.

Duration of Preservation

- 11.2 Superannuation benefits accumulated for a Member and arising from the classes of contribution and transfer specified in Rule 11.3 shall be preserved, in the manner specified in Rule 11.4, until:
- (a) the Member permanently retires from the work force having attained age 55; or
 - (b) the Member retires from the workforce before having attained age 55 on the grounds of Total and Permanent Disablement; or
 - (c) the Member leaves the service of his/her employer or other Gainful Employment on or after 60 years of age; or
 - (d) the Member dies; or
 - (e) the Acts otherwise allow or require the benefit to be paid to the Member; or
 - (f) the Regulator otherwise approves,

provided that the benefit may be paid to the Member on retirement before having attained 55 years of age if the benefit is paid in the form of a non-commutable Pension or Annuity payable for life.

Classes for Benefit to be Preserved

- 11.3 Benefits that are required to be preserved from time to time by the Acts or the Regulator shall be preserved in accordance with the Preservation Standards.

Manner of Preservation

- 11.4 Where a Member or former Member has benefits in the Fund which are required to be preserved in accordance with the Preservation Standards, the Trustee shall ensure that the benefit be preserved in one or more of the following ways:
- (a) in default of a nomination by the Member pursuant to paragraph (b), (c) or (d) of this Rule 11.4, the benefit shall be preserved within this Fund in the Member's Account and the provisions of this Deed, and in particular Rule 6, shall continue to apply to that Member's Account;
 - (b) in another superannuation fund, nominated by the Member, which is required to preserve the benefits in accordance with the Preservation Standards;
 - (c) in a deferred annuity, nominated by the Member, being a deferred annuity that cannot be surrendered or assigned before the Member attains the age of 55 years and that does not pay benefits except in the circumstances specified in Rule 11.2; and
 - (d) in any other Roll-Over Institution nominated by the Member, which is required to preserve the benefits in accordance with the Preservation Standards.

Transfer from Another Fund

- 11.5
- (a) Where a Member is or was a member of, or beneficiary under any other superannuation fund or Roll-Over Institution ("the Other Fund"), and wishes to transfer the whole or part of his or her accrued benefits in the Other Fund to this Fund, the Trustee may accept into the Fund cash or Authorised Investments from the Other Fund to the value of the Member's benefits being transferred, and shall credit the Member's Account accordingly.
 - (b) If the Trustee so determines, the Member shall be deemed to have become a Member of the Fund on the date he or she became a Member of the Other Fund.
 - (c) The Trustee may, in its discretion, accept the liability to pay any Tax that may have accrued in relation to the benefits so transferred, and shall be entitled to make such provision for Tax as it deems necessary out of the cash or Authorised Investments transferred.
 - (d) The Trustee may, in its discretion, accept into the Fund for the benefit of a particular Member the transfer from a person (other than a Member or where otherwise prohibited by the Acts) any insurance policy on the life of that Member which had been effected to provide superannuation, retirement or death benefits for the Member. The Member shall be liable for any costs incurred in respect of the transfer.

Transfer to Another Fund

- 11.6 (a) Where a Member joins another superannuation fund or other Roll-Over Institution and the Member requests that the whole or part of his or her benefit in the Fund be transferred to such other fund ("the Transferee Fund"), the Trustee, with the approval of the Principal, may transfer to the trustee of the Transferee Fund cash or Authorised Investments (as determined by the Trustee) representing the benefits to be transferred.
- (b) When all or any part of the benefit of the Member has been transferred to the Transferee Fund, the benefit of the Member in this Fund shall be reduced by the amount so transferred, and without limitation to Rule 8.11(d), the receipt therefore duly signed by the proper officer of the Transferee Fund shall be a complete discharge to the Trustee of all liabilities in respect thereof. The Trustee shall have no responsibility with respect to the application of transferred benefits.
- (c) The Trustee may transfer the benefit of a Member to another fund where permitted to do so by the Acts.

Power to Sign Documents

- 11.7 The Trustee and the relevant Member shall have the power to sign all such documents and to transfer all such cash and Authorised Investments as may be required to give effect to this Rule 11.

Tax on Benefits

- 12.1 The Trustee shall deduct from any benefit payable to a Member pursuant to this Deed any Tax required to be deducted and any Tax payable by the Trustee in respect of contributions by or for, or benefits payable to, the Member and the Trustee shall pay the said Tax to the relevant authority.
- 12.2 The Member or Beneficiary shall be entitled to receive only the net benefit or payment after the deduction of Tax under Rule 12.1 PROVIDED THAT if as a result of a Member's electing to take a Qualifying Eligible Termination Payment (as defined in the Tax Act) the Australian Taxation Office refunds to the Trustee the Tax paid pursuant to Section 221H(5A) of the Tax Act, the Trustee shall pay the full amount of such refund to the payee of such Qualifying Eligible Termination Payment.

Benefits not Assignable

- 13.1 A Member's benefit in the Fund is not assignable. If the Member becomes, in the opinion of the Trustee, incapable of managing his or her affairs, the Member shall cease to be entitled to receive the benefit in cash. In such an event, the Trustee may, in its discretion, apply the credit balance in the Member's Account to support that Member or a Dependant of the Member.

Application of Benefits Forgone

- 14.1 If for any reason there is a credit balance remaining in the Account of a Member which does not represent the accrued benefit or minimum benefit of a Member after all benefits due to that Member have been paid, the Trustee shall apply this balance, within six (6) months (or such other period as permitted by the Acts) after the end of the Financial year during which the final benefit was paid, in accordance with Rule 14.2.
- 14.2 Subject to the Acts, the Trustee, at the direction of the Principal, shall apply the credit balance forgone

in accordance with Rule 14.1 in any of the following ways and in whatever proportions the Trustee may decide:

- (a) to credit the Account of any one or more of the other Members for whose benefit a Participant is also contributing to the Fund; this credit may stand in lieu of a contribution which the Participant had agreed to make, or may provide a supplementary benefit; or
- (b) to provide a supplementary benefit or welfare benefit to a current or former Member or Dependant of such a Member; or
- (c) in any other manner permitted by the Regulator or permitted or required by the Acts.

14.3 The Trustee shall apply the remaining credit balance in accordance with any procedures required by the Regulator and the Acts.

Accounts and Audit

Records

15.1 The Trustee shall keep:

- (a) a Register of Members;
- (b) a separate Account for each Member together with such details as to contributions from the Employer and the Member as the Trustee deems necessary;
- (c) details of any amount transferred into a Member's Account from another superannuation fund or from another Roll-Over Institution;
- (d) such details of contribution and transfers into a Member's Account as are necessary to comply with the Preservation Standards;
- (e) such records as are required to be kept for the period, and containing all the information as is required by the Acts;
- (f) such other records as the Trustee may consider necessary for the proper administration of the Fund or for compliance with the Acts.

Audit

15.2 The Trustee shall prepare accounts for the Fund as at the end of each Financial Year and shall appoint an independent approved auditor ("the Auditor") to audit the accounts, books and other relevant records of the Fund and to report upon such other matters relating to the Fund and to give such certificates as may be required by the Regulator or the Acts. The Trustee shall make available all books, accounts and records relating to the Fund which may be required by the Auditor. For the purposes of this Rule the term "approved auditor" shall have the same meaning as given to that term under the Acts.

The Trustee shall have the power to dismiss the Auditor on thirty (30) days' notice and appoint a new

Auditor.

Information to Members

- 15.3 The Trustee shall provide each Member, within the timeframe as prescribed by or under the Acts, with all information required pursuant to the Acts.

Report on Benefit Payment

- 15.4 The Trustee shall provide each Member claiming a benefit hereunder with a statement in writing setting out the amount of, and method of determining his or her benefit entitlement, including details of amounts which are subject to the Preservation Standards, and all such other information as may be required pursuant to the financial reports and disclosure of information standards under the Acts.

Returns

- 15.5 The Trustee shall furnish all returns, audit reports and other information required under the Acts.

Co-mingled Assets

- 15.6 Subject to the Acts, the Trustee may hold the cash and other assets of the Fund jointly with the cash and assets of other superannuation funds for which the Trustee is also the trustee or administrator.

Trustee

Covenants

- 16.1 The Trustee hereby agrees with the Members that it will carry out the statutory covenants required by the Acts.

Appointment of Administrator

- 16.2 The Trustee may employ any agent to transact any business or do any thing which is required by these Rules and may appoint any professional person or party to perform any function relating to the administration of, or the management of the investments of, the Fund or valuation thereof, and to pay out of the Fund all expenses of and incidental to any such appointment; without limiting the generality of the foregoing, the Trustee may appoint a person or company ("the Administrator") specifically to perform any or all of the following:
- (a) to accept or reject applications for membership of the Fund and to maintain the Register of Members;
 - (b) to operate a bank account for the Fund in the name of the Fund or of the Administrator and to authorise and action the cash movement into and out of such account;
 - (c) to collect contributions to the Fund;
 - (d) to exercise the powers of investment conferred on the Trustee by Rule 6 and to arrange for the management of the investments of the Fund in accordance with instructions with respect

thereto given from time to time by the Trustee to the Administrator;

- (e) to hold any cash or investment of the Fund in the name of the Administrator or of the Fund either alone or co-mingled with the cash or investments of any other superannuation fund or trust fund administered by the Administrator subject to the provisions of the Acts;
- (f) to effect and maintain insurances as provided by Rule 7;
- (g) to pay benefits to Members and their Dependants and to exercise such discretionary powers of the Trustee with respect thereto as are set out in the Rules;
- (h) to account for the Fund and to prepare its financial statements, submit returns to the Regulator and to comply with all the other requirements of the Regulator or the Acts in relation to the Fund;
- (i) to report to the Members of the Fund and the Employers hereunder in accordance with Rule 15.3 and the Acts; and
- (j) such other duties as the Trustee and the Administrator agree.

Additional Powers of the Trustee

- 16.3 (a) The Trustee shall have the power:
- (1) to appoint and at its discretion remove or suspend the Auditor, Administrator, managers, secretaries, clerks, agents and other servants, and advisers (including but not limited to barristers, solicitors, accountants, investment advisers, actuaries, valuers, medical practitioners, dentists, optometrists, insurance brokers, and share brokers), to appoint them for permanent, temporary or special services as it from time to time sees fit, to determine their powers and duties (including to appoint other such persons) and fix their remuneration, to require security in such instances and to such amount as it sees fit, to rely upon and act upon the advice of such advisers and to delegate to advisers such powers as it sees fit;
 - (2) to institute, conduct, defend, compound or abandon any legal proceedings by or against the Fund or its officers or otherwise concerning the affairs of the Fund, to compound and allow time for payments or satisfaction of any debts and allow time for payments or satisfaction of any debts due and of any claims or demands by or against the Fund, PROVIDED THAT the Trustee shall not be obliged to take action under this Rule unless the Trustee is indemnified to its satisfaction in respect of all costs, damages, losses or liabilities arising from such action, and the Trustee shall have the power to charge the Account of a Member or of a group of Members with the proportion of any associated costs as it sees fit;
 - (3) to pay all commission, brokerage, fees or otherwise that are necessary and incidental to the Trustee performing its obligations under this Deed.
- (b) The Trustee shall have the power to adopt procedures and make rules for the administration and operation of the Fund, including rules and procedures relating to:

- (1) dealing with inquiries and complaints; and
- (2) the nomination of and/or election of representatives of the Trustee.

Accountability

- 16.4 The Trustee shall be accountable only for contributions actually received by it and shall not be liable to account for monies paid by a Member or any Employer to any agent, broker or other person or company which acts or purports to act as agent of the Trustee unless these monies are actually received by the Trustee.

Indemnity

- 16.5 (a) The Trustee and each Authorised Person shall be indemnified out of a Member's Account or out of the Fund at its election for any expense or liability that may be incurred by appointing an arbitrator under Rule 20.1 or in prosecuting or defending any matter or action or suit in connection with the Member or with the Fund or for any expense or liability incurred by it in the exercise or attempted exercise of the trusts, powers, authorities or discretions provided for in this Deed, but subject at all times to any restrictions under the Acts. This indemnity shall extend to any payment made to any person whom the Trustee bona fide believes to be entitled thereto although it may be subsequently found that the person was not in fact so entitled. The Trustee shall have a full and absolute discretion in deciding to undertake these matters.
- (b) Subject to the Acts, a director of the Trustee shall be indemnified out of the assets of the Fund in respect of a liability incurred while acting as a director of the Trustee.
- (c) For the purpose of this Rule, "Authorised Person" means a person who is or has been:
- (1) a director or officer or employee of the Trustee;
 - (2) the Administrator appointed by the Trustee pursuant to Rule 16.1, 16.2 or 16.3(a)(1);
 - (3) any agent or adviser appointed by the Trustee pursuant to Rule 16.1, 16.2 or 16.3(a)(1) and in respect of whom the Trustee expressly nominates as an Authorised Person; or
 - (4) any other person authorised by the Trustee in writing.

Trustee's Discretion

- 16.6 Subject to Rule 16.1, the Trustee shall have the complete management and control of the Fund and shall have a full and absolute discretion in the exercise of its powers, authorities and discretions.

Fees and Remuneration

- 16.7 The Trustee shall not be entitled to any remuneration from the Fund.

Liability

- 16.8 Subject to Rule 16.5 and the Acts, the Trustee shall not, as trustee of the Fund, be liable for anything done or omitted to be done except in the case of its dishonesty, or intentional or reckless failure to exercise the required degree of care and diligence as set out in the Acts, and in particular, but subject to this Rule 16, the Trustee shall not be liable for any loss incurred on any investment of the Fund whether that investment is made pursuant to Rule 6.1 or 6.4.

Retirement, Removal and Replacement of Trustee

- 16.9 The Trustee may retire as Trustee of the Fund upon giving thirty (30) days' written notice to the Principal of its intention to retire or such lesser period accepted by the Principal.
- 16.10 The Trustee may be removed by the Principal, or by the Members of the Fund, where permitted by the Acts by written notice signed by the Principal or the Members as the case may be.
- 16.11 (a) Subject to Rule 16.11(b), where the Trustee retires or is removed as trustee, or where the Trustee includes a person who is a natural person and individual trustee (an "individual trustee") and the individual Trustee retires or is removed as trustee or dies, the Principal can appoint a replacement Trustee or individual Trustee (as the case may be) within thirty (30) days or such other time as is required from time to time, and the Principal may act as Trustee or individual Trustee (as the case may be) where permitted by this Deed and the Acts until the replacement Trustee or individual Trustee has been appointed.
- (b) Where a replacement Trustee or individual Trustee (as the case may be) has not been appointed within the period referred to in Rule 16.11(a) or there is for whatever reason no person acting as the Trustee or individual Trustee (as the case may be) prior to the expiry of that period, a Successor to the Trustee may act as Trustee or individual Trustee (as the case may be) with all the powers and discretions conferred on the Trustee or individual Trustee under this Trust Deed and at law.
- 16.12 If the Trustee goes into liquidation (except for the purpose of amalgamation or reconstruction) or if a receiver is appointed to manage the affairs of the Trustee, or the Trustee otherwise cannot continue to act due to the requirements of the Acts, the Trustee shall forthwith cease to act as trustee of the Fund whereupon the Principal shall appoint a new Trustee.
- 16.13 Upon the appointment of a new Trustee, the retiring Trustee shall do all things and execute all documents necessary to vest the investments, cash, property, records and documents of the Fund in the new Trustee; thereafter the new Trustee shall exercise all the powers, enjoy all the rights and be subject to all the obligations and liabilities of the Trustee as fully as if the new Trustee had been originally named as the Trustee party to the Trust Deed. From the date of the appointment of the new Trustee, the retiring Trustee shall, subject to Rule 16.8, be released from all further obligations and liabilities with respect to the Fund and the Members.

No Guarantee

- 16.14 Neither the Trustee, an Employer, nor the Administrator guarantees any estimation or projection of the amount of benefit to which a Member shall be entitled. Any projection of the amount of benefit made by the Trustee or the Employer or the Administrator or any of their respective directors, officers or

agents is given solely for the purpose of illustrating the potential of the Fund, based upon assumptions as to the amount of contributions, the earnings rate of the Fund and other relevant factors and may not be held by a Member or that Member's Dependants as a representation or as an inducement to become or to remain a Member of the Fund.

Request Information

- 16.15 Every Member and every person in receipt of or claiming a benefit from the Fund shall give to the Trustee such information and produce such documents as the Trustee reasonably may require to discharge its duties as Trustee of the Fund, in default of which the Trustee may refuse to pay or to continue to pay the benefit of the Member or other person or to accept any further contributions from the Member and/or the Employer.
- 16.16 A Participant shall, as and when requested by the Trustee, give to the Trustee all information in its power or possession which may in the opinion of the Trustee be necessary or expedient for the management and administration of the Fund. The Trustee may act upon any information given to it by the Participant pursuant to this Deed and shall not be required to verify same.
- 16.17 The Trustee shall make available and supply in accordance with the Acts all such information required by the Acts to be made available pursuant to a request by a Member, Beneficiary or other person.

Charge in favour of the Employer

- 17.1 That part of a Member's Account, where permitted by the Acts, may be charged with a payment to an Employer of any amount which the Member may owe the Employer, or which the Employer may have lost because of any dishonesty on the part of that Member. The debt or dishonesty must be proven to the satisfaction of the Trustee and the Trustee may, if it wishes, appoint an independent arbitrator in accordance with Rule 20.1.

Winding up the Fund

- 18.1 If at any time the benefits of all the Members of the Fund have been paid in full, and there are no assets remaining in the Fund after the Fund has met all its liabilities, the Trustee may wind up and proceed to terminate the Fund.
- 18.2 The Trustee and the Principal may otherwise agree to, and may then, terminate the Fund on conditions agreed by them, subject to the Acts.
- 18.3 If at any time the benefits of all the Members of the Fund have been paid in full, and there are assets remaining in the Fund after the Fund has met all its liabilities, the assets shall be dealt with by the Trustee in a manner permitted under the Acts or approved by the Regulator, whereupon the Trustee may wind up the Fund.

Employer - Merger, Sale or Winding Up

- 19.1 In the event of an Employer being reconstructed, amalgamated with another employer, or wound up, or if it disposes of its business, the Trustee may, in its discretion:
- (a) enter into a deed with the Successor (if any) of the Employer wherein the Successor will

- continue to be the Employer of the relevant Members for the purposes of this Fund; or
- (b) transfer to a superannuation fund conducted by the Successor employer the balances standing to the credit of the relevant Member's Accounts of those Members employed or formerly employed by the Employer for the benefit of those Members; or
 - (c) realise the assets of the Fund and apply the resultant proceeds firstly in the payment of Members' accrued benefits hereunder and then proceed in accordance with Rule 18.

Miscellaneous

- 20.1 If any dispute or doubt whatsoever arises as to the interpretation of the Trust Deed or as to the rights of a Member, an Employer or any other person hereunder, subject to any competent court which may acquire jurisdiction, and to the Acts, the decision of the Trustee is final and conclusive against all parties PROVIDED THAT if the Trustee so determines or is required by the Acts, the question or dispute shall be submitted to arbitration administered by the Australian Commercial Disputes Centre Limited ("ACDC"), conducted at Brisbane or Sydney (as chosen by the Trustee). The arbitrator shall be a person agreed between the parties chosen from a panel suggested by ACDC and, failing agreement, shall be a person nominated by the Secretary-General of ACDC.
- 20.2 Whenever it is necessary for the Trustee to decide questions of fact, whether for the purpose of Rule 20.1 or otherwise, it may act upon such proofs or presumptions as it thinks fit whether they are legal proofs or presumptions or not.

Employer

- 21.1 A person, partnership, trust, corporation or any other entity permitted under the Acts may become an Employer, with the consent of, and subject to any conditions imposed by, the Trustee and may participate in the Fund in the form as agreed by the Trustee from time to time.
- 21.2 An Employer may at any time cease to be an Employer by so notifying the Trustee in writing.

Unclaimed Benefits

- 22.1 If the Acts so require, a benefit due but unclaimed shall be dealt with as required by the Acts.

Regulator's Rulings

- 23.1 Where the Regulator by any general ruling or by a ruling relating specifically to the Trustee or the Fund indicates that the Regulator will favourably exercise any discretion to disregard non-compliance by the Trustee or the Fund with any of the operating standards for Regulated Superannuation Funds applicable to the Trustee or the Fund, then the Trustee may, notwithstanding the express terms of this Deed, not comply with those operating standards PROVIDED THAT the Trustee strictly acts in accordance with the conditions attaching to the exercise of the Regulator's discretion and such actions or omissions of the Trustee are not otherwise contrary to the Acts.

New Principal

- 24.1 If at any time, a Principal of the Fund as named herein, or any person who assumes the role of the

Principal from time to time, wishes to retire as Principal for any reason whatsoever, the Trustee shall appoint a new Principal nominated by the retiring Principal.

24.2 The Principal may be removed by the Members of the Fund by written notice signed by the Members where permitted by the Acts.

Proper Law

25.1 The Trust Deed and Rules shall be governed and construed in accordance with the laws of the State or Territory of the Commonwealth of Australia in which the Deed is executed, and each Employer, the Trustee, Members, Participants and Beneficiaries hereunder agree to accept the jurisdiction of the Courts of that State or Territory.

25.2 The provisions of Section 35b of the Trustee Act 1936 of South Australia shall not apply to this Deed.

Market Linked Pensions

26.1 The following definitions apply in this Rule 26:

- (a) "Commencement Day" has the meaning set out in SIS;
- (b) "Life Expectancy" means the life expectancy of a Member or the life expectancy of a Member's Spouse as determined in accordance with the relevant provisions of SIS.

26.2 The Trustee may, subject to the provisions of the Trust Deed and in accordance with the provisions of this Rule 26, pay a Market Linked Pension or Market Linked Pensions to each Member.

26.3 No payment shall be made pursuant to this Rule 26 unless the payment is permissible under the Acts.

26.4 Subject to the Acts, any amount payable to a Member under this Rule 26 shall be paid to that Member as a Market Linked Pension, on such terms as agreed by the Member and the Trustee provided that:

- (a) pension payments are made on an annual basis to the Member or the Member's reversionary beneficiary:
 - (i) throughout a period equal to the Member's Life Expectancy from the Commencement Day of the Member's Market Linked Pension (rounded up to the next whole number if the Member's Life Expectancy does not consist of a whole number of years); or
 - (ii) throughout a period equal to the Member's Life Expectancy mentioned in paragraph 26.4(a)(i) calculated, at the option of the Member, as if the Member were up to 5 years younger on the Commencement Day; or
 - (iii) throughout a period equal to either:
 - (A) the Life Expectancy of the Member's Spouse on the Commencement Day (rounded up to the next whole number if the Life Expectancy of the Member's Spouse does not consist of a whole number of years); or

- (B) the Life Expectancy of the Member's Spouse calculated, at the option of the Member, as if their Spouse were up to 5 years younger on the Commencement Day (rounded up to the next whole number if the Life Expectancy of the Member's Spouse does not consist of a whole number of years),

as selected by the Member and approved by the Trustee PROVIDED THAT:

- (C) the Member has requested that their Market Linked Pension revert to their surviving Spouse on their death; and

- (D) the Life Expectancy of the Member's Spouse is greater than the Life Expectancy of the Member; and

- (E) the Member has not chosen to make an arrangement mentioned in Rule 26.4(a)(i) or (ii); or

- (iv) throughout such other period as permitted by the Acts; and

- (b) the total amount of the Market Linked Pension payments to be made in a year (excluding payments by way of commutation pursuant to Rule 26.5 but including payments made under a payment split in accordance with the Family Law Act) are determined in accordance with the relevant provisions of SIS; and
- (c) the Market Linked Pension does not have a residual capital value; and
- (d) the Market Linked Pension cannot be commuted except in those circumstances set out in Rule 26.5; and
- (e) the Market Linked Pension cannot be transferred except in those circumstances set out in Rule 26.7; and
- (f) if the Market Linked Pension reverts to another person, it must not have a reversionary component greater than 100% of the account balance of the Member immediately before the reversion; and
- (g) the capital value of the Market Linked Pension, and the income from it, cannot be used as security for a borrowing; and
- (h) the Market Linked Pension complies with any other requirements of SIS relating to such pensions which may apply from time to time.

26.5 The Market Linked Pension can only be commuted in the following circumstances:

- (a) if the Market Linked Pension:
 - (i) is not funded from the commutation of particular annuities or pensions as specified under SIS; and

- (ii) the commutation is made within 6 months after the Commencement Day of the Market Linked Pension; or
 - (b) subject to Rule 26.5(c), on the death of the Member or the Member's reversionary beneficiary, by payment of:
 - (i) a lump sum or a new pension to one or more Dependants of either the Member or the Member's reversionary beneficiary; or
 - (ii) a lump sum to the legal personal representative of either the Member or the Member's reversionary beneficiary; or
 - (iii) if, after making reasonable enquiries, the Trustee is unable to find a person mentioned in paragraphs 26.5(b)(i) or (ii), a lump sum to another individual; or
 - (c) if the Member has opted, under paragraph 26.4(a)(iii), for a period which is calculated in relation to the Life Expectancy of the Member's Spouse, the Market Linked Pension cannot be commuted until the death of both the Member and the Member's Spouse; or
 - (d) if the eligible termination payment resulting from the commutation is transferred directly to the purchase of another benefit that is a particular annuity or pension as specified under SIS; or
 - (e) to pay a superannuation contributions surcharge in accordance with the relevant provisions of SIS; or
 - (f) to give effect to a payment split in accordance with the Family Law Act; or
 - (g) to meet the rights of a client to return a financial product under Division 5 of Part 7.9 of the Corporations Act; or
 - (h) unless otherwise permitted by the Acts.
- 26.6 If the Market Linked Pension is commuted in accordance with Rule 26.5, the commutation amount cannot exceed the account balance of the Member immediately before the commutation.
- 26.7 The Market Linked Pension can only be transferred in the following circumstances:
- (a) on the death of the Member:
 - (i) to a Dependant of the Member; or
 - (ii) to the legal personal representative of the Member; or
 - (b) on the death of the Member's reversionary beneficiary:
 - (i) to a Dependant of the Member's reversionary beneficiary; or
 - (ii) to the legal personal representative of the Member's reversionary beneficiary; or

- (c) if the Market Linked Pension of the Member is transferred directly to the purchase of another benefit that is a particular annuity or pension as specified under SIS.

Defined Benefits Pensions

27.1 The following definitions apply in this Rule 27:

- (a) "Commencement Day" has the meaning set out in SIS and for the purposes of this Rule 27 shall always mean a day on or after 1 July 1994; and
- (b) "Life Expectancy" means the life expectancy of a Member or other primary beneficiary or the life expectancy of a Member's reversionary beneficiary as determined in accordance with the relevant provisions of SIS.

27.2 (a) The Trustee may, subject to the provisions of the Trust Deed and in accordance with the provisions of this Rule 27, pay a Defined Benefits Pension or Defined Benefits Pensions to each Member.

- (b) A Defined Benefits Pension may take the form of:
 - (i) a lifetime pension;
 - (ii) a life expectancy pension; or
 - (iii) other form of Defined Benefits Pension,

in which case the Trustee may, subject to and in accordance with the Acts, agree with the Member additional or alternative terms of participation which may be additional to, or supplement, the terms of this Rule 27 and which may modify the provisions of this Rule 27.

27.3 No payment shall be made pursuant to this Rule 27 unless the payment is permissible under the Acts.

27.4 Subject to the Acts, any amount payable to a Member under this Rule 27 shall be paid to that Member as a Defined Benefits Pension, on such terms as agreed by the Member and the Trustee pursuant to Rule 27.2(b) provided that:

- (a) pension payments as agreed by the Trustee and the Member, in accordance with the Acts, are made on an annual basis to the Member or other primary beneficiary as determined by the Trustee in accordance with the Acts; and
- (b) the total amount of the Defined Benefits Pension payments to be made in a year is fixed, as determined by the Trustee in accordance with the Acts, allowing for variation only:
 - (i) as specified in the Acts or this Trust Deed;
 - (ii) to allow an amount to be paid under a payment split in accordance with the Family Law Act); and
- (c) except in relation to payments, by way of commutation, for superannuation contributions

surcharge or as otherwise provided by the Acts or the Regulator, variation in payments from year to year does not exceed, in any year, the average rate of increase as prescribed by or under SIS; and

- (d) if the Defined Benefits Pension reverts to another person, it must not have a reversionary component greater than 100% of the account balance of the Member immediately before the reversion; and
- (e) the Defined Benefits Pension may not be assigned or transferred to another person (other than to a reversionary beneficiary on the death of the Member or of another reversionary beneficiary), unless such transfer is permitted by the Acts; and
- (f) the capital value of the Defined Benefits Pension, and the income from it, cannot be used as security for a borrowing; and
- (g) the Defined Benefits Pension cannot be commuted except in those circumstances set out in Rule 27.5; and
- (h) the Defined Benefits Pension complies with any other requirements of SIS relating to such pensions which may apply from time to time.

27.5 The Defined Benefits Pension can only be commuted in the circumstances as determined by the Trustee from time to time, in accordance with the Acts and any requirement of the Regulator.

27.6 If the Defined Benefits Pension is commuted in accordance with Rule 27.5, the commutation amount cannot exceed the account balance of the Member immediately before the commutation.

27.7 The payment obtainable following a commutation of a Defined Benefits Pension pursuant to Rule 27.5 shall be determined by the Trustee in accordance with the Acts and this Trust Deed.

Allocated Pensions

28.1 Except in so far as the context or subject matter otherwise indicates or requires, in this Rule 28:

- (a) "Allocated Pension Death Benefit" means the balance of the Member's Allocated Pension monies at the date the Member's Allocated Pension monies are distributed on the death of the Member.
- (b) "Commencement Day" has the meaning set out in SIS.

28.2 The Trustee may, subject to the provisions of the Trust Deed and in accordance with the provisions of this Rule 28, pay an Allocated Pension or Allocated Pensions to each Member.

28.3 No payment shall be made pursuant to this Rule 28 unless the payment is permissible under the Acts.

28.4 Subject to the Acts, any amount payable to a Member under this Rule 28 shall be paid to that Member as an Allocated Pension, on such terms as agreed by the Member and the Trustee provided that:

- (a) The Allocated Pension shall be paid from the Commencement Day and continue to be paid for such period (if any) as is agreed between the Member and the Trustee unless the capital value of the Member's Allocated Pension is exhausted before that time; and
- (b) Subject to the Acts, the Trustee must make Allocated Pension payments to the relevant Member with such frequency and at such intervals and times as are agreed between the Trustee and the Member; and
- (c) Subject to the Acts, the Trustee may alter the frequency with which Allocated Pension payments are to be made:
 - (i) at any time the Trustee considers appropriate; or
 - (ii) at any time agreed upon between the Member and the Trustee; and
- (d) If at any time the frequency of the Allocated Pension payments has not been agreed upon by the Trustee and the Member, where required by the Acts, the Trustee must ensure that at least one Allocated Pension payment is made during each financial year after the Commencement Day; and
- (e) Notwithstanding any agreement with the Member to the contrary, the Trustee must ensure that at least one Allocated Pension payment is made to the Member during each financial year after the Commencement Day; and
- (f) The Trustee may allow a Member to nominate the value of Allocated Pension payments to be paid from that Member's Allocated Pension Account during a financial year, provided always that the sum of the Allocated Pension Payments made to a Member in each financial year or part of a financial year must not be:
 - (i) greater than the maximum limits; nor
 - (ii) less than the minimum limits,

set out in the Acts in relation to pension benefits of the kind provided in this Fund, provided such payments do not exceed the value determined by the Trustee. In the event that such payments fall outside the maximum or minimum limits required under this Rule, the Trustee may, without notice, make such adjustment to value of all or some of the Allocated Pension payments as the Trustee considers necessary to ensure that their sum does fall within the maximum and minimum limits required under this Rule; and

- (g) The Trustee must notify the Member of the maximum and minimum limits required under Rule 28.4(f) for the relevant financial year and it must do so within the timeframes prescribed under the Acts and this Trust Deed; and
- (h) If the Trustee allows a Member to nominate the value of Allocated Pension payments and the Member does not nominate a value within the maximum and minimum limits required under Rule 28.4(f) within such period as determined by the Trustee, the Trustee must either:

2.31.1.1.1 make the Allocated Pension payments for the current financial year calculated according to any previous agreement between the Trustee and Member; or

- (ii) in the absence of any such agreement, make the Allocated Pension payments at the minimum limit required to be paid under 28.4(f) in accordance with the Acts; and
- (i) The Trustee may at any time and without prior notice to the Member adjust the value of Allocated Pension payments to such Member to a level that complies with the Acts; and
- (j) The capital value of the Allocated Pension, or the income from the Allocated Pension, cannot be used as security for a borrowing, unless permitted by the Acts; and
- (k) The Allocated Pension cannot be commuted except in those circumstances set out in Rule 28.5; and
- (l) An Allocated Pension may not be assigned or transferred to another person (other than to a reversionary beneficiary on the death of the Member or of another reversionary beneficiary), unless such transfer is permitted by the Acts; and
- (m) the Allocated Pension complies with any other requirements of SIS relating to such pensions which may apply from time to time.

28.5 The Allocated Pension can only be commuted in the following circumstances:

- (a) The Trustee may, on the request of the Member, commute the whole or any nominated part of the Member's Allocated Pension.
- (b) On the commutation of the whole or any part of the Member's Allocated Pension, and unless otherwise permitted by the Acts, the Trustee may pay a lump sum benefit to the Member equal to the commuted amount of the capital value of the Member's Allocated Pension as at the date of commutation.
- (c) On the commutation of the whole or any part of the Member's Allocated Pension, and unless otherwise permitted by the Acts, the Trustee may, by internal rollover, revert the commuted amount of the capital value of the Member's Allocated Pension to an accumulated benefit of the Member as at the date of commutation.
- (d) If the Trustee is required by the Acts, or is directed or requested by a Regulator, to treat any part of a Member's Allocated Pension as if it had been commuted because it exceeds a Member's Reasonable Benefit Limit (as defined in the Tax Act), the Trustee must pay the excess, subject to the Acts, to the Member as a commutation.

28.6 The Allocated Pension will cease to be payable on the earlier of the following:

- (a) the capital value of the Member's Allocated Pension is exhausted or decreases to a value determined by the Trustee;
- (b) the term of the Allocated Pension agreed to by the Trustee and the Member in Rule 28.4(a) has expired; or
- (c) on the date determined by the Trustee in accordance with the Acts.

- 28.7 Any capital value of the Member's Allocated Pension at the end of the period agreed to in Rule 28.6 shall be paid to the Member as soon as practicable thereafter.

APPENDIX "1"**APPLICATION FOR MEMBERSHIP**
PENSION MEMBERSHIP CATEGORY**1. Type of Pension selected**

- (a) Allocated Pension
- (b) Market Linked Pension
- (c) Lifetime Pension
- (d) Life Expectancy Pension
- (e) Defined Benefits Pension
- (f) Other type of Pension

2. Terms of Pension

- (a) Frequency of payments
- (i) Minimum frequency required under the Acts
- (ii) As otherwise agreed with the Trustee in accordance with the Acts
- (b) Amount of payments
- (i) Minimum amount required under the Acts
- (ii) As otherwise agreed with the Trustee in accordance with the Acts

3. Reversionary Beneficiary/Beneficiaries

- (a) Name of nominated reversionary beneficiary _____
- (b) Relationship of reversionary beneficiary to Member _____
- (c) Address and daytime telephone number for reversionary beneficiary

4. Other death benefit arrangements

APPENDIX "2"

The Principal(s) hereby authorises and instructs the Trustee of the Fund to apply the Category of Membership, as designated hereunder, and in respect of a Member, to that category as nominated in the member's Nomination for Membership.

CATEGORIES OF MEMBERSHIP
VESTING CATEGORIES

In this Designation:

"Vesting Benefit" means, in relation to the benefit of a Member of the Fund, that part of the value of the Member's Account which is attributable to Employer contributions other than Mandated Employer Contributions to which the Member shall be entitled upon leaving service of the Employer prior to the attainment by the Member of the Normal Retiring Age.

"Qualifying Service" means, in relation to a Member of the Fund, that period during which the Member has been in the service of the Employer as advised by the Employer to the Trustee and as shall be counted for the purposes of determining the Vesting Benefit hereunder.

Category A: "Full Vesting" means a Vesting Benefit of 100% at all times.

Category B: "Three Year Vesting" means a Vesting Benefit which shall be 34% after one complete year of Qualifying Service increasing to 67% for a second year of Qualifying Service and attaining 100% after three years of Qualifying Service.

Category C: "Five Year Vesting" means a Vesting Benefit which shall be 20% after one complete year of Qualifying Service increasing by 20% for each further year of Qualifying Service and attaining 100% after five years of Qualifying Service.

Category D: "Ten Year Vesting" means a Vesting Benefit which shall be 10% after one complete year of Qualifying Service increasing by 10% for each further year of Qualifying Service and attaining 100% after ten years of Qualifying Service.

Category E: (to be set by Principal) _____

Note: Where the Principal does not give an instruction to the Trustee, within 30 days of the date of membership of the relevant Member, with respect to the Vesting Benefit applicable to that Member (or category of membership if appropriate), the Trustee shall be entitled to assume that the relevant contributions qualify for Full Vesting.

**SCHEDULE B
THE PARTICULARS**

- (a) **Date of Deed of Trust:** FEBRUARY 25, 2007
- (b) **Parties:** **Michael Ross** of 11 Wallis Parade, North Bondi NSW 2026 (the "Principal"); and,

Michael Ross and Jason Ross and Ann Ross of 11 Wallis Parade, North Bondi NSW 2026 (the "Trustee")
- (c) **Name of Fund:** **Exponential Nominees Superannuation Fund**

or such other name as the Trustee and Principal agree in writing.

THE EXECUTION PAGE

EXECUTED as a deed by the Principal and by the Trustee:

SIGNED SEALED and DELIVERED by
MICHAEL ROSS [Principal]
in the presence of:

T. King
Witness

Michael R
Signature of **MICHAEL ROSS**

Trevor Wise
Name (please print)

SIGNED SEALED and DELIVERED by
MICHAEL ROSS [Trustee]
in the presence of:

T. King
Witness

Michael R
Signature of **MICHAEL ROSS**

Trevor Wise
Name (please print)

SIGNED SEALED and DELIVERED by
JASON ROSS [Trustee]
in the presence of:

T. King
Witness

Jason R
Signature of **JASON ROSS**

Trevor Wise
Name (please print)

SIGNED SEALED and DELIVERED by
ANN ROSS [Trustee]
in the presence of:

T. King
Witness

Ann Ross
Signature of **ANN ROSS**

Trevor Wise
Name (please print)