

SUPERANNUATION TRUST DEED

P G BEER RETIREMENT FUND

Date: 27th July 1992

MICHAEL UZUNOVSKI

(the "Trustee")

TABLE OF CONTENTS

<u>Rule No.</u>		<u>Page No.</u>
1.	THE FUND	1
2.	PROPER LAW	1
3.	THE TRUSTEES	1
4.	INTERPRETATION	1
4.1	General	1
4.2	Definitions	2
5.	DATE OF COMMENCEMENT	5
6.	ADMISSION OF MEMBERS	5
6.1	Selection and Admission of Members	5
6.2	Information Provided by Applicants	5
6.3	Prospective Member - written declarations	5
7.	CONTRIBUTIONS BY THE EMPLOYER	6
7.1	Employer Contributions	6
7.2	Trustees to be advised	6
7.3	Deemed payment to Trustees	6
7.4	Refusal of Contributions: Persons	6
7.5	Refusal of Contributions: Members	6
7.6	Refusal of Contributions: Members ceased to be Employed	7
7.7	Refusal of Contribution after Age 65	7
7.8	Leave of Absence	7
7.9	Provide Employer with notices and statements	7
8.	CONTRIBUTIONS BY MEMBERS	7
8.1	Member Contributions	7
8.2	Employer to Advise Trustees	8
8.3	Deemed Payment to Trustees	8
8.4	Payment on behalf of a Member	8
9.	INVESTMENTS	8
9.1	Types of Investments	8
9.2	Variation of Investments	9
9.3	Particular Investments	9

(ii).

TABLE OF CONTENTS (Cont'd)

<u>Rule No.</u>		<u>Page No.</u>
10.	POLICIES OF INSURANCE AND ANNUITIES	9
10.1	Investment in Policies and Annuities	9
10.2	Payment of Premiums	10
10.3	Power to continue Policies or Annuities	10
11.	RECORDS, ACCOUNTS AND AUDITING	10
11.1	Records	10
11.2	Auditor	13
11.3	Compliance with Act	13
12.	VALUATIONS AND ALLOCATION OF PROFITS OR LOSSES	13
12.1	Valuation and Allocation of Profits or Losses	13
12.2	Valuation of Assets of the Fund	14
12.3	Interim Earning Rate	14
12.4	Requirements of the Act	14
13.	EXCESSIVE BENEFITS	15
14.	FORFEITURE OF BENEFITS	15
14.1	Forfeiture of Benefits	15
14.2	Application of Vested Forfeited Benefits	15
15.	ALLOCATION OF FORFEITED BENEFITS	16
16.	COMMON LAW RIGHTS OF MEMBERS	16
17.	LOANS TO MEMBERS	17
18.	MEMBER'S RIGHTS TO BENEFITS AND STATEMENTS	17
19.	EMPLOYER'S RIGHT TO DETERMINE EMPLOYMENT, REQUEST AN AUDIT, EXERCISE A LIEN OVER A MEMBER'S BENEFIT AND BE PROVIDED WITH DOCUMENTS	17
19.1	No prejudice to Employer's Powers	17
19.2	Work-Related Claim	18
19.3	Auditors	18
19.4	Documents	18
19.5	Employer's Lien	18
19.6	Certificate to be Conclusive Evidence	18

(iii).

TABLE OF CONTENTS (Cont'd)

<u>Rule No.</u>		<u>Page No.</u>
19.7	Repayment	19
20.	TRUSTEES: APPOINTMENT AND REMOVAL	19
20.1	Appointment of Trustees	19
20.2	Ceasing to Act as Trustee	19
20.3	Employers or Members may remove a Trustee or Trustees	19
20.4	Trustee Company placed into Receivership	20
20.5	Member Trustees: Appointment and Removal	20
20.6	Employer Trustees	23
20.7	Existing Trustees to Resign	23
20.8	Independent Trustees	23
20.9	Vacancies	23
21.	POWERS OF TRUSTEES	23
22.	TRUSTEES : EXERCISING DISCRETIONS AND DISCRIMINATION LAW	25
23.	LIABILITY OF TRUSTEES	25
24.	TRUSTEES' AND MEMBERS' INDEMNITY	25
25.	TRUSTEES' MEETINGS	25
26.	SIGNING OF DOCUMENTS BY TRUSTEES	26
27.	REMUNERATION OF TRUSTEES	26
28.	REMUNERATION OF PROFESSIONAL PERSONS	26
29.	TRUSTEES AS MEMBER'S ATTORNEY	26
30.	TRUST DEED AVAILABLE FOR INSPECTION	26
31.	VARIATION OF TRUST DEED	26
31.1	Variation of Trust Deed	26
31.2	Notification to Members	27
32.	TRANSFER OF BENEFIT FROM ANOTHER FUND	27
32.1	Transfer from another Fund	27
32.2	Preserved Benefits	28

(iv).

TABLE OF CONTENTS (Cont'd)

<u>Rule No.</u>		<u>Page No.</u>
33.	TRANSFER OF BENEFIT TO ANOTHER FUND	28
33.1	Transfer to Another Fund	28
33.2	Preserved Benefits	28
33.3	Application of Rule 29 at time of Termination of Employment	28
34.	BENEFITS PAYABLE IN AUSTRALIAN CURRENCY	29
35.	ADMISSION OF PARTICIPATING EMPLOYERS TO FUND	29
36.	WITHDRAWAL OF PARTICIPATING EMPLOYERS FROM FUND	29
37.	CRYSTALLISATION OF FUND	30
38.	DISSOLUTION OF THE FUND	30
38.1	Dissolution of the Fund	30
38.2	Benefits paid in accordance with Trust Deed	30
38.3	Amount remaining in the Fund	30
38.4	General	30
39.	BENEFIT PAYABLE ON RETIREMENT OR DEATH AFTER RETIREMENT	30
39.1	Payment at Age 65 - Employer Sponsored Member	30
39.2	Payment upon Retirement - Non-Employer Sponsored Member	31
39.3	Continuation of Employment on a Part-Time Basis after age 65	31
39.4	Continuation of Employment on a Full-Time Basis after age 65	31
39.5	Member to Inform Trustees	31
39.6	Benefit: Mode of Payment	32
39.7	Death after Retiring Age	32
39.8	Benefit Payable to Spouse on Death of Pensioner	32
39.9	Payment to Member's Dependants	33
39.10	Transfer in Specie	33
40.	BENEFIT PAYABLE ON DEATH BEFORE RETIREMENT	33
40.1	Benefit Payable on Death before Retirement	33
40.2	Payment to Legal Personal Representative	33
41.	BENEFIT PAYABLE ON DISABLEMENT	34
41.1	Benefit Payable on Disablement	34
41.2	Proceeds of temporary disablement insurance policy	34

(v).

TABLE OF CONTENTS (Cont'd)

<u>Rule No.</u>		<u>Page No.</u>
42.	BENEFIT PAYABLE ON DISMISSAL	34
43.	BENEFIT PAYABLE TO AN EMPLOYER SPONSORED MEMBER ON TERMINATION OF EMPLOYMENT	35
43.1	Termination before Retiring Age	35
43.2	Payment Before Age 55 on Retirement	35
43.3	Deferment of Payment	36
44.	BENEFIT PAYABLE IN OTHER CIRCUMSTANCES	37
44.1	Member Going Overseas	37
44.2	Financial Hardship	37
45.	MODE OF PAYMENT OF BENEFITS	37
45.1	Lump sum or pension	37
45.2	Transfer in specie	37
46.	PAYMENT OF BENEFITS TO MINORS	37
47.	DEDUCTION OF INCOME TAX	37
48.	PENSION CONDITIONS	38
48.1	Trustees' Discretion	38
48.2	Cessation of Payments	38
48.3	Commutation of Pension	38
48.4	Lump Sum Payment to Dependant	38
48.5	No Encumbrance or Assignment	39
48.6	Annual Increases	39
48.7	Annuities	39

APPENDIX "A"

APPLICATION FOR MEMBERSHIP

(EMPLOYER SPONSORED MEMBER)

OF

P G BEER RETIREMENT FUND

(vi).

TABLE OF CONTENTS (Cont'd)

Rule No.

Page No.

APPENDIX "B"

APPLICATION FOR MEMBERSHIP
(NON-EMPLOYER SPONSORED MEMBER)

OF

P G BEER RETIREMENT FUND

APPENDIX "C"

APPLICATION FOR PARTICIPATION BY EMPLOYER

APPENDIX "D"

VESTING SCHEDULE
P G BEER RETIREMENT FUND

APPENDIX "D"

VESTING SCHEDULE
P G BEER RETIREMENT FUND

DEED made at SYDNEY the 27th day of July 1992



BY MICHAEL UZUNOVSKI of 10 Jubilee Street, Port Kembla in the State of New South Wales (the "Trustees")

WHEREAS

- A. The Trustees desire to establish a superannuation trust fund to provide superannuation benefits for employees and for self employed persons who become members of the fund.
- B. The Trustees have agreed to act as first trustees of the fund constituted by this trust deed.

THIS DEED WITNESSES

1. THE FUND

- 1.1 The trust fund constituted by this Trust Deed shall be called the P G Beer Retirement Fund (hereinafter called the "Fund").
- 1.2 The Fund shall consist of all money (including contributions to the Fund and investments for the time being representing the same) from time to time held by or on account of the Trustees pursuant to this Trust Deed who shall hold the same on trust for the objects and the purposes of this Trust Deed.

2. PROPER LAW

This Trust Deed shall in all respects be governed and construed in accordance with the law of the State of New South Wales.

3. THE TRUSTEES

The expression the "Trustees" shall include such other new or additional trustees as are appointed hereunder.

4. INTERPRETATION

4.1 General

- (a) This Trust Deed shall be read and construed on the basis that the provisions of the Occupational Superannuation Standards Act, 1987 (C'th) as amended from time to time, and any regulations made thereunder are, to the extent that they impose obligations on the Trustees in order for the Fund to qualify for the maximum income tax concessions, incorporated herein provided that this Trust Deed shall not be so read or construed and no such provision or regulation shall be so incorporated if to do so would constitute a breach of the power granted by Rule 31 hereof to vary, add to or rescind the provisions of this Trust Deed. Where there is any inconsistency between a provision in this Trust Deed and a provision in the said Act or regulations which is so incorporated, the latter shall prevail over the former.

- (b) If any Rule or part thereof contained in this Trust Deed is judged to be invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of the remainder of this Trust Deed and such invalid Rule or part thereof shall be deemed to have been deleted from this Trust Deed.
- (c) Headings are for convenience only and shall not affect the interpretation of the Trust Deed.
- (d) Words denoting one gender include other genders and words denoting the singular number include the plural number and vice versa.
- (e) References to Rules are references to Rules of this Trust Deed.

4.2 Definitions

In this Trust Deed unless the context otherwise requires:

"Act" means the Income Tax Assessment Act, 1936 (C'th) and the Occupational Superannuation Standards Act, 1987 (C'th) or any replacement or additional legislation in respect of superannuation or any rulings or regulations or guidelines made or issued thereunder and any reference to the provisions or requirements of the Act means the provisions or requirements of such legislation, rulings, regulations or guidelines which must be complied with in order to obtain the maximum income tax concessions available in respect of superannuation.

"Category" means the category of membership in the Fund of an Employer Sponsored Member which is selected by his Employer and is specified in the form of application for membership completed in accordance with the requirements of Rule 6 or is specified in an application by the Member for a transfer in category of membership which is accepted by the Trustees and his Employer or is specified in a notice given to the Member by the Trustees or an Employer.

"Commissioner" means either the Commissioner of Taxation or the Insurance and Superannuation Commissioner or any person who is appointed by an Act of Parliament to supervise the conduct of superannuation funds.

"Dependant" means the spouse (including de facto spouse) widow, widower or children of a Member or any other person who in the opinion of the Trustees was dependent on the Member at the relevant date or whom the Member had a legal or moral obligation to support at the relevant date.

"Employed" means employed by an Employer.

"Employee" means a person in the employ of an Employer and shall include any person who is a director of an Employer which is a company and any person in respect of whom an Employer wishes to make a contribution to the Fund in lieu of the

Employer paying the superannuation guarantee charge under the Guarantee Act.

"Employer" means a Member's Employer who makes contributions to the Fund and in relation to a particular Member means the Employer of that person at the relevant time.

"Employer's Contribution Account" has the meaning given to it in Rule 11.1.

"Employer Sponsored Member" means a Member whose Employer is contributing to the Fund at the relevant time.

"Forfeited Benefits Reserve Account" has the meaning given to it in Rule 11.1.

"Full-Time Basis" means a Member who is Employed or Self-Employed on a full-time basis within the meaning of the Act.

"Guarantee Act" means the Superannuation Guarantee Charge Act, 1992 (C'th) as amended from time to time.

"Highest Average Salary" has the meaning attributed to it or to the expression "HAS" in the Regulations proclaimed under the Occupational Superannuation Standards Act, 1987 (C'th).

"Industrial Award Contribution Account" has the meaning given to it in Rule 11.1 hereof.

"Member" means either an Employer Sponsored Member or a Non-Employer Sponsored Member who the Trustees have admitted as a member of the Fund and includes a former Member who at the relevant time is receiving or is entitled to benefits from the Fund.

"Member's Benefit" in respect of a Member is the net amount then standing to his credit in the Employer's Contribution Account (if any) plus the amount standing to his credit in his Industrial Award Contribution Account (if any) plus the amount standing to the credit of his Member's Contribution Account (if any) plus the amount standing to the credit of his Vested Employer's Contribution Account (if any) plus that proportion of the value (if any) at that time of any policy of insurance which relates to premiums paid out of that Member's Employer's Contribution Account, Member's Contribution Account, Industrial Award Contribution Account or Vested Employer's Contribution Account.

"Member's Contribution Account" has the meaning given to it in Rule 11.1.

"Non-Employer Sponsored Member" means a Member who is not, at the relevant time, an employee or whose Employer (if any) is not contributing to the Fund.

"Participating Employer" means an Employer who has been admitted by the Trustees

pursuant to Rule 35 to be a participant in the Fund. The term "Participating Employer or Employers" has a corresponding meaning.

"Part-Time Basis" means a Member who is Employed or Self-Employed for at least 10 hours per week or such other number of hours as are prescribed under the Act but who is not Employed or Self-Employed on a Full-Time Basis.

"Permanently and Totally Disabled" means:

- (i) such disablement as, in the opinion of the Trustees, has rendered the Member permanently incapable of engaging in full-time work for which he is reasonably fitted by training, education or experience; or
- (ii) where the benefit payable on permanent disablement is insured, the definition of permanent disablement contained in the policy document evidencing the contract of insurance,

provided that, for the purposes of payment of a Preserved Benefit, the Trustees shall only regard a Member as being permanently disabled if they have received a certificate signed by 2 registered medical practitioners certifying that, in the opinion of those 2 practitioners, the Member is unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience.

"Preserved Benefit" means any benefit (or part thereof) which is required by the Act, in order for the Fund to obtain maximum income tax concessions, to be preserved for the Member in the Fund or in another fund until he has retired from the workforce and attained age 55, or such other age prescribed in the Act as being the preservation age for that Member, or until the Member's earlier death or permanent disablement or payment of the benefit in such other circumstances as are permitted by the Act.

"Prospective Member" has the same meaning as that attributed to that expression in the Regulations prescribed under the Occupational Superannuation Standards Act, 1987 (C'th).

"Reserve Account" has the meaning given to it in Rule 11.1;

"Retiring Age" means the age of 65 years or such other age, being not less than 55, as the Trustees and the Member agree upon as being the retiring age for that Member.

"Revenue Account" has the meaning given to it in Rule 11.1.

"Rules" mean the Rules contained in this Trust Deed and any alteration to, addition to or variation thereof made from time to time.

"Salary" in respect of an Employer Sponsored Member and a Non-Employer Sponsored Member has the meaning attributed to it in the Regulations prescribed under the Occupational Superannuation Standards Act, 1987 (C'th).

5.

"Self-Employed" refers to a Member who is self-employed in a business, trade, profession, vocation, calling or occupation for at least 10 hours a week or such other number of hours as are prescribed under the Act.

"Taxation Reserve Account" has the meaning given to it in Rule 11.1.

"Trust Deed" means this Trust Deed or any alteration to, addition to or variation thereof made from time to time.

"Vested Benefit" means any part of the Member's Benefit arising from contributions to the Fund, or to a previous superannuation fund, which is required by the Act, in order for the Fund to obtain maximum income tax concessions, to be vested in and payable to a Member on termination of the Member's employment (subject to any preservation requirements).

"Vested Employer's Contribution Account" has the meaning given to it in Rule 11.1.

5. DATE OF COMMENCEMENT

The Fund was constituted on the day and year mentioned above.

6. ADMISSION OF MEMBERS

6.1 Selection and Admission of Members

Persons who are Employed or Self-Employed who wish to become Members shall apply for membership by completing the form of application in Appendix "A" for Employer Sponsored Members and Appendix "B" for Non-Employer Sponsored Members or such other form of application as the Trustees require. Upon acceptance of the application by the Trustees the person making the application shall be bound by this Trust Deed in all respects as if he were an original party to this Trust Deed.

6.2 Information Provided by Applicants

All applicants for membership of the Fund shall provide the Trustees with such information that the Trustees may require, including proof of their correct age.

6.3 Prospective Member - written declarations

The Trustees shall obtain from a Prospective Member such written declarations as are required by the Act in order for the Fund to obtain the maximum income tax concessions available to superannuation funds.

7. CONTRIBUTIONS BY THE EMPLOYER

7.1 Employer Contributions

- (a) An Employer, or any other person authorised by the Act to make contributions to the Fund, may contribute to the Fund in respect of each Member such amount as it in its absolute and uncontrolled discretion shall determine provided that the maximum contribution made in any period shall not exceed the maximum permitted under the Act, to enable the Fund to obtain the maximum income tax concessions available to superannuation funds.
- (b) Where the contribution is being made pursuant to an industrial award or agreement the Employer shall contribute in respect of each Member affected by such award or agreement such amount as is determined by the relevant award or agreement.
- (c) Employer contributions shall be credited to the Employer's Contribution Accounts or Vested Employer's Contribution Accounts or Industrial Award Contribution Accounts, as is appropriate.

7.2 Trustees to be advised

At the time of making such contribution, the Employer, or any other person contributing, shall advise the Trustees of the contribution in respect of each Member.

7.3 Deemed payment to Trustees

Any payment of contributions by the Employer, or any other person contributing, directly to a life insurance company or investment manager shall be deemed to be a payment of contributions to the Trustees and a payment by the Trustees to the life insurance company or investment manager.

7.4 Refusal of Contributions: Persons

The Trustees shall refuse to accept contributions to the Fund from persons other than the persons permitted to contribute to the Fund under the Act in order for the Fund to obtain the maximum income tax concessions available to superannuation funds.

7.5 Refusal of Contributions: Members

The Trustees shall refuse to commence to accept contributions to the Fund by or in respect of a Member if the Member is not Employed or Self-Employed on a Part-Time Basis or Full-Time Basis unless such contributions are made by an Employer pursuant to an industrial agreement or award or are made in lieu of the Employer paying the superannuation guarantee charge under the Guarantee Act.

7.6 Refusal of Contributions: Members ceased to be Employed

The Trustees shall refuse to accept contributions, in respect of a Member:

(a) if the Member:

(i) has ceased for a continuous period of 2 years to be Employed or Self-Employed on a Part-Time Basis or Full-Time Basis, but

(ii) has not retired from the workforce,

unless the contributions are made by an Employer pursuant to an industrial agreement or award or are made in lieu of the Employer paying the superannuation guarantee charge under the Guarantee Act; or

(b) if the Member has retired from the workforce.

7.7 Refusal of Contribution after Age 65

The Trustees shall refuse to accept a contribution by or in respect of a Member who has attained age 65 if to do so would result in the Fund not being entitled to the maximum income tax concessions available to superannuation funds.

7.8 Leave of Absence

If an Employer Sponsored Member is granted leave of absence (other than annual leave or long service leave) by the Employer for any reason, the Member shall remain a Member for the period of leave, unless the Employer determines otherwise and so advises the Trustees. No contribution shall be made in respect of that Member during the period that the Member is on such leave unless the Employer determines otherwise and so advises the Trustees.

7.9 Provide Employer with notices and statements

The Trustees shall provide the Employer with such notices, written statements and other information as are required by the Act in order for the Fund to obtain the maximum income tax concessions available to superannuation funds.

8. CONTRIBUTIONS BY MEMBERS

8.1 Member Contributions

Each Member may contribute to the Fund such amount as is agreed upon between the Member and the Trustees provided that the maximum contribution made in any period shall not exceed the maximum permitted under the Act to enable the Fund to obtain the maximum income tax concessions available to superannuation funds. Unless otherwise allowed by the Act, the Trustees shall refuse to accept any such contribution

8.

during any period that a Member is not engaged in a business, trade, profession, vocation, calling, occupation or employment. The Employer may if authorised by the Member, deduct such contribution from the Member's Salary and remit it to the Trustees within 14 days of the end of the calendar month in which it was deducted.

8.2 Employer to Advise Trustees

At the time of paying the Member's contribution to the Trustees, the Employer or the Member shall advise the Trustees of the contribution in respect of the Member.

8.3 Deemed Payment to Trustees

Any payment of a Member's contribution directly to a life insurance company or investment manager shall be deemed to be a payment of contributions to the Trustees and a payment by the Trustees to the life insurance company or investment manager.

8.4 Payment on behalf of a Member

The Employer may pay, on behalf of a Member, contributions that are payable by the Member and any contributions so paid by the Employer shall, if the Trustees are so advised, be deemed to be contributions made by the Member and shall be credited to the Member's Vested Employer's Contribution Account.

9. INVESTMENTS

9.1 Types of Investments

The Trustees may invest the whole or any part of the moneys or assets of the Fund not presently required for other purposes in any investments of any kind which the Trustees in exercising their absolute discretion think fit and without limiting the generality of the foregoing either directly or indirectly in:

- (a) investments authorised by the laws of any State or Territory of the Commonwealth of Australia for the investment of trust funds;
- (b) the purchase of or improvement of or mortgages of real property of any tenure whether improved or unimproved;
- (c) on deposit with any of the Employers, any bank or building society or any other company partnership or person either with or without security and on such terms as the Trustees in their absolute discretion determine provided that the Trustees may not lend any part of the moneys or assets of the Fund to Members;
- (d) shares, stock, options, debentures, bonds, unsecured notes or other securities of any company or financial institution carrying on business in Australia or elsewhere in the world;

- (e) units or sub-units of any unit trust;
- (f) bills of exchange and other negotiable instruments,

provided that:

- (i) the proportion of the Fund assets invested in any single investment or type of investment is limited to the amount provided for in the Act;
- (ii) investments are made on an arm's length basis unless otherwise permitted under the Act; and
- (iii) the Trustees shall not invest in "in-house" assets within the meaning of the Act if to do so would result in the Fund not being entitled to the maximum income tax concessions available to superannuation funds.

9.2 Variation of Investments

The Trustees shall have power to vary, transpose and replace such investments in such manner as they in their absolute discretion think fit without being responsible for loss occasioned by so varying, transposing or replacing.

9.3 Particular Investments

The Trustees may hold particular investments solely for particular Members or particular categories of Members and shall identify such investments and the Member or category or categories of Members for whom they are held in the records of the Fund. The earnings on such investments shall be credited to the relevant accounts of the Members for whom such particular investments are held and income tax and expenses payable in respect of such investments shall be debited to the relevant Members' accounts.

10. POLICIES OF INSURANCE AND ANNUITIES

10.1 Investment in Policies and Annuities

- (a) The Trustees may in their absolute discretion invest the whole or any part of the amount standing to the credit of a Member in the Member's accounts in the payment of premiums of a policy or policies of life, disability or accident insurance in which the Trustees have a legal or equitable interest or in payment of the consideration for an annuity.
- (b) The Trustees may effect such policies or annuities which such company on such terms and conditions and for such periods as the Trustees think fit.
- (c) The Trustees shall have the power to accept an assignment of a policy of life, disability or accident insurance or of any annuity on such terms as the

Trustees in their absolute discretion determine.

10.2 Payment of Premiums

The premiums for such policies or consideration for such annuities shall be paid for out of the amount standing to the Member's credit in the Employer's Contribution Account and/or the Industrial Award Contribution Account and/or the Vested Employer's Contribution Account and/or the Member's Contribution Account in such proportion as is agreed upon by the Trustees and the Member and in the absence of any such agreement, on such basis as the Trustees determine. The proceeds of such policies shall be credited to the Employer's Contribution Account and/or the Industrial Award Contribution Account and/or the Vested Employer's Contribution Account and/or the Member's Contribution Account in the same proportion as premiums for such policies were paid from those accounts.

10.3 Power to continue Policies or Annuities

The Trustees shall have power to continue such policies or annuities for such periods as the Trustees think fit and to discontinue or surrender such policies or annuities.

11. RECORDS, ACCOUNTS AND AUDITING

11.1 Records

The Trustees shall keep a complete record of all matters essential to the administration of the Fund including:

- (a) a **Minute Book** in which proceedings and resolutions of the Trustees are recorded;
- (b) an **Employer's Contribution Account** for each Employer Sponsored Member (or, where two or more Employers contribute in respect of a Member, an account for that Member in respect of each Employer) in which is recorded:
 - (i) contributions to the Fund by the Employer in respect of that Member pursuant to Rule 7.1;
 - (ii) profits or losses of the Fund credited or debited to such account pursuant to Rules 12.1 and 12.2;
 - (iii) forfeited benefits credited to such account pursuant to Rule 15;
 - (iv) amounts debited to such account to pay premiums on policies of insurance or the consideration for an annuity pursuant to Rule 10.2;
 - (v) the proceeds of policies of insurance credited to such account

11.

pursuant to Rule 10.2;

- (vi) amounts credited to such account pursuant to Rule 32;
- (vii) amounts debited to such account to pay income tax and expenses;
- (viii) amounts which are not required to meet income tax liabilities and which are credited to the account pursuant to Rule 11.1(h);
- (ix) amounts which are credited to such account pursuant to Rule 11.1(i);

(c) an **Industrial Award Contribution Account** for each Member in respect of whom contributions are made pursuant to an industrial award or a prospective award or an industrial agreement, in which is recorded:

- (i) contributions to the Fund in respect of that Member pursuant to an industrial award or agreement;
- (ii) profits or losses of the Fund credited or debited to such account pursuant to Rules 12.1 and 12.2;
- (iii) forfeited benefits credited to such account pursuant to Rule 15;
- (iv) amounts debited to such account to pay premiums on policies of insurance or the consideration for an annuity pursuant to Rule 10.2;
- (v) the proceeds of policies of insurance credited to such account pursuant to Rule 10.2;
- (vi) amounts credited to such account pursuant to Rule 32;
- (vii) amounts debited to such account to pay income tax and expenses;
- (viii) amounts which are not required to meet income tax liabilities and which are credited to the account pursuant to Rule 11.1(h);

(d) a **Member's Contribution Account** for each Member in which is recorded:

- (i) contributions by that Member pursuant to Rule 8.1;
- (ii) profits or losses of the Fund credited or debited to such account pursuant to Rules 12.1 and 12.2;
- (iii) amounts debited to such account to pay premiums on policies of insurance or the consideration for an annuity pursuant to Rule

10.2;

- (iv) the proceeds of policies of insurance credited to such account pursuant to Rule 10.2;
 - (v) amounts credited to such account pursuant to Rule 32;
 - (vi) amounts debited to such account to pay income tax and expenses;
 - (vii) amounts which are not required to meet income tax liabilities and which are credited to the account pursuant to Rule 11.1(h);
- (e) a **Vested Employer's Contribution Account** for each Member in which is recorded:
- (i) contributions made by the Employer in respect of that Member in lieu of the Employer paying the superannuation guarantee charge under the Guarantee Act;
 - (ii) contributions made by the Employer in respect of that Member pursuant to Rule 8.4 plus such other Employer contributions which the Employer wishes to fully vest in the Member;
 - (iii) profits or losses of the Fund credited or debited to such account pursuant to Rules 12.1 and 12.2;
 - (iv) amounts debited to such account to pay premiums on policies of insurance or the consideration for an annuity pursuant to Rule 10.2;
 - (v) the proceeds of policies of insurance credited to such account pursuant to Rule 10.2;
 - (vi) amounts credited to such account pursuant to Rule 32;
 - (vii) amounts debited to such account to pay income tax and expenses;
 - (viii) amounts which are not required to meet income tax liabilities and which are credited to the account pursuant to Rule 11.1(h);
- (f) a **Revenue Account** to which shall be credited all income from investments, profits earned and capital gains realised during each financial year and to which shall be debited all expenses (other than premiums on policies of insurance), outgoings and losses incurred during each financial year other than taxes payable pursuant to Rule 47;
- (g) a **Forfeited Benefits Reserve Account** to be credited with amounts in

accordance with Rule 15 and to which shall be debited any amounts which are applied in accordance with Rule 15;

- (h) a **Taxation Reserve Account** to which shall be credited amounts set aside by the Trustees to pay income tax payable in respect of contributions to the Fund and earnings of the Fund and to which shall be debited income tax paid and amounts which the Trustees determine from time to time to transfer to the Members' accounts in proportion to the amounts standing to the credit of those accounts at that time or on such other basis as the Trustees consider to be equitable. The balance in the Taxation Reserve Account shall be transferred to the Members' accounts in accordance with this paragraph prior to the winding-up of the Fund;
- (i) a **Reserve Account** to which shall be credited profits in accordance with Rules 12.1 and 12.2 and to which shall be debited amounts which the Trustees determine from time to time to transfer to the Employer's Contribution Accounts in proportion to the amounts standing to the credit of those accounts at that time or on such other basis as the Trustees consider to be equitable. The amount in the Reserve Account shall be transferred to the Members' Employer's Contribution Accounts in accordance with this paragraph prior to the winding-up of the Fund.

11.2 Auditor

The Trustees shall appoint an auditor or a registered company auditor (as required by the Act) to conduct an annual audit of the records and accounts of the Fund and certify to the Trustees whether the Fund complies with the standards imposed under the Act.

11.3 Compliance with Act

The Trustees shall comply with such reporting standards and shall maintain such records as are required under the Act.

12. VALUATIONS AND ALLOCATION OF PROFITS OR LOSSES

12.1 Valuation and Allocation of Profits or Losses

- (a) After the last day of the financial year of the Fund, the profits or losses arising from the investment of the assets of the Fund (other than life insurance policies or annuities) during the preceding financial year; or
- (b) on the winding-up of the Fund or whenever the Trustees think it necessary, the profits or losses arising from the investment of the assets of the Fund (other than life insurance policies or annuities) during the current financial year,

and in any case less such provision for depreciation, liabilities, losses and taxation as

the Trustees in their absolute discretion deem prudent, shall be credited or debited by the Trustees to the Employer's Contribution Accounts and the Members' Vested Employer's Contribution Accounts and the Members' Contribution Accounts and the Members' Industrial Award Contribution Accounts in proportion to the amount standing to the credit of such accounts at the beginning of the annual accounting period for which the accounts are being prepared. The Trustees may, in their absolute discretion, credit such proportion as they think fit of the amount that would otherwise be credited to the Employer's Contribution Accounts to the Reserve Account.

12.2 Valuation of Assets of the Fund

- (a) The Trustees may make a valuation of the assets of the Fund (other than policies of life insurance and annuities) whenever they think it necessary in such manner as the Trustees determine and deduct therefrom the amount of outstanding liabilities and expenses, the estimated costs of realising the investments and such provisions for taxation as the Trustees in their absolute discretion deem prudent.
- (b) If the net value of the assets of the Fund determined in accordance with this Rule exceeds or is less than the aggregate of the net amount standing to the credit of all the Employer's Contribution Accounts and the Members' Contribution Accounts and the Members' Vested Employer's Contribution Accounts and the Industrial Award Contribution Accounts at that date the Trustees shall credit the surplus or debit the deficit to the Employer's Contribution Accounts and the Members' Contribution Accounts and the Members' Vested Employer's Contribution Accounts and the Industrial Award Contribution Accounts in proportion to the amounts standing to their respective credits or on such other basis as the Trustees consider to be equitable.
- (c) The Trustees may, in their absolute discretion, credit such proportion as they think fit of the amount that would otherwise be credited to the Employer's Contribution Accounts to the Reserve Account.

12.3 Interim Earning Rate

The Trustees may allocate to the Member's accounts of a Member, in respect of whom a benefit is being paid, an interim earning rate determined by the Trustees to apply from the date on which an allocation was last made under Rule 12.1 or 12.2 to the date on which the benefit is being paid.

12.4 Requirements of the Act

Notwithstanding Rules 12.1, 12.2 and 12.3, the Trustees shall only credit an amount to a Member's account if to do so would not breach the requirements of the Act in order for the Fund to obtain the maximum income tax concessions available to superannuation funds.

13. **EXCESSIVE BENEFITS**

- 13.1 If, at any time, in the opinion of the Trustees, a Member's Benefit exceeds or would be likely to exceed the maximum reasonable benefit for the purposes of the Act, the Trustees may take such of the following actions which they, in their absolute discretion, determine:
- (a) decline to accept any further contributions for the benefit of that Member;
 - (b) establish a separate excessive benefits fund of which the Trustees shall be the trustees and which is subject to the same trusts and powers contained in this Trust Deed (other than this Rule);
 - (c) transfer to the separate fund established under paragraph (b) of this Rule the amount which the Trustees determine represents the excess over the maximum reasonable benefit for the purposes of the Act.
- 13.2 The Trustees may accept a transfer from the separate fund referred to in Rule 13.1(b) of any amount which will not cause the benefit of the Member concerned to exceed the maximum reasonable benefit for the purposes of the Act.
- 13.3 On the happening of any of the events referred to in this Trust Deed giving rise to an entitlement to be paid a benefit, the entitlement to any part of the Member's Benefit which exceeds the maximum reasonable benefit for the purposes of the Act, shall be paid to the Member or the Dependants of a deceased Member, as the case may be.

14. **FORFEITURE OF BENEFITS**

14.1 **Forfeiture of Benefits**

A Member or former Member shall cease to be presently or presumptively entitled to the Member's Benefit at the discretion of the Trustees if:

- (a) in their opinion he has become bankrupt or insolvent or has attempted to assign, alienate, charge or encumber all or part of his Member's Benefit;
- (b) he is declared mentally ill or becomes liable to have his affairs dealt with under the laws relating to mental health; or
- (c) his whereabouts cannot be traced by the Trustees for a period of 5 years after making reasonable enquiries.

14.2 **Application of Vested Forfeited Benefits**

- (a) On the happening of any of the events referred to in clause 14.1, the Trustees shall apply the amount so forfeited that stood to the credit of the Member's Industrial Award Contribution Account and the Member's

Contribution Account and the Member's Vested Employer's Contribution Account and any other Vested Benefit for the benefit of the Member or such of the Member's Dependants as the Trustees, in their absolute discretion, determine.

- (b) In order to relieve hardship only, the Trustees may in their absolute discretion, apply the amount so forfeited that stood to the credit of the Member's Employer's Contribution Account for the maintenance or support of the Member or such of his Dependants as the Trustees in their discretion determine. Such application of the Member's Benefit shall be a discharge to the Trustees for the payment thereof.

15. ALLOCATION OF FORFEITED BENEFITS

- (a) The amount of any forfeited benefit in the Fund by reason of the operation of this Trust Deed which is not applied in accordance with Rule 14.2 shall be credited to the Forfeited Benefits Reserve Account established in accordance with the provisions of Rule 11.1(g) and shall be applied within 6 months after the end of each financial year or within such other period which is permitted under the Act:
- (i) to the provision of the benefits that other Members or their Dependants have rights to receive from the Fund; or
 - (ii) to the provisions for other Members or their Dependants who have rights to receive benefits from the Fund of additional benefits on a basis that the Commissioner regards as reasonable having regard to all the circumstances; or
 - (iii) for any other purpose approved in writing by the Commissioner; or
 - (iv) in such other manner that is permitted or required under the Act, in order for the Fund to obtain income tax concessions.
- (b) If the Trustees decide to pay an amount standing to the credit of the Forfeited Benefits Reserve Account to the Employer, not being a payment reimbursing the Employer for expenses incurred on behalf of the Fund, the Trustees shall, if required by the Act in order for the Fund to obtain the maximum income tax concessions available to superannuation funds, give the Members a written notice not less than 3 months before the day when the payment is proposed to be made to the Employer.

16. COMMON LAW RIGHTS OF MEMBERS

The provisions of this Trust Deed shall not in any way affect the right of a Member or his personal representatives or any other person to claim compensation or damages

under an Act of Parliament or at common law in the event of the Member being injured or dying as a result of an event arising out of and in the course of his employment.

17. LOANS TO MEMBERS

The Trustees may only make loans or advances to a Member in circumstances where the Fund will, if such loans or advances are made, be entitled to the maximum income tax concessions available to superannuation funds.

18. MEMBER'S RIGHTS TO BENEFITS AND STATEMENTS

- (a) A Member shall have no right to or interest in his Member's Benefit except as provided in this Trust Deed.
- (b) The rights of the Members and their Dependants to receive benefits from the Fund shall be those set out in this Trust Deed.
- (c) The rights of the Members and their Dependants to receive the benefits payable under this Trust Deed shall be fully secured within the meaning of the Act.
- (d) The Trustees shall provide the Members and Prospective Members, or cause the Members or Prospective Members, to be provided with such statements, notices, documents and information concerning the administration of the Fund as is required by the Act, in order for the Fund to obtain the maximum income tax concessions available to superannuation funds.
- (e) If the Trustees cause someone else to provide a Member or Prospective Member with a statement, notice, document or information, the Trustees shall obtain from that person a written declaration stating that the person has provided the Member or Prospective Member with the statement, notice, document or information, as the case may be, as required by the Act in order for the Fund to obtain the maximum income tax concessions available to superannuation funds.

19. EMPLOYER'S RIGHT TO DETERMINE EMPLOYMENT, REQUEST AN AUDIT, EXERCISE A LIEN OVER A MEMBER'S BENEFIT AND BE PROVIDED WITH DOCUMENTS

19.1 No prejudice to Employer's Powers

Nothing herein contained shall restrict the right of the Employer to dismiss or otherwise terminate the employment of a Member or remove a director of the Employer from office and being a Member shall not be taken as guaranteeing continuation of employment or as a director.

19.2 Work-Related Claim

The fact of being a Member shall not be used as a ground for claiming or increasing damages in a claim by the Member for alleged wrongful termination of employment or for claiming the payment of any amount on retrenchment.

19.3 Auditors

The Trustees shall, whenever requested to do so by the majority of the Employers or a majority of the Non-Employer Sponsored Members, appoint auditors approved by the Employers or a majority of the Non-Employer Sponsored Members (as the case may be) to report on the affairs of the Fund and such report shall be produced to the Employers or a majority of the Non-Employer Sponsored Members (as the case may be).

19.4 Documents

The Trustees shall provide the Employer, on request, with a copy of this Trust Deed and with such other documents as are required by the Act to be provided in order for the Fund to obtain the maximum income tax concessions available to superannuation funds.

19.5 Employer's Lien

Notwithstanding anything contained in the Trust Deed to the contrary, the Employer of an Employer Sponsored Member shall, at the date of termination of employment of a Member, have a lien over the Member's Employer's Contribution Account for:

- (a) all amounts owed by the Member to the Employer; and
- (b) any loss or expense incurred by the Employer in consequence of the Member's fraud, dishonesty or other misconduct including the costs to the Employer of recovering such amount,

provided that the lien shall not extend to any Preserved Benefit or Vested Benefit.

19.6 Certificate to be Conclusive Evidence

A certificate signed by the Employer or by the Secretary or Accountant for the time being of the Employer stating the amount of the lien over the Member's Employer's Contribution Account claimed by the Employer shall be conclusive evidence in the hands of the Trustees against all claimants of the amount owing to the Employer under Rule 19.5 and shall be sufficient authority to the Trustees to pay that amount to the Employer.

19.7 **Repayment**

An Employer to whom an amount is paid under Rule 19.5 shall repay to the Trustees, on demand, an amount which the Trustees determine the Employer was not entitled to.

20. **TRUSTEES: APPOINTMENT AND REMOVAL**

20.1 **Appointment of Trustees**

- (a) The Trustees shall have the power by deed or by an oral or written resolution to appoint a new or additional Trustee or Trustees.
- (b) If there are no Trustees, a majority of the Participating Employers shall appoint a new Trustee or Trustees or, if there are no Participating Employers, a majority of the Members shall appoint a new Trustee or Trustees.

20.2 **Ceasing to Act as Trustee**

The office of a Trustee shall become vacant if:

- (a) he resigns his office;
- (b) he dies;
- (c) he becomes bankrupt or makes an assignment to or composition with his creditors;
- (d) he is declared mentally ill or becomes liable to have his affairs dealt with under the laws relating to mental health; or
- (e) being a company a resolution is passed or a petition is presented for its winding up or liquidation (except for the purpose of amalgamation or reconstruction or some similar purpose) or a receiver of its assets is appointed.

20.3 **Employers or Members may remove a Trustee or Trustees**

Unless there is an equal number of Employer Trustees and Member Trustees appointed pursuant to Rule 20.5, a majority of the Participating Employers or, if there are no Participating Employers, a majority of the Members may, by resolution or in writing remove any Trustee from office and may, by resolution or in writing, appoint any replacement Trustee or additional Trustees.

20.4 Trustee Company placed into Receivership

If a company is at the time of being placed in receivership or liquidation the sole Trustee of the Fund the receiver or liquidator shall have the power to appoint a new Trustee or Trustees.

20.5 Member Trustees: Appointment and Removal

If the Act requires it, in order for the Fund to obtain maximum income tax concessions, or if the Participating Employer or if there is more than one Participating Employer a majority of the Employers decide at any time that there should be Trustees representing the Members (in which case they shall advise the existing Trustees in writing), there shall be in addition to any independent Trustee appointed pursuant to Rule 20.8 a total number of Trustees of an even number determined by the Participating Employer or Employers, one-half of whom shall be Employer representatives (the "Employer Trustees") and one-half of whom shall be Member representatives (the "Member Trustees"). The Member Trustees shall be elected, in the discretion of the Participating Employer or Employers, either at a meeting called in accordance with Rule 20.5(a) or by a poll conducted in accordance with Rule 20.5(e) in respect of the appointment and removal of Member Trustees:

- (a) a meeting of Members shall be called by the Trustees in accordance with Rule 20.5(b) in relation to the election or removal of Member Trustees or for any other purposes.
- (b) a meeting of Members for the purposes of Rule 20.5(a) shall be called as follows:
 - (i) the Trustees shall circulate a notice of the meeting to the Members by either handing to each Member personally or by sending to the Member at the business or private address of the Member last known to the Trustees, notice of the meeting provided that accidental or unintentional failure to notify any Member shall not invalidate any meeting of Members;
 - (ii) a meeting of Members shall not be held prior to the expiration of 2 weeks from the date of giving or mailing the notice of the proposed meeting;
 - (iii) the notice given to Members shall stipulate the time and place of such meeting, the reason for calling it and provide an agenda for the meeting;
 - (iv) meetings may be held at more than one location.
- (c) where the purpose of the meeting is to elect one or more Member Trustees:

- (i) the notice of the meeting shall call for nominations to fill any office of Trustee;
 - (ii) any nomination of a Member to act as a Member Trustee must be signed by the nominated Member and by the proposer and seconder of such Member and be forwarded to the Trustees no later than the appointed time of the meeting.
- (d) the following procedure shall apply at the meeting of Members:
- (i) if the purpose of the meeting is to elect Member Trustees, and there have been no nominations, the meeting shall be adjourned for a period of 3 weeks and fresh notice to Members shall be given in accordance with the provisions of this Rule;
 - (ii) the Trustees shall appoint the chairman of the meeting;
 - (iii) a quorum shall consist of one half of the Members provided that if the meeting is being held at more than one location, there shall be a quorum if one-half of the Members are present at the various locations but a Member shall not be entitled to attend the meeting at more than one location;
 - (iv) questions to be decided at the meeting shall be decided by simple majority of the Members present and voting;
 - (v) where a purpose of the meeting is the election of one or more Member Trustees, the chairman shall distribute to each Member present at the meeting a ballot paper listing in alphabetical order the names of Members nominated as Member Trustees;
 - (vi) the Members present at the meeting may record one vote for each vacancy in the office of Member Trustees;
 - (vii) the Member who receives the greatest number of votes shall become a Member Trustee;
 - (viii) where more than one Member Trustee is to be elected, the Member who receives the next greatest number of votes after the election of a Member Trustee shall be elected a Member Trustee until all vacant positions have been filled;
 - (ix) where not all of the vacancies of the office of Member Trustees are filled in accordance with the foregoing procedure, the elected Member Trustee or Trustees shall appoint the other Member Trustees;

- (x) the Trustees shall advise the Members by notice in writing of the names of the Members appointed as Member Trustees.
- (e) where the Participating Employer or Employers determine that an election of Member Trustees shall be conducted by a poll, the following procedure shall apply:
- (i) the Trustees shall circulate a notice to the Members by either handing it to each Member personally or by sending it to the Member at the address of the Member last known to the Trustees. The notice shall call for nominations to fill any office of Member Trustee and shall state the date by which such nominations must be received by the Trustees and shall state that any nomination of a Member to act as a Member Trustee must be signed by the nominated Member and by the proposer and seconder of such Member;
 - (ii) if no nominations have been received by the Trustees by the date referred to in sub-paragraph (i), the Trustees shall circulate a fresh notice in accordance with the provisions of this Rule;
 - (iii) after the date for receipt of nominations has passed, the Trustees shall distribute a ballot paper to each Member by either handing it to each Member personally or by sending it to the Member at the address of the Member last known to the Trustees. The ballot paper shall list in alphabetical order the names of Members nominated for election as Member Trustees. A note shall be included on the ballot paper requesting the Members to record one vote for each vacancy in the office of Member Trustee and specifying the date by which the ballot paper must be returned to the Trustees;
 - (iv) the Member who receives the greatest number of votes shall become a Member Trustee;
 - (v) where more than one Member Trustee is to be elected, the Member who receives the next greatest number of votes after the election of a Member Trustee shall be elected a Member Trustee until all vacant positions have been filled;
 - (vi) where not all of the vacancies of the office of Member Trustees are filled in accordance with the foregoing procedure, the elected Member Trustee or Trustees shall appoint the other Member Trustees;
 - (vii) the Trustees shall advise the Members by notice in writing of the names of the Members appointed as Member Trustees.

- (f) any Member Trustee may be removed by resolution of Members passed at a meeting of Members convened and conducted in accordance with the provisions of this Rule.
- (g) a Member Trustee shall cease to be a Trustee on the earlier of the day on which he ceases to be a Member or the day that he ceases to be an Employee or on the happening of any of the events referred to in Rule 20.2.

20.6 Employer Trustees

Employer Trustees may be appointed to office and removed from office by the Participating Employer or if there is more than one Participating Employer, by majority, at a meeting of representatives of the Participating Employers.

20.7 Existing Trustees to Resign

If an equal number of Member Trustees and Employer Trustees are being appointed in accordance with Rules 20.5 and 20.6 hereof the existing Trustees shall resign unless they are appointed as Employer or Member Trustees. If they fail to resign, they shall be removed as Trustees by the Participating Employers in accordance with Rule 20.3.

20.8 Independent Trustees

If either the Employer Trustees or the Member Trustees advise the remaining Trustees that they require the appointment of an independent Trustee, the Trustees shall appoint as a Trustee a person or company that the Trustees regard as being independent of the Employers and the Members and their representatives. An independent Trustee so appointed may be removed from office by a resolution of the Trustees and shall cease to be a Trustee if he resigns by giving notice to the other Trustees or on the happening of any of the events referred to in paragraphs (b), (c), (d) or (e) of Rule 20.2.

20.9 Vacancies

Any vacancy in the office of a Trustee shall, where such vacancy is required to be filled, be filled within 60 days of the date on which the vacancy occurred provided that the failure to fill a vacancy shall not invalidate any subsequent appointment.

21. POWERS OF TRUSTEES

The Trustees shall have complete management and control of the Fund and shall, in addition to the powers otherwise granted herein and conferred upon trustees by statute and general law, exercise any of the following powers:

- (a) to pay out of the Trust Fund all costs, charges and taxes incidental to the administration, management and winding up of the Fund;
- (b) to pay out of the Trust Fund expenses incurred in:

- (i) providing for the secretarial work required for proper record keeping and administration to be performed;
 - (ii) having the accounts of the Fund audited;
 - (iii) having taxation returns and returns to Government authorities prepared; and
 - (iv) engaging such persons as the Trustees considers appropriate for the proper administration and maintenance of records of the Fund;
- (c) to enter into such contracts and deeds on behalf of the Fund as the Trustees consider necessary for the administration of the Fund;
 - (d) to delegate (by power of attorney or otherwise) to any person or company any of the powers duties and discretions vested in the Trustees on such terms and conditions as the Trustees in their absolute discretion think fit and the Trustees shall not be responsible for any loss incurred as a result of such delegation;
 - (e) to take and act upon the advice of a barrister, solicitor, accountant, actuary or superannuation consultant in relation to the administration of the Fund and pay out of the Trust Fund the fees payable to such advisers;
 - (f) to commence, carry on and defend any legal proceedings that the Trustees in their absolute discretion think necessary for the proper administration of the Fund or to protect the rights of Members;
 - (g) to open and maintain such bank accounts as the Trustees think fit;
 - (h) to sell the assets of the Fund by private sale or public auction, for cash or on terms and in such other manner and on such other terms as the Trustees see fit;
 - (i) to borrow any sum of money for the purposes of obtaining temporary finance (as defined in the Act) and to secure the repayment thereof in such manner and upon such terms and conditions and at such rate of interest as the Trustees think fit and in particular by charging or mortgaging all or any of the assets of the Fund and no lender shall be concerned to enquire as to whether the necessity for any such borrowing has arisen or as to the purpose for which it is required or as to the application of money borrowed;
 - (j) generally to do all such things and perform such acts as the Trustees in their absolute discretion consider appropriate in the administration of the Fund and the performance of its obligations under this Trust Deed.

22. TRUSTEES : EXERCISING DISCRETIONS AND DISCRIMINATION LAW

In administering the Fund and in exercising the trusts, powers and authorities vested in them herein the Trustees shall have an absolute and uncontrolled discretion at all times to exercise or refrain from exercising such trusts, powers and authorities provided however that the Trustees shall not discriminate against any person on the grounds of that person's race, sex or marital status in such a manner as to infringe any law of the Commonwealth or a State or Territory in respect of discrimination.

23. LIABILITY OF TRUSTEES

A Trustee shall not be liable for any loss that is:

- (a) not attributable to his own dishonesty;
- (b) attributable to actions or defaults of a co-trustee;
- (c) attributable to any action taken in conformity with the decisions of the Trustees hereunder; or
- (d) attributable to the neglect or default of an agent employed in good faith by the Trustees.

24. TRUSTEES' AND MEMBERS' INDEMNITY

Each of the Trustees, if there is more than one, and Members shall be indemnified against all liabilities incurred by them as a result of any action taken or omitted in administering the Fund and shall have a lien on the Fund for such indemnity and shall not be liable for any amount to which such indemnity does not extend.

25. TRUSTEES' MEETINGS

- (a) The Trustees, if there is more than one, may meet together to dispose of business concerned with the administration of the Fund, determine a quorum, adjourn the meetings and otherwise regulate their meetings as they see fit. Two-thirds of the Trustees shall be a quorum unless there is only one Trustee in which case a quorum shall be that Trustee.
- (b) A meeting of the Trustees at which a quorum is present shall be competent to exercise the trusts, powers, authorities and discretions vested in the Trustees by this Trust Deed.
- (c) The Trustees may elect a Chairman of each meeting.
- (d) A resolution of the Trustees shall be valid and binding if two-thirds of the total number of Trustees have voted in favour of it.

- (e) The Trustees shall keep minutes of their resolutions and proceedings in a book provided for that purpose.
- (f) A resolution in writing, signed by two-thirds of the Trustees, shall have the same effect and validity as a resolution of the Trustees passed at a duly convened meeting.

26. SIGNING OF DOCUMENTS BY TRUSTEES

Any 2 of the Trustees, where there are more than 2 Trustees, are hereby authorised on behalf of all the Trustees to execute, sign, enter into and acknowledge all cheques, negotiable instruments, agreements, contracts, writings, proposals for insurance, transfers of shares, policies of insurance or units in a unit trust and all other documents as validly and effectually as all the Trustees could do.

27. REMUNERATION OF TRUSTEES

The Trustees shall be entitled to be paid and retain out of the Trust Fund such remuneration as it considers reasonable.

28. REMUNERATION OF PROFESSIONAL PERSONS

Any person who is an accountant, actuary, solicitor, barrister or other professional person and is also a Trustee or a director of a company acting as Trustee, who is called upon or whose firm is called upon to perform any service in relation to the Fund shall be entitled to make the same professional charges for such service that he would make had he not been a Trustee or a director of a company acting as Trustee hereof.

29. TRUSTEES AS MEMBER'S ATTORNEY

Each Member hereby irrevocably appoints the Trustees as his attorney to execute and sign all such deeds and instruments and do all such things the Trustees consider necessary or desirable in administering the Fund.

30. TRUST DEED AVAILABLE FOR INSPECTION

- (a) A copy of this Trust Deed shall be kept by the Trustees and be available for inspection by any Member at all reasonable times.
- (b) If required by the Act, in order for the Fund to obtain the maximum income tax concessions available to superannuation funds, the Trustees shall provide a Member with a copy of this Trust Deed.

31. VARIATION OF TRUST DEED

31.1 Variation of Trust Deed

The Trustees may at any time and from time to time either by deed executed by the Trustees or by oral resolution, vary, add to or rescind all or any of the provisions from time to time of this Trust Deed and the new provisions so made shall have the same validity and effect as if they had been originally contained herein and shall be subject to being varied, added to or rescinded in like manner provided that no such variation, addition or rescission shall have the effect of:

- (a) reducing the amount of a benefit calculated on the basis of contributions to the Fund and earnings on those contributions, that has accrued, or become payable to a Member, before the date of the variation, addition or rescission; or
- (b) reducing the amount of a benefit, other than a benefit referred to in paragraph (a) of this Rule, that is, or may become, payable in relation to a period before the date of the variation, addition or rescission;

and the benefits that have accrued, or become payable, to or in respect of a Member shall not otherwise be reduced, unless:

- (i) the reduction is required because of, and does not exceed the value of, any tax payable on the taxable income of the Fund; or
- (ii) the reduction is required only to enable the Fund to comply with the regulations prescribed under the Occupational Superannuation Standards Act, 1987 (C'th); or
- (iii) the Member so affected approves in writing of the reduction; or
- (iv) the Commissioner approves in writing of the reduction.

31.2 Notification to Members

As soon as practicable after a provision of the Trust Deed is varied, added to or rescinded, the Trustees shall give to a Member whose entitlements or rights are affected by the variation, addition or rescission, written advice that explains the nature and purpose of the variation, addition or rescission and the effect of the variation, addition or rescission on the Member's entitlements or rights.

32. TRANSFER OF BENEFIT FROM ANOTHER FUND

32.1 Transfer from another Fund

Where a Member requests that an amount standing to his credit or a policy of insurance in another superannuation fund or approved deposit fund be transferred to the Fund, the Trustees may accept the transfer of such amount or policy to the credit of the Member's Contribution Account provided that if the said amount or policy is being transferred from a superannuation fund conducted by or contributed to by an

Employer or an associate of an Employer, the said amount or policy shall be credited to the Member's Contribution Account and/or the Employer's Contribution Account and/or the Member's Vested Employer's Contribution Account and/or the Industrial Award Contribution Account in the same proportion as such amount or policy stood to the credit of the member's contribution account and/or the employer's contribution account and/or the member's vested employer's contribution account and/or the industrial award contribution account (or the equivalent thereof) in the previous superannuation fund or provident fund or on such other basis as the Trustees and the Member agree upon.

32.2 Preserved Benefits

If the benefit or policy which is transferred is a Preserved Benefit, the benefit and accretions thereto shall not, notwithstanding any other provisions in this Trust Deed, be paid prior to the Member retiring from the workforce and attaining the age of 55, or such other age prescribed in the Act as being the preservation age for that Member, except in the event of the Member's death or permanent incapacity for work or in such other circumstances as may be allowed under the Act.

33. TRANSFER OF BENEFIT TO ANOTHER FUND

33.1 Transfer to Another Fund

Subject to clause 33.2, the Trustees may, on receiving the written request of a Member, transfer the whole or part of the Member's Benefit to the trustees of another superannuation fund which the Trustees are satisfied complies with the Act or provided termination of employment has occurred, transfer the benefit to an approved deposit fund which the Trustees are satisfied complies with the Act. The receipt of the trustee of such fund shall be a complete discharge to the Trustees in respect of any liability to that Member and persons claiming through him in relation to the amount so transferred.

33.2 Preserved Benefits

A transfer of any Preserved Benefit pursuant to clause 33.1 shall only be made if it is a condition of such transfer that the amount of any Preserved Benefit transferred shall not be paid from the transferee fund prior to the Member retiring from the workforce and attaining age 55, or such other age prescribed in the Act as being the preservation age for that Member, except in the event of death or permanent incapacity for work or in such other circumstances as are permitted under the Act and if it is a condition of such transfer that the Preserved Benefit will not be transferred from the transferee fund except on the aforesaid terms and conditions.

33.3 Application of Rule 29 at time of Termination of Employment

At the time of a Member's termination of employment, the Trustees may, in their absolute discretion, as the Member's Attorney, exercise the Power of Attorney granted

by Rule 29 to apply for membership by the Member of another superannuation fund or an approved deposit fund nominated by the Member in either his application for membership or in another document within sixty (60) days of the Member's termination of employment, and to transfer the benefit payable to such fund but, if the Member has not nominated a fund to which the transfer can be made either in his application for membership or in another document within sixty (60) days of his termination of employment or if the Trustees, in their absolute discretion, are of the opinion that the fund nominated by the Member is not available or appropriate for such a transfer to be made to it, the Trustees may exercise the Power of Attorney granted by Rule 29 to apply for membership by the Member of another superannuation fund or an approved deposit fund selected by the Trustees and to transfer the benefit payable to the fund so selected by the Trustees.

34. BENEFITS PAYABLE IN AUSTRALIAN CURRENCY

The benefits payable hereunder shall be calculated in and be payable in Australian currency.

35. ADMISSION OF PARTICIPATING EMPLOYERS TO FUND

The Trustees may admit a Participating Employer as a contributor to and a participant in the Fund on completion of Appendix "C" or such other form of application as the Trustees decide upon. A Participating Employer so admitted shall be bound by the provisions of this Trust Deed in the same way the Participating Employer would be if it had been an original party to the Trust Deed.

36. WITHDRAWAL OF PARTICIPATING EMPLOYERS FROM FUND

- (a) A Participating Employer shall cease to be a contributor to and a participant in the Fund upon:
 - (i) giving written notice to the Trustees of the intention to cease to be a Participating Employer; or
 - (ii) becoming bankrupt or being placed in liquidation or receivership or on ceasing to carry on a business.
- (b) Employees of a Participating Employer that has ceased to be a participant in the Fund shall continue to be Members until such time as their employment is terminated. No benefit shall be paid to such Members during the period that their employment by the Participating Employer continues unless such payment is permitted by the Act or unless the consent of the Commissioner has been obtained in writing.
- (c) The Trustees can if they so decide accept contributions from Employees of an Employer that has ceased to be a participant in the Fund as Non-Employer Sponsored Members.

37. CRYSTALLISATION OF FUND

In the event of all of the Participating Employers and all of the Members ceasing to make contributions to the Fund, the Fund shall thereupon crystallise and be administered by the Trustees until dissolved in accordance with Rule 38.

38. DISSOLUTION OF THE FUND

38.1 Dissolution of the Fund

When the last remaining Member ceases to be a Member, the Fund shall be wound up and the Trustees shall, subject to the provisions of the Trust Deed, pay or transfer to the Members or former Members, benefits in accordance with the provisions of the Trust Deed, after deducting from the assets of the Fund the cost of administering and winding up the Fund. Such payment or transfer shall be accepted by Members and former Members in full discharge of all claims in respect of the Fund.

38.2 Benefits paid in accordance with Trust Deed

Notwithstanding anything contained in Rule 38.1, the Trustees shall not pay or transfer the benefit to a Member except in accordance with the provisions of the Trust Deed.

38.3 Amount remaining in the Fund

If any amount remains in the Fund, after all the Members' entitlements to benefits have been paid, the amount so remaining shall be paid to the former Members or their Dependants or the Participating Employers in such proportions as the Trustees consider to be equitable.

38.4 General

The trusts constituted by this Trust Deed shall, unless previously terminated in accordance with Rule 38.1, endure during the life of the survivor of all the lineal descendants of His Late Majesty King George V living at the date of this Trust Deed and for 21 years after the death of such survivor and for such further period (if any) as may be allowed by law for the duration of the trusts hereby established provided that this provision shall not apply where the laws of the State or Territory of Australia applicable to the Trust Deed provide that the rule against perpetuities shall not apply.

PAYMENT OF BENEFITS

39. BENEFIT PAYABLE ON RETIREMENT OR DEATH AFTER RETIREMENT

39.1 Payment at Age 65 - Employer Sponsored Member

The amount of the Member's Benefit shall, subject to the provisions of the Trust Deed, be paid to an Employer Sponsored Member upon his retirement from

employment at the Retiring Age or if he does not then retire, upon his subsequent retirement. The Employer Sponsored Member's Benefit shall also be paid to the Member on attaining the Retiring Age if he continues to be employed by the Employer after attaining the Retiring Age but the number of hours worked are insufficient for the Member to be considered to be employed by his Employer on a Part-Time Basis. Notwithstanding Rules 39.3 and 39.4, the Member's Benefit shall be paid to an Employer Sponsored Member after attaining age 65 if he requests payment of his benefit despite the fact he continues in employment.

39.2 Payment upon Retirement - Non-Employer Sponsored Member

The amount of the Member's Benefit shall, subject to the provisions of the Trust Deed, be paid to a Non-Employer Sponsored Member upon his retirement from the workforce after attaining age 55, or such other age prescribed in the Act as being the preservation age for that Member. The Member's Benefit shall also be paid to a Non-Employer Sponsored Member on attaining age 65 if he continues to be Employed or Self-Employed (whichever is applicable) after that age but the number of hours worked are insufficient for the Member to be considered to be Employed or Self-Employed on a Part-Time Basis (whichever is applicable). Notwithstanding Rules 39.3 and 39.4, the Member's Benefit shall be paid to a Non-Employer Sponsored Member after attaining age 65 if he requests payment of his benefit despite the fact he continues to be Employed or Self-Employed.

39.3 Continuation of Employment on a Part-Time Basis after age 65

In the event that the Member is and continues to be Employed or Self-Employed on a Part-Time Basis after age 65, the Member's Benefit shall be paid to the Member upon the earlier of his attaining age 70 or upon his ceasing to be Employed or Self-Employed on a Part-Time Basis or a Full-Time Basis.

39.4 Continuation of Employment on a Full-Time Basis after age 65

In the event that the Member is and continues to be Employed or Self-Employed on a Full-Time Basis after age 65, the Member's Benefit shall be paid to the Member upon his subsequent retirement from the workforce provided that if the Member, after age 65, continues to be Employed or Self-Employed on a Part-Time Basis after having ceased to be continuously Employed or Self-Employed on a Full Time Basis, then Rule 39.3 shall apply.

39.5 Member to Inform Trustees

A Member shall inform the Trustees as soon as practicable after he ceases:

- (a) to be Employed on a Part-Time Basis after age 65;
- (b) to be Employed on a Full-Time Basis after age 65;

- (c) to be Self-Employed on a Part-Time Basis after age 65; or
- (d) to be Self-Employed on a Full-Time Basis after age 65.

39.6 **Benefit: Mode of Payment**

Subject to Rule 39.7, the benefit payable under this Rule 39 shall, in the discretion of the Trustees, be paid in a lump sum or by way of pension or annuity unless the benefit exceeds the maximum reasonable pension benefit for the purposes of the Act, in which case the excess benefit shall, if required by the Commissioner, be paid by way of a lump sum. A pension or annuity shall not exceed 75% (or such other percentage permitted under the Act) of Highest Average Salary and shall comply with the requirements of the Act for the Fund to obtain the maximum income tax concessions.

39.7 **Death after Retiring Age**

In the event of an Employer Sponsored Member's death on or after attaining the Retiring Age or in the event of a Non-Employer Sponsored Member's death after his retirement from employment or self-employment (whichever is applicable), the Member's Benefit or the balance thereof shall, subject to Rules 39.8 and 39.9, be paid or applied by the Trustees in accordance with the provisions of Rule 40.

39.8 **Benefit Payable to Spouse on Death of Pensioner**

- (a) On the death of a Member to whom a pension is being paid pursuant to Rule 39.6 and who is survived by a spouse, an annual pension equal to the annual pension payable to the deceased Member at the date of death shall be paid to the deceased Member's spouse for the balance of the 10 year period which commenced on the first day of the period to which the first pension payment to the deceased Member by the Trustees relates (if such 10 year period has not expired at the date of death).
- (b) At the expiry of the said 10 year period, an annual pension not exceeding 85% (or such other amount permitted under the Act) of the annual pension payable to the deceased Member's spouse shall be paid to the deceased Member's spouse for life (provided the Member's Benefit is not exhausted in that period).
- (c) If, at the date of the Member's death, 10 years have elapsed from the first day of the period to which the first pension payment was made to the deceased Member relates, an annual pension not exceeding 85% (or such other amount permitted under the Act) of the annual pension payable to the deceased Member at the date of death, shall be paid to the deceased Member's spouse for life (provided the Member's Benefit is not exhausted in that period).
- (d) A pension paid under this Rule 39.8 shall commence on the date of the

Member's death and shall comply with the requirements of the Act for the Fund to obtain the maximum income tax concessions.

39.9 **Payment to Member's Dependants**

- (a) In the event of the death of a retired Member who does not have a spouse or in the event of the death of a Member's spouse to whom a pension was payable under Rule 39.8, the balance of the Member's Benefit shall be paid in a lump sum to such of the Member's Dependants as the Trustees, in their absolute discretion, determine.
- (b) If the payment of part or all of such benefit does not comply with the requirements of the Act for the Fund to obtain the maximum income tax concessions the proportion of the benefit that does not so comply shall be treated as a forfeited benefit and shall be applied in the manner stated in paragraph (c) of this Rule.
- (c) If the Trustees are unable to establish within 6 months of the death of the Member or the Member's spouse (whichever occurs last) that there are any Dependants, the benefit payable under this Rule 39.9 shall be paid to the Member's Legal Personal Representative but, if a grant of Probate or Letters of Administration in respect of the estate of the Member is not made within 3 years of his death, (or such longer period as the Trustees determine), the benefit payable under this Rule shall be treated as a forfeited benefit. A forfeited benefit shall be applied in the manner provided for in the Act or shall be applied by the Trustees in accordance with the provisions of Rule 15.

39.10 **Transfer in Specie**

The Trustees may, at the request of the recipient of a benefit and, if required by the Act, with the approval of the Commissioner pay benefits by transferring in specie, assets of equivalent value to the benefit payable.

40. **BENEFIT PAYABLE ON DEATH BEFORE RETIREMENT**

40.1 **Benefit Payable on Death before Retirement**

In the event of the death of a Member before retirement, the amount of the Member's Benefit shall be held by the Trustees upon trust for the benefit of such one or more of the Member's Dependants, to be paid in a lump sum in such shares and proportions as the Trustees, in their absolute discretion, determine.

40.2 **Payment to Legal Personal Representative**

If the Trustees are unable to establish within 6 months of the Member's death that there are any Dependants, the benefit payable under Rule 40.1 shall be paid to the

Member's Legal Personal Representative but if a grant of Probate or Letters of Administration in respect of the estate of the Member is not made within 3 years of his death (or such longer period as the Trustees determine), the benefit payable hereunder may be treated as a forfeited benefit and applied by the Trustees in accordance with the provisions of Rule 15 or shall otherwise be dealt with in a manner provided for in the Act.

41. BENEFIT PAYABLE ON DISABLEMENT

41.1 Benefit Payable on Disablement

If the employment of an Employer Sponsored Member is terminated before the Retiring Age as a result of the Member being Permanently and Totally Disabled or if a Non-Employer Sponsored Member becomes Permanently and Totally Disabled, the amount of the Member's Benefit shall, subject to the provisions of the Trust Deed, be paid to the Member or, if he is unable to manage his own affairs, to such of his Dependants and in such proportions as the Trustees, in their absolute discretion, determine.

41.2 Proceeds of temporary disablement insurance policy

If, prior to such termination of employment or self-employment (whichever is applicable), the proceeds of a temporary disablement insurance policy on the life of the Member becomes payable, such proceeds shall be paid to the Member or his Dependants as aforesaid provided that the amount of such benefit shall not exceed 75% (or such other maximum percentage as prescribed by the Act) of the Member's Salary immediately prior to the disablement and shall not be paid for a longer period than may be allowed under the Act in order for the Fund to obtain the maximum income tax concessions.

42. BENEFIT PAYABLE ON DISMISSAL

- (a) If an Employer Sponsored Member is dismissed from the employment of the Employer for misconduct involving fraud or dishonesty, the benefit payable to that Member shall, subject to the provisions of the Trust Deed, be the amount standing to the credit of the Member's Contribution Account (if any) plus the amount standing to the credit of the Member's Industrial Award Contribution Account (if any) plus the amount standing to the credit of the Member's Vested Employer's Contribution Account (if any) plus any other Vested Benefit plus such additional part (if any) of the Employer's Contribution Account which the Employer, in its absolute discretion, determines.
- (b) The Member's Preserved Benefit shall be paid on the terms and conditions set out in Rule 43.2 in relation to such benefit.

43. BENEFIT PAYABLE TO AN EMPLOYER SPONSORED MEMBER ON TERMINATION OF EMPLOYMENT

43.1 Termination before Retiring Age

If the employment by the Employer of an Employer Sponsored Member is terminated before the Retiring Age otherwise than in the circumstances mentioned in Rules 40, 41 or 42 and his new employer does not make any contributions to the Fund on his behalf:

- (a) the amount standing to the credit of the Member's Contribution Account; plus
- (b) that part (if any) of the amount standing to the credit of the Member's Employer's Contribution Account calculated in accordance with the provisions of the Vesting Schedule in the relevant Appendix for that Category annexed to the Trust Deed; plus
- (c) such additional part (if any) of the amount standing to the credit of the Member's Employer's Contribution Account which the Employer, in its absolute discretion, determines, (with the balance of that Account to be applied in accordance with Rule 15 as a forfeited benefit); plus
- (d) the amount of the Member's Industrial Award Contribution Account; plus
- (e) the amount of the Member's Vested Employer's Contribution Account; plus
- (f) any other Vested Benefit not otherwise payable hereunder,

shall, if the Member has attained age 55, or such other age prescribed in the Act as the preservation age for that Member, and is retiring from the workforce, be paid to the Member.

43.2 Payment Before Age 55 on Retirement

If the Member has not attained age 55, or such other age prescribed in the Act as being the preservation age for that Member, or is not retiring from the workforce, the Trustees shall pay that part of the benefit payable which is not a Preserved Benefit to the Member and shall,

- (a) retain the Member's Preserved Benefit in the Fund (to which earnings of the Fund shall be proportionately credited) and either pay such benefit to the Member after he retires from the workforce and attains age 55, or such other age prescribed in the Act as being the preservation age for that Member, and requests that the benefit be paid to him provided that the Trustees shall pay or commence to pay the Preserved Benefit no later than the attainment by the Member of the age of 65 years or in such other

circumstances as are permitted under the Act or pay the benefit in accordance with Rules 40 or 41 in the event of the Member's earlier death or disablement or pay the benefit to the Member if the Trustees are satisfied that he is leaving Australia to reside permanently overseas;

- (b) if the Member requests that his Preserved Benefit be transferred to another superannuation fund or approved deposit fund, transfer the benefit in accordance with Rule 33 provided the Trustees are satisfied that the trust deed for the transferee fund contains restrictions similar to those in Rule 43.2(a); or
- (c) if the Member so requests, apply the Preserved Benefit to purchase a deferred annuity to be held by the Trustees until the Member attains age 55, or such other age prescribed in the Act as being the preservation age for that Member, and
 - (i) under which the first annuity payment is not to be made until on or after the Member attains age 55, or such other age prescribed in the Act as being the preservation age for that Member, and has retired from the workforce provided that the annuity instalments shall commence to be paid no later than the attainment by the Member of the age of 65 years or in such other circumstances as are permitted by the Act, and
 - (ii) which cannot be surrendered or assigned (except in accordance with Rule 33) until the Member attains age 55, or such other age prescribed in the Act as being the preservation age for that Member, and
 - (iii) which cannot be mortgaged or encumbered in any manner whatsoever,

provided that if the amount of the Member's Preserved Benefit does not exceed \$500 (or such other amount that is prescribed), it shall be paid to the Member on termination of his employment and paragraphs (a), (b) and (c) of this Rule shall not apply to such benefit.

43.3 Deferment of Payment

The payment of any benefit payable under Rules 42, 43.1 or 43.2 which is not a Preserved Benefit may be deferred until the Member retires from the workforce provided that the Trustees shall pay or commence to pay the benefit no later than the attainment by the Member of age 65 or in such other circumstances as are permitted by the Act. Such deferred benefit shall, however, be paid to the Member on written demand (provided it is not a Preserved Benefit) or shall be paid in accordance with Rules 40.1 or 41 in the event of the Member's death or permanent and total disablement. Earnings of the Fund shall be allocated to such deferred benefit in

accordance with Rule 12.

44. BENEFIT PAYABLE IN OTHER CIRCUMSTANCES

44.1 Member Going Overseas

The Member's Benefit shall be paid to a Non-Employer Sponsored Member prior to the Member attaining age 55, or such other age prescribed in the Act as being the preservation age for that Member, if the Trustees are satisfied that the Member intends to live permanently overseas with no intention of returning to live in Australia.

44.2 Financial Hardship

The Trustees shall, in their absolute discretion, pay part or all of the Member's Benefit to a Member prior to the Member attaining age 55, or such other age prescribed in the Act as being the preservation age for that Member, if the Trustees are satisfied that the Member would suffer financial hardship if part or the whole of his benefit is not paid to him provided that any such payment must first be approved by the Commissioner if such approval is necessary to ensure that the Fund obtains the maximum income tax concessions.

45. MODE OF PAYMENT OF BENEFITS

45.1 Lump sum or pension

The benefits payable under Rules 41, 42, 43 or 44 shall, in the discretion of the Trustees, be paid in a lump sum or by way of pension unless the benefit exceeds the maximum reasonable pension benefit for the purposes of the Act, in which case the excess benefit shall, if required by the Commissioner, be paid by way of lump sum.

45.2 Transfer in specie

The Trustees may, at the request of the recipient of a benefit and with the approval of the Commissioner pay benefits by transferring in specie, assets of equivalent value to the benefit payable.

46. PAYMENT OF BENEFITS TO MINORS

Where a person to whom benefits are payable hereunder is a minor, the Trustees may pay the benefit to any other person for application on behalf of that minor and the receipt of the person to whom the benefit is so paid shall be a complete discharge to the Trustees in respect of such benefit.

47. DEDUCTION OF INCOME TAX

47.1 The Trustees may deduct from any benefit payable the amount of any income tax that is calculated by the Trustees to be payable in respect of such benefit and shall remit

any amount so deducted to the Commissioner of Taxation.

- 47.2 A Member to whom a benefit is paid under the provisions of this Trust Deed shall, if the Trustees determine that insufficient income tax was deducted from the amount of the benefit, repay to the Trustees, on demand, an amount which the Trustees determine the Member was not entitled to be paid.

48. **PENSION CONDITIONS**

48.1 **Trustees' Discretion**

Where a benefit is payable under Rules 41, 42, 43 or 44 by way of pension, the Trustees shall, in their absolute discretion, determine the amount of the pension and the manner in which and the period for which it is paid, provided that if at the date the payment of the pension commences, the Member's Benefit exceeds the maximum reasonable lump sum benefit for the purposes of the Act, the pension shall be paid for the life of the Member and after the Member's death, for the life of the Member's spouse subject to the pension being paid for a minimum period of 10 years and on a basis that meets the requirements of the Act for the Fund to obtain the maximum income tax concessions.

48.2 **Cessation of Payments**

When the Member's Benefit is reduced to nil, the pension payable under these Rules shall cease to be payable and the person who was receiving the pension shall cease to be entitled to any further benefits and, if a Member, shall cease to be a Member.

48.3 **Commutation of Pension**

The recipient of a pension under these Rules may commute to a lump sum payment any amount up to 50% (or such other percentage that is prescribed by the Act) of the pension on making written application to the Trustees provided the option to commute a pension to a lump sum payment is exercised within 6 months of the first day of the period to which the first pension payment paid by the Trustees relates except in the event of the death of a Member or in such other circumstances as are permitted by the Act in order for the Fund to obtain the maximum income tax concessions.

48.4 **Lump Sum Payment to Dependant**

In the event of the death of a Member or a Member's spouse (whichever is the later) to whom a pension was payable under Rules 41, 42, 43 or 44, the balance of the Member's Benefit shall be paid in a lump sum to such of the Member's Dependents as the Trustees, in their absolute discretion determine. If the payment of part or all of such benefit does not comply with the requirements of the Act for the Fund to obtain the maximum income tax concessions, the proportion of the benefit that does not so comply shall be treated as a forfeited benefit and shall be applied in the manner stated hereunder. If the Trustees are unable to establish within 6 months of the death of the

Member or the Member's spouse (whichever occurs last) that there are any Dependants, the balance of the benefit payable under this Rule 48.4 shall be paid to the Member's Legal Personal Representative but, if a grant of Probate or Letters of Administration in respect of the estate of the Member is not made within 3 years of his death (or such longer period as the Trustees determine), the benefit payable under this Rule shall be treated as a forfeited benefit. A forfeited benefit shall be applied in the manner provided for in the Act or shall be applied by the Trustees in accordance with the provisions of Rule 15.

48.5 **No Encumbrance or Assignment**

A pension payable under these Rules shall not be assigned by the person in receipt of it and it shall not be mortgaged or encumbered in any manner whatsoever.

48.6 **Annual Increases**

A pension payable under these Rules will be increased annually by the Trustees by an amount not exceeding any percentage increase during the previous 12 months in the Consumer Price Index (All Capital Cities) or any replacement index provided that the minimum annual increase of the pension shall be the lesser of:

- (i) 5% of the pension;
- (ii) any percentage increase during the previous 12 months in the Consumer Price Index (All Capital Cities) published by the Australian Statistician for the March quarter in the preceding year or any replacement index; and
- (iii) any other minimum increase permitted under the Act.

48.7 **Annuities**

The Trustees may, in their absolute discretion, provide pensions payable under these Rules by applying a Member's Benefit to the purchase in the ownership of either the Trustees or the Member of an annuity that meets the requirements of the Act for the Fund to obtain the maximum income tax concessions.

EXECUTED as a deed.

SIGNED SEALED AND DELIVERED by)
MICHAEL UZUNOVSKI in the presence)
of:)

Uzunovski
.....
(Signature)

[Handwritten Signature]

.....
(Signature of Witness)

LISA GREY.

.....
(Name of Witness in Full)