

**MAULE FAMILY SUPERANNUATION
FUND
TRUST DEED**

Dated *20th September,* 1999

TRUSTEE

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NO DUTY PAYABLE

K Roper
Commissioner of Stamp Duties
Queensland 27-9-99

DEED made 20th September, 1999

BY **RODNEY ELLIOTT MAULE AND SANDRA ANNETTE MAULE**
of Tannum Beach Caravan Village, The Esplanade, Tannum Sands. Qld 4680
("Trustee")

INTRODUCTION

- A. The Trustee wishes to establish a regulated superannuation fund.
- B. The sole or primary purpose of the Fund is the provision of old age pensions.
- C. The name of the Fund is the **MAULE FAMILY SUPERANNUATION FUND**.

IT IS AGREED

DEFINITIONS

1. Definitions and Interpretation

1.1 Statutory Definitions

Any word or expression defined in ITAA, SIS or the Regulations to SIS which is used but not defined in this Deed has the meaning given to that word or expression in ITAA, SIS or the Regulations to SIS (as the case may be).

1.2 Definitions

In this Deed:

- (1) "**Accumulation Account**" means one of the accounts described in clause 16;
- (2) "**Actuary**" means the Actuary (if any) appointed by the Trustee;
- (3) "**Allocated Pension**" means a Benefit payable by instalments (at least annually) in accordance with terms and conditions, agreed with the Trustee, which satisfies the requirements of regulation 1.06(4) of the Regulations to SIS;
- (4) "**Assets of the Fund**" mean all the cash, investments and other property held by or on account of the Trustee upon the trusts of this Deed;
- (5) "**Auditor**" means the approved auditor appointed by the Trustee;
- (6) "**Beneficiary**" means a person entitled, or who may be entitled, to a Benefit but does not include a person who is a Member;
- (7) "**Benefit**" means any amount payable by the Trustee out of the Fund to or in respect of a Member;
- (8) "**Cashing Restriction**" means, in relation to a Benefit, a requirement under the Standards that the Benefit may only be cashed on or after the satisfaction of a condition of release;

- (9) "**Contributions**" means payments to the Fund by Members or Employers in accordance with the provisions of this Deed;
- (10) "**Deed**" means this document, including any Schedule or Annexure to it;
- (11) "**Director**" means a director or member of a board of management of an Employer or the Trustee (as the case requires);
- (12) "**Drawdown**" means the amount payable under a Drawdown Request;
- (13) "**Drawdown Request**" means the request by a person to drawdown a part or all of that person's entitlement in the Fund;
- (14) "**Eligible Person**" means a person in respect of whom either:
- (a) Contributions may be made; or
 - (b) a Roll-over Payment may be received by the Trustee;
- under the Standards;
- (15) "**Employer**" means in relation to a Member, the Employer of that Member or a company of which the Member is a Director;
- (16) "**Equalisation Account**" means the account described in clause 18.1;
- (17) "**Fund**" means the superannuation fund established by this Deed;
- (18) "**Fund Year**" means a period of 12 months ending on 30 June or other period ending on some other date the Trustee determines;
- (19) "**Income Account**" means the income account described in clause 17.1;
- (20) "**ISC**" means the Insurance and Superannuation Commission appointed under the *Insurance and Superannuation Commission Act 1987*, or a person acting as the Insurance and Superannuation Commissioner under that Act;
- (21) "**ITAA**" means the *Income Tax Assessment Act 1936* ("**1936 Act**") and the *Income Tax Assessment Act 1997* ("**1997 Act**"), or if a specific provision is referred to, the Act which contains the provision; however if a specific provision of the 1936 Act is referred to which has been replaced by a provision of the 1997 Act, the reference must be taken to be to the replacement provision;
- (22) "**Lump Sum**" means the amount of Benefit, other than a pension, payable to or in respect of a Member;
- (23) "**Member**" means a person who has been accepted by the Trustee as a member of the Fund and has not ceased to be a member pursuant to clause 8.5;
- (24) "**Member's Contributions**" means any amount contributed to the Fund by a Member and includes amounts deemed to have been contributed by a Member pursuant to clause 15.5;
- (25) "**Nominated Dependant**" means the dependant nominated by a Member;

- (26) "**Normal Retirement Age**" means age 65 or any other age the Trustee determines and acceptable under the Standards;
- (27) "**Pensioner**" means a person receiving a pension;
- (28) "**Policy**" includes a policy on the life of a Member for endowment; term, whole of life, disablement, accident or sickness insurance effected either as an individual policy or as a group policy and any policy of any two or more of these types;
- (29) "**Regulations to SIS**" means the *Superannuation Industry (Supervision) Regulations*;
- (30) "**Restricted Benefit**" means a Benefit which is subject to a Cashing Restriction;
- (31) "**Roll-over Payment**" means any payment made by or received by the Trustee to which section 27D of ITAA applies;
- (32) "**SIS**" means the *Superannuation Industry (Supervision) Act* and where appropriate includes the Regulations to SIS;
- (33) "**Standards**" means the standards or requirements prescribed by:
 - (a) the circulars, rulings and standards published by ISC which must be complied with to obtain the maximum income tax concessions available to superannuation funds;
 - (b) ITAA or the Commissioner of Taxation or announced by the Treasurer of Australia in respect of the operation and Taxation of complying superannuation funds or to obtain the maximum income tax concessions available to superannuation funds; and
 - (c) SIS and the Regulations to SIS;
- (34) "**Taxation**" includes income tax, income tax surcharge, tax on eligible termination payment, payroll tax, land tax, stamp duty and any other taxes or duties;
- (35) "**Transferred Amount**" means the amount determined by the Trustee in accordance with clause 13.1 to reflect the entitlement of the Member being transferred; and
- (36) "**Trustee**" means the trustee for the time being of the Fund.

1.3 Interpretation

- (1) Reference to:
 - (a) one gender includes each other gender;
 - (b) the singular includes the plural and the plural includes the singular;
 - (c) a person includes a body corporate;
 - (d) a party includes the party's executors, administrators, successors and permitted assigns; and

- (e) a statute, regulation or provision of a statute or regulation ("**Statutory Provision**") includes:
 - (i) that Statutory Provision as amended or re-enacted from time to time; and
 - (ii) a statute, regulation or provision enacted in replacement of that Statutory Provision.
- (2) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (3) Headings are for convenience only and do not form part of this Deed or affect its interpretation.

2. Parties to Deed

- 2.1 If a party consists of more than one person, this Deed binds them jointly and each of them severally.
- 2.2 A party which is a trustee is bound both personally and in its capacity as a trustee.

THE FUND

3. Establishment of Fund

- 3.1 The Fund is established by this Deed.

4. Name

- 4.1 The name of the Fund is the MAULE FAMILY SUPERANNUATION FUND.

COMPLIANCE WITH SIS

5. Regulated Fund

- 5.1 The Trustee must give ISC notice of election that SIS applies to the Fund.

6. Standards Incorporated in Deed

- 6.1 The Standards are deemed to be incorporated in this Deed and have the same force and effect as if they had been fully set out in this Deed.
- 6.2 If there is any inconsistency between the Standards and any provision of this Deed, the Standards apply.
- 6.3 The Trustee need not comply with a Standard which is not mandatory.
- 6.4 The Trustee must use its best endeavours to administer the Fund as a complying superannuation fund.

7. Excluded Fund

- 7.1 Standards which do not apply to funds with fewer than 5 members do not apply to the Fund for any period during which it has less than 5 Members.

MEMBERSHIP

8. Membership of Fund

8.1 To become a Member, the person applying must:

- (1) at the time of application, be an Eligible Person; and
- (2) lodge an application with the Trustee in writing in the form specified in the Schedule or in any other form the Trustee approves.

8.2 The Trustee may admit or reject an applicant for membership.

8.3 The Member is deemed to have joined on:

- (1) the date determined by the Trustee; or
- (2) otherwise, the date of the completed application for membership.

8.4 The Trustee may impose conditions on:

- (1) an applicant's admission; and
- (2) Benefits for that Member.

The Trustee, subject to the Standards, may remove or vary any of these conditions.

8.5 A person ceases to be a Member when:

- (1) all that Member's Benefit has been paid or forfeited;
- (2) a Roll-over Payment of all that Member's entitlements has been completed; or
- (3) the Member dies.

9. Classes of Membership

9.1 The Trustee may create different classes of membership. The Trustee may determine the class of membership in respect of which the Member is admitted.

9.2 Where a Member is included in more than one membership class, the person making the Contribution must designate in relation to which membership class or classes it is being made and the specific amounts to be allocated by the Trustee to the appropriate Accumulation Accounts.

10. Information from Members and Beneficiaries

10.1 A Member when requested by the Trustee must:

- (1) furnish any information the Trustee considers necessary for the purposes of the Fund; and
- (2) submit to medical examinations by a registered medical practitioner nominated by the Trustee.

10.2 If a Member fails to comply with the provisions of clause 10.1, the Trustee may to the extent permitted by the Standards:

- (1) suspend the acceptance of any Contributions in respect of that Member; or
- (2) withhold any Benefit in respect of that Member;

until the Member complies.

10.3 Where a Member or Beneficiary furnishes information affecting the Benefit payable to the Member or Beneficiary and the information is incorrect or misleading, or any relevant information is withheld, the Trustee may alter the Benefit to amounts that would have applied had full and accurate information been supplied.

CONTRIBUTIONS

11. Contributions to Fund

11.1 An Employer may make whatever Contributions in respect of a Member employed by it, and at whatever times, are agreed between the Employer and the Member.

11.2 A Member may make whatever Contributions are agreed between the Trustee and the Member.

11.3 The Trustee may refuse to accept a Contribution.

11.4 The Trustee may accept Contributions in respect of a Member only when permitted by the Standards.

12. Contributions of Deferral Request

12.1 If payment of a Benefit is deferred under clause 32.7, the Trustee may:

- (1) accept Contributions for the Member where the Standards permit; or
- (2) notify the Member that no Contributions will be accepted on behalf of the Member after that date.

13. Transfers to Other Superannuation Entities

13.1 Where a Member requests that the whole or a part of that Member's entitlement in the Fund be transferred to another superannuation entity, the Trustee may determine the amount of the Member's entitlement and pay that amount or the part requested to the trustee of the other superannuation entity.

13.2 The Transferred Amount must reflect the value of the Member's entitlement at the time of the request.

13.3 The receipt of the Transferred Amount by the proper officer of the other superannuation entity is a complete discharge to the Trustee of all liabilities in respect of the Transferred Amount.

13.4 The Trustee has no responsibility to see to the application of the Transferred Amount.

- 13.5 If part of the Transferred Amount includes Restricted Benefits, the Trustee must first ensure that the provisions of the other superannuation entity satisfy the relevant Cashing Restrictions for those Restricted Benefits included in the Transferred Amount.

14. Transfer to Eligible Rollover Funds

- 14.1 The Trustee may in circumstances permitted by the Standards apply to the trustee of an eligible rollover fund on behalf of a Member for the issue to the Member of a superannuation interest in the eligible rollover fund in exchange for the payment of the Transferred Amount.

15. Transfers from Other Superannuation Entities

- 15.1 Where a Member has an entitlement under any other superannuation entity, the Trustee may take over from that superannuation entity the whole or any part of its assets with the intent of preserving the entitlements of any of the existing members of that superannuation entity at the time of takeover.
- 15.2 The Trustee must hold those assets as part of the Fund and reflect the entitlements in each Member's Accumulation Account as it determines.
- 15.3 The Trustee may determine that the Member is deemed to have become a Member on the date that person became a member of the other superannuation entity.
- 15.4 Where the transfer from the other superannuation entity includes a Restricted Benefit, the relevant Cashing Restrictions for that Restricted Benefit continue in the Fund.
- 15.5 On any transfer in accordance with clause 15.1, the Member's Contribution is:
- (1) the amount the trustee of the other superannuation entity certifies was contributed by that Member; or
 - (2) otherwise, the amount the trustee of the other superannuation entity considers to be fairly attributable to the contributions of that member to the other superannuation entity together with accrued earnings on that amount.

ACCOUNTS

16. Accumulation Account

- 16.1 An Accumulation Account must be established in respect of each Member.
- 16.2 The following amounts must be credited to a Member's Accumulation Account:
- (1) any amount paid into the Fund in respect of the Member under clause 15;
 - (2) any Contributions in respect of the Member;
 - (3) the proceeds of any Policy or annuity effected in respect of the Member other than those proceeds the Trustee determines should be credited to the Equalisation Account;
 - (4) any positive earnings determined in accordance with clause 19.1;
 - (5) any profits allocated under clause 21;

- (6) any amount allocated to the Member under clause 31.3;
- (7) any forfeited amounts allocated to but not paid directly to the Member under clause 46.2; and
- (8) any reimbursement of Fund expenses made by or on behalf of the Member which is not credited to the Income Account.

16.3 The following amounts must be debited against a Member's Accumulation Account:

- (1) any amount paid out of the Fund in respect of the Member under clause 13.1 or clause 14.1;
- (2) any Benefit paid in respect of the Member;
- (3) a proportion, determined by the Trustee, of any Taxation in respect of Contributions or earnings credited to the Accumulation Account or arising as a result of a Roll-over Payment which have not been debited to the Income Account;
- (4) the costs of any Policy or annuity effected in respect of the Member other than the costs of any Policy the Trustee determines should be debited to the Income Account;
- (5) any negative earnings determined in accordance with clause 19.1;
- (6) any losses allocated under clause 21;
- (7) any reduction made to the amount of the Member's Benefits under clause 31.2;
- (8) any amount of a Drawdown paid under clause 32.9;
- (9) any reimbursement of losses or debts under clause 35.2;
- (10) the value of any Policy assigned to the Member in accordance with clause 36;
- (11) any amount forfeited under clause 46.1; and
- (12) any costs relating to the Member other than those costs the Trustee determines should be debited to the Income Account.

16.4 If costs in connection with a Policy have been debited to the Member's Accumulation Account, the Trustee may determine to credit the proceeds of the Policy to the Equalisation Account, except that the Trustee must credit to the Member's Accumulation Account out of the proceeds an amount sufficient to reimburse those costs (without interest).

17. Income Account

17.1 An Income Account for the Fund must be established.

17.2 The following amounts must be credited to the Income Account:

- (1) all income and profits of the Fund (except income or profits referred to in clause 21);

- (2) any reimbursement of Fund expenses which is not credited to an Accumulation Account; and
- (3) any surplus arising from any valuation undertaken in accordance with clause 20.

17.3 The following amounts must be debited against the Income Account:

- (1) any loss sustained on the disposal of any investments of the Fund other than losses referred to in clause 21;
- (2) any Fund expenses (including the costs of any Policy) which are not debited to an Accumulation Account;
- (3) any deficiency arising from a valuation undertaken in accordance with clause 20;
- (4) any amount payable or which may become payable by way of Taxation in respect of Contributions or the income and profits of the Fund which is not debited to an Accumulation Account;
- (5) the allocation of earnings to the Member's Accumulation Account; and
- (6) any amount credited to the Equalisation Account under clause 18.2.

18. Equalisation Account

18.1 An Equalisation Account must be established for the Fund.

18.2 The Equalisation Account must be credited with:

- (1) the proceeds of any Policy effected in respect of a Member which are not credited to that Member's Accumulation Account;
- (2) all forfeited Benefits under clause 46.2; and
- (3) any balance remaining in the Income Account after distributing earnings under clause 19.1(2).

18.3 Moneys held in the Equalisation Account do not form part of any Accumulation Account and any income derived on those moneys must be credited to the Equalisation Account.

18.4 The Trustee may use the Equalisation Account to:

- (1) stabilise the investment earnings of the Fund;
- (2) provide for any future contingencies the Trustee considers reasonable;
- (3) provide the additional Benefits referred to in clause 31.5; and
- (4) provide Benefits of the nature referred to in clause 46.2.

18.5 The Trustee may deal with funds in the Equalisation Account to provide the additional Benefits referred to in clause 31.5 or as if they were forfeited Benefits in accordance with clause 46.2.

ADMINISTRATION

19. Allocation of Fund Income

19.1 The Trustee must:

- (1) determine the investment return (which may be negative) having regard to those matters required by the Standards; and
- (2) allocate the investment return to the Accumulation Accounts, in a way that is fair and reasonable as between:
 - (a) the Members; and
 - (b) the various kinds of Benefits of each Member;

at the following times:

- (3) at the end of each Fund Year;
- (4) if requested, in respect of a portion of a Fund Year; or
- (5) if the Trustee pays a Benefit during the course of a Fund Year, at the date of payment.

20. Revaluation of Assets

20.1 At any time the Trustee considers it appropriate (including, without limitation, at the time of the payment of a Benefit to a Member) the Trustee may:

- (1) make a valuation of the Assets of the Fund (including the value of any Policy held by the Fund) at that date; and
- (2) determine whether there is a surplus or deficiency which it is equitable to transfer to the Income Account.

20.2 If a value is determined in respect of an asset under clause 20.1 that value must then be reflected in the balance sheet and other accounts of the Fund.

21. Separate Investments

21.1 The Trustee may invest in respect of certain Members either separately or collectively.

21.2 The Trustee must record on whose behalf any specific or collective assets or investments are acquired or made.

21.3 The profits or losses arising from any collective or specific investments and any costs or charges applicable to those investments must be allocated in the appropriate portions directly to the relevant Member's Accumulation Account and must not be allocated to the Income Account.

22. Policies

22.1 The Trustee may acquire Policies in respect of Members.

- 22.2 The Trustee is not liable to any Member or any Member's legal personal representative or dependants if the Trustee does not acquire a Policy in respect of that Member.
- 22.3 If in connection with any Policy an insurance company refuses to insure or seeks to impose limitations or special conditions in respect of a Member or Beneficiary, the Trustee may impose corresponding limitations or special conditions in respect of the Benefits otherwise payable to the Member or Beneficiary.

23. Fund Records

- 23.1 The Trustee must:
- (1) keep such accounting records as correctly record and explain the transactions and financial position of the Fund;
 - (2) so keep its accounting records as to enable the following to be prepared:
 - (a) the accounts and statements of the Fund mentioned in clause 23.2; and
 - (b) the returns of the Fund mentioned in section 36 of SIS; and
 - (3) so keep its accounting records as to enable those accounts, statements and returns to be conveniently and properly audited in accordance with the Standards.
- 23.2 The Trustee must, in respect of each Fund Year, prepare the accounts and statements in respect of the Fund required by the Standards.

24. Confidentiality

- 24.1 The Trustee and every Employer must treat as strictly confidential (so far as is practicable and in compliance with SIS) all information disclosed to or gained by it in the course of administering the Fund.

25. Appointment of Actuary

- 25.1 The Trustee must, if required to comply with the Standards, appoint an Actuary.
- 25.2 The Trustee may remove any Actuary.

26. Actuarial Investigations

- 26.1 The Actuary must make actuarial investigations and report in writing on those investigations as required by the Standards.
- 26.2 The Trustee may instruct the Actuary to undertake any other actuarial investigations the Trustee thinks fit.
- 26.3 The Trustee must give the Actuary the information reasonably required for the purposes of the Actuary's investigations.
- 26.4 The Trustee may ask the Actuary for information or advice but is not bound to act upon the advice provided.

27. Audit

- 27.1 The accounts and statements of the Fund prepared in respect of each Fund Year must be audited by the Auditor.
- 27.2 The Trustee must make such arrangements as are necessary to enable the audit of those accounts and statements.
- 27.3 The Auditor must give to the Trustee a certificate relating to the accounts and statements.
- 27.4 The certificate must be given within the prescribed period after the Fund Year to which the accounts and statements relate.
- 27.5 The certificate must be in the form approved pursuant to the Standards.

28. Disclosure Standards

- 28.1 The Trustee must disclose to:
- (1) ISC;
 - (2) the Members, prospective Members and former Members;
 - (3) Employers who make Contributions;
 - (4) Auditors;
 - (5) the trustee of any superannuation entity to which a Roll-over Payment is made; and
 - (6) others specified by the Standards;

information concerning the Fund, the Contributions, the investment strategy, the Benefits and arrangements with an eligible rollover fund as required by the Standards in the manner and at the times prescribed by the Standards.

29. Complaints by Beneficiaries

- 29.1 If required by the Standards, the Trustee must take all reasonable steps to ensure that there are in force arrangements under which:
- (1) Beneficiaries and Members have the right to make enquiries into, or complaints about, the operation or management of the Fund in relation to the Beneficiary or the Member making the enquiry or complaint; and
 - (2) enquiries or complaints so made will be properly considered and dealt with within 90 days after they are made.

30. Costs of the Fund

- 30.1 All costs, charges and expenses incurred in connection with the preparation, establishment, maintenance, administration, operation or winding up of the Fund, must be borne and paid out of the Fund.
- 30.2 The Trustee must reimburse an Employer out of the Fund all costs which are properly incurred by the Employer in connection with the expenses of the Fund.

BENEFITS AND PAYMENTS

31. Amount of Benefit

- 31.1 Subject to clauses 31.2, 31.3, 31.5 and 35, the amount of a Member's Benefit:
- (1) if payable as a Lump Sum, is the credit balance in the Member's Accumulation Account on the date the Benefit becomes payable; or
 - (2) if payable as a pension, has a capital value equal to the credit balance in the Member's Accumulation Account.
- 31.2 The amount of any Benefit (whether payable as a pension or Lump Sum) must not exceed that which is in the opinion of the Trustee the maximum the Assets of the Fund can provide in respect of the Pensioner or Member (as the case may require).
- 31.3 The amount of a Member's Benefit may be reduced by an amount determined by the Trustee provided:
- (1) the Member or Beneficiary has consented to the reduction of the Member's Benefits pursuant to this clause 31.3; and
 - (2) the reduction does not relate to the Member's minimum benefits;
- or the reduction of the Member's Benefit otherwise complies with the Standards.
- 31.4 The amount of any reduction of Benefit made under clause 31.3 must be applied for:
- (1) the benefit of other Members or their dependants on a basis the Trustee considers reasonable; or
 - (2) any purpose or manner permitted by the Standards or approved by the ISC.
- 31.5 On the death or permanent incapacity of a Member, the Trustee may determine to pay an additional Benefit if there is a Policy to fund that additional Benefit.

32. Payment of Benefits in Various Circumstances

32.1 Retirement Benefits

The Trustee may pay the Benefit (or part of it) upon the Member:

- (1) retiring on or after the Normal Retirement Age;
- (2) attaining an age in circumstances where the Standards require that the Member receive the Benefit; or
- (3) attaining an age at which the Standards permit a Benefit to be paid or commence to be paid to the Member and the Member requests that Benefit to be paid.

32.2 Benefits for Permanent Incapacity or Permanent Invalidity

The Trustee may pay the Benefit upon the Member ceasing to be gainfully employed as a result of permanent incapacity [as defined in regulation 6.01(2) of the Regulations to SIS].

32.3 Unrestricted Non-preserved Benefit

The Trustee may, upon request for payment, pay to the Member any unrestricted non-preserved benefit included in the Member's entitlement in the Fund.

32.4 Benefits on Early Retirement or Dismissal

The Trustee may pay the Benefit upon the Member:

- (1) retiring prior to the Normal Retirement Age; or
- (2) being dismissed from the employment of his or her Employer.

32.5 Death Benefits

- (1) The Trustee must pay the Benefit upon the death of a Member.
- (2) The Trustee may pay the death Benefit to the Nominated Dependant, but if:
 - (a) there is no Nominated Dependant; or
 - (b) the Trustee considers it inappropriate to pay the Benefit to any Nominated Dependant;

the Trustee may pay the death Benefit to:

- (c) any one or more of the Member's dependants; or
- (d) any other person entitled under the Standards to receive the Benefit;

in the manner, at the times, by the instalments and in the proportions between them, if more than one, which the Trustee determines.

32.6 Benefits and Drawdowns Subject to Cashing Restrictions

Any part of a Benefit or Drawdown which is subject to a Cashing Restriction can only be paid on the satisfaction of the relevant condition of release.

32.7 Request for Deferral

If a Benefit is payable, the Member may apply to the Trustee in writing to defer payment of the Benefit. The Trustee may defer payment of the Benefit unless the Standards require the Benefit be paid.

32.8 Drawdown Requests

Where:

- (1) the Trustee has agreed to defer payment of a Benefit; or
- (2) the Trustee has accepted a Roll-over Payment;

the Member may, subject to the Cashing Restriction in respect of his or her entitlement, make a Drawdown Request to the Trustee.

32.9 Pay Drawdowns

The Trustee must, subject to any Cashing Restrictions:

- (1) unless the Trustee otherwise agrees, pay the Drawdown to the Member on a day not less than 30 days from receipt of the Drawdown Request; and
- (2) debit the amount of the Drawdown to the Member's Accumulation Account.

32.10 Unclaimed Benefits

Where a Benefit is immediately payable to a Member and:

- (1) the Member has reached the eligible age for an age pension;
- (2) the Member has not applied to the Trustee to have the Benefit paid; and
- (3) the Trustee is unable to pay the Benefit to the Member because the Trustee is unable to find the Member after having made reasonable efforts to do so;

the Trustee must deal with the Member's Benefit in the manner required by the Standards.

32.11 Relation to Other Clauses

The provisions of this clause 32 are subject to clauses 39 and 46.

33. Procedure for Payment of Benefits

33.1 The Trustee may forward the Benefits to the postal address or bank account last notified or to any other place the Trustee determines.

33.2 Every Member and Beneficiary, must (except where no further Benefit is payable) notify the Trustee in writing at the time the Benefit becomes payable and immediately after the Member or Beneficiary changes address of:

- (1) the Member's or Beneficiary's place of residence and full postal address; and
- (2) the bank account (if any) to which the Member or Beneficiary requests that the Benefit be paid.

33.3 Any person to whom a Benefit is payable must, if requested, furnish the Trustee with a receipt and release in the form required by the Trustee.

34. Payment of Taxation

34.1 The Trustee may deduct Taxation required to be deducted (or which the Trustee considers is required to be deducted) from a Benefit.

34.2 The Trustee may deduct Taxation payable in relation to a Contribution from the Accumulation Account.

35. Moneys Owing to Fund or an Employer

35.1 At the time a Benefit becomes payable or available for transfer, the Trustee may, subject to the Standards, reduce it by:

- (1) any amount owed by the Member, or by a person claiming through or under the Member, to an Employer who has made Contributions or to the Trustee;
- (2) any loss or damage suffered by an Employer who has made Contributions or the Trustee because of the misconduct, misappropriation or fraud of the Member; and
- (3) any costs incurred by the Employer who has made Contributions or the Trustee in attempting to recover an amount or loss in clause 35.1(1) or clause 35.1(2).

35.2 If the Standards permit, the Trustee may reimburse itself or the Employer from the amount by which the Member's Benefit is reduced.

36. Transfer of Policy to Members

- 36.1 If a payment to a Member or the Member's dependants includes any interest in a Policy, the Trustee may assign the Policy to the Member or to the Member's dependants.
- 36.2 The value of the Policy as at the date of assignment must be debited against the Member's Accumulation Account.
- 36.3 Neither the Trustee nor an Employer is liable to pay any premiums becoming due and owing under the Policy as from the date of assignment.

37. Payment to Others on Behalf of Beneficiaries

37.1 If:

- (1) a Beneficiary is under age 18; or
- (2) in the opinion of the Trustee it would be in the best interests of the Beneficiary;

the Trustee may pay all or part of any Benefit to any other person for application on behalf of the Beneficiary.

- 37.2 The receipt of the person to whom the Benefit is paid pursuant to clause 37.1 is a complete discharge to the Trustee for the payment in respect of the Beneficiary.
- 37.3 The Trustee is not bound or concerned to see to the application of the Benefit so paid.

38. Roll-over Payments

38.1 A Member wishing to effect a Roll-over Payment in respect of all or any of the Member's entitlement in the Fund must make a request to the Trustee in writing nominating:

- (1) the institution to which the payment is to be made; and
- (2) the amount to be applied as the Roll-over Payment.

38.2 The Member must complete any documents required to enable the Roll-over Payment to be effected and recorded by ISC.

39. Benefits Payable in Accordance with Standards

39.1 Benefits:

- (1) may only be paid by being:

- (a) cashed in accordance with the Standards; or
 - (b) rolled-over or transferred in accordance with the Standards;
- (2) must not be paid except when, and to the extent that, the Fund is required or permitted by the Standards to pay them; and
- (3) must be paid when, and to the extent that, the Fund is required by the Standards to pay them.

40. Manner of Payment of Benefit

- 40.1 The primary method of paying a Benefit is to pay it as a pension (whether or not an Allocated Pension) but the Trustee may at its discretion pay or apply a Benefit in any of the following ways:
- (1) pay it as a Lump Sum to the Member;
 - (2) apply it to purchase an annuity in the name of the Member or of the Member and one or more dependants of the Member; or
 - (3) pay it to another superannuation entity.
- 40.2 The Fund must not be administered, and Benefits must not be paid, in a way which would be inconsistent with the primary purpose of the Fund being the provision of old age pensions.

41. Pension Benefits - Variation of Payment

- 41.1 The Trustee may, subject to the Standards, vary the frequency or basis upon which any pension is payable.

42. Segregation of Pension Assets

- 42.1 In relation to each pension, the Trustee may:
- (1) set aside Assets of the Fund for the purpose of enabling the Fund to discharge its liabilities in relation to that pension;
 - (2) allocate the liabilities of the Fund between those Assets referred to in clause 42.1(1) and the other Assets of the Fund; and
 - (3) obtain such certificates from an Actuary as the Trustee considers necessary for the purposes of sections 273A or 273B and any related provision of ITAA.

43. Commutation of Pension

- 43.1 On the written application of a Member or Beneficiary, the Trustee may commute to a Lump Sum Benefit the whole or part of a pension to the extent permitted by the Standards if the Trustee considers that the commutation would not be to the disadvantage of the Fund, other Members or Beneficiaries.
- 43.2 On the commutation to a Lump Sum Benefit of the whole or part of a pension the amount remaining (if any) of the commuted value not paid by way of Lump Sum continues to be payable by way of pension.

44. Payment of Lump Sum May Be Deferred

44.1 If the Trustee considers that the payment of a Lump Sum will endanger the financial security of the Fund, payment of the Benefit may be deferred for a period permitted by the Standards.

45. Lump Sum May Be Converted to Annuity

45.1 The Trustee may convert payment of a Lump Sum to a periodic payment or annuity.

45.2 If payment of a Lump Sum is converted to a periodic payment or annuity pursuant to clause 45.1, it may be commuted to a Lump Sum payment only with the approval of the Trustee and in accordance with the Standards.

45.3 The amount of any periodic payment or annuity (or of any commuted value referred to in clause 45.2) must not be more than that which the Trustee, after seeking the advice of an Actuary if deemed appropriate, determines is the maximum amount that can be paid.

46. Forfeiture of Benefits

46.1 Any Member or Beneficiary:

- (1) who assigns or charges or attempts to assign or charge any Benefit;
- (2) whose Benefits whether by the person's own act, operation of law, an order of any court or otherwise become payable to or vested in any other person, company, government or other public authority;
- (3) who for any reason is unable personally to receive or enjoy the whole or any portion of that person's Benefits or, in the opinion of the Trustee, is incapable of managing the person's affairs; or
- (4) who in the opinion of the Trustee commits any fraud or is guilty of dishonesty, defalcation or serious misconduct;

forfeits entitlement to all Benefits other than those Benefits to which he or she has at that time become absolutely and indefeasibly entitled under the terms of this Deed.

46.2 Any amount forfeited by reason of clause 46.1 must be applied within such period as is permitted by the Standards or approved by ISC for:

- (1) the benefit of the Member or Beneficiary (as the case requires) or that person's dependants or any one or more of them in the proportions between them and on the terms the Trustee determines, except that where the Member remains gainfully employed or in the employment of the Employer any payments so made must be limited to the relief of hardship of the former Member or of the Member's dependants;
- (2) the benefit of Members or their dependants on a basis that the Trustee considers reasonable, including payment in lieu of Contributions which were otherwise payable by an Employer or the Member; or
- (3) any purpose permitted by the Standards or approved by ISC.

47. Relationship between Employer and Employee

- 47.1 Dealings between a Member and his or her Employer are not affected by this Deed.
- 47.2 The rights of a Member or that Member's personal representative to claim damages or compensation under:
- (1) common law;
 - (2) any workers' compensation legislation; or
 - (3) any other statute in force governing compensation to a Member injured or killed by an accident arising out of or in the course of that Member's employment with his or her Employer;
- are not affected by this Deed.

TRUSTEE

48. Trustee - Vacancy, Appointment, Removal and Representation

- 48.1 The Fund must be held and managed by the Trustee upon the terms and conditions and subject to the trusts, powers, authorities and discretions contained in this Deed.
- 48.2 The Trustee must satisfy the Standards so far as they relate to trustees of regulated superannuation funds providing Benefits of the character provided under this Deed to Members of the character accepted into the Fund.
- 48.3 The Trustee ceases to be Trustee:
- (1) if the Trustee fails to satisfy the requirements of the Standards so far as they relate to trustees of regulated superannuation funds;
 - (2) if the Trustee is disqualified from holding office by operation of law;
 - (3) if it is wound up; or
 - (4) in any other circumstances provided for or required by the Standards.
- 48.4 The Trustee may resign by giving written notice of resignation to the Members.
- 48.5 A retiring or outgoing Trustee must:
- (1) do everything necessary to vest the Fund in the new Trustee; and
 - (2) deliver all records and other books of the Fund to the new Trustee.
- 48.6 On the Trustee ceasing to be Trustee, the new Trustee is:
- (1) the trustee nominated by the immediately preceding Trustee (while still Trustee);
or
 - (2) in default of nomination by the immediately preceding Trustee, the trustee nominated in writing by a Member or Members whose Accumulation Accounts total more than half of the total of the Accumulation Accounts in the Fund.

49. Powers of Trustee

49.1 The Trustee has all the powers in respect of the Fund and the Assets of the Fund which it could exercise if it was the absolute and beneficial owner of the Fund and the Assets of the Fund subject only to:

- (1) the restrictions imposed under SIS;
- (2) compliance with the Standards; and
- (3) the exercise of those powers being consistent with the "sole purpose test" prescribed by SIS.

50. Investment Strategy

50.1 The Trustee must formulate and implement an investment strategy in respect of the Fund having regard to the matters specified in SIS.

51. Borrowing

51.1 The Trustee must not borrow or maintain an existing borrowing of money unless allowed to do so under the Standards.

52. Exercise of Trustee's Powers and Discretions

52.1 Every discretion vested in the Trustee is absolute and uncontrolled.

52.2 A discretion vested in the Trustee is not exercisable by a person other than the Trustee unless:

- (1) the consent of the Trustee is given to the exercise of that discretion; and
- (2) it is otherwise permitted by the Standards.

52.3 Every power vested in the Trustee is exercisable at the absolute and uncontrolled discretion of the Trustee.

52.4 The Trustee may, subject to compliance with the Standards, by instrument in writing, revocable or irrevocable, wholly or partially release, abandon or restrict any power conferred upon the Trustee by this Deed.

52.5 The Trustee must not be subject to the direction of any other person in the exercise of any of the Trustee's powers except as permitted by the Standards.

53. Trustee's Indemnities

53.1 The Trustee and any Director of the Trustee are indemnified out of the Fund against all liabilities incurred by them through any act or omission in the exercise or purported exercise or attempted exercise of the trusts, powers, authorities, duties and discretions vested in the Trustee under this Deed or at law to the extent permitted under the Standards.

53.2 The indemnity conferred by clause 53.1 extends to any payments made to any person whom the Trustee bona fide believes to be entitled to those payments although it may be subsequently found that the person was not in fact so entitled.

WINDING UP

54. Termination of Fund

- 54.1 The Fund must be wound up upon the happening of any of the following events:
- (1) if there are no Members or Beneficiaries and the Trustee resolves to terminate;
 - (2) if the liabilities (excluding any liability for future Benefits payable to Members) of the Fund exceed the Assets of the Fund; or
 - (3) if for any other reason the Trustee resolves to terminate the Fund.
- 54.2 Upon the occurrence of an event referred to in clause 54.1, the Trustee must give notice in writing to Members (if any) and all Employers who have made Contributions that the Fund will be wound up on a specified date.
- 54.3 Following the giving of the notices referred to in clause 54.2, the Trustee must continue to administer the Fund in accordance with the provisions of this Deed except that:
- (1) no further Contributions, other than Contributions due on or before the date specified in the notices referred to in clause 54.2, may be accepted in respect of any Member; and
 - (2) no new Members may be admitted.
- 54.4 As soon as practicable after the date specified in the notices referred to in clause 54.2 the Trustee must make provision after meeting expenses and liabilities for the following:
- (1) payment of Benefits which on or before giving the notices referred to in clause 54.2 had become payable to a Member or the Member's dependants; and
 - (2) payment to each Member of the remaining credit balance of the Member's Accumulation Account.
- 54.5 If there are no Members and no liabilities in respect of the Fund, and there remains in the Fund an amount not applied or required for any other purpose, the Trustee must pay or apply the amount remaining for the benefit of any one or more of the persons who had been Members or dependants of Members and in the shares and proportions and in the manner the Trustee determines subject to the directions of ISC.
- 54.6 Where a Benefit payable under clauses 54.4 and 54.5 includes a Restricted Benefit, the Trustee must only pay or transfer the amount of the Restricted Benefit to another superannuation entity which satisfies the Standards regarding those Restricted Benefits.
- 54.7 When all Benefits have been paid, transferred or applied in accordance with the provisions of this Deed, and any amount remaining in the Fund has been paid or applied in accordance with clause 54.5 the Fund is deemed to be dissolved.

GENERAL

55. Variation of Deed

- 55.1 The Trustee with the approval in writing of a Member or Members whose Accumulation Accounts total more than one half of the total of the Accumulation Accounts in the Fund may amend, revoke or vary the provisions of this Deed, but:

- (1) the provisions of this Deed must not be amended in such a way that the sole or primary purpose of the Fund would be a purpose other than the provision of old age pensions, unless the provisions of this Deed provide, and will continue to provide after the amendment is made, that the Trustee must be a constitutional corporation; and
- (2) the amendment must be of a type permitted by the Standards.

55.2 An amendment may take effect from a date before or after the time it is made.

56. Severability

56.1 If anything in this Deed is unenforceable, illegal or void then it is severed and the rest of this Deed remains in force.

57. Notices

57.1 A notice or other communication under this Deed must be in writing and:

- (1) delivered by hand at the address of the addressee as specified in this Deed or at the last known address of the addressee ("**address for service**");
- (2) sent by registered post, postage prepaid, to the address for service; or
- (3) sent by facsimile transmission to the facsimile number of the addressee.

57.2 A notice is be deemed to be received on the date of delivery or at the expiration of 48 hours after it has been posted.

57.3 A notice sent by facsimile transmission is deemed to be delivered on the date of transmission.

58. Governing Law and Jurisdiction

58.1 The law of Queensland governs this Deed.

58.2 The Trustee, Members, Beneficiaries and Employers submit to the non-exclusive jurisdiction of the courts of Queensland and the Federal Court of Australia.

THE SCHEDULE
(clause 8.1)

APPLICATION FOR MEMBERSHIP

CONFIDENTIAL

To: The Trustee
MAULE FAMILY SUPERANNUATION FUND

I, the undersigned person, being eligible, apply for admission to membership of the Fund.

I agree and undertake as follows:

- (1) I will be bound by the Deed governing the Fund.
- (2) I understand the terms and conditions of the Deed and more particularly the terms and conditions of the Deed concerning Benefits payable.
- (3) I acknowledge I have received all information needed by me for the purpose of:
 - (a) understanding the main features of the Fund;
 - (b) making an informed judgment about the management and financial conditions of the Fund; and
 - (c) making an informed judgment about the investment performance of the Fund.
- (4) I consent to the Trustee acting as trustee.

Dated 19....

.....
Signature

Name :

Address :

Occupation :

Date of Birth :/...../.....

NOMINATED DEPENDANT(S)

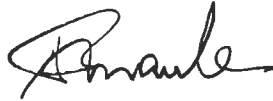
I nominate the undermentioned persons as my Nominated Dependants:

Surname(s)	Given Name(s)	Relationship	% of Total Benefit
.....
.....
.....

EXECUTED as a deed.

SIGNED by the said RODNEY ELLIOTT
MAULE in the presence of:

]]



Witness *A.G. Maule*

SIGNED by the said SANDRA ANNETTE
MAULE in the presence of:

]]



Witness *S.A. Maule*

MAULE FAMILY SUPERANNUATION FUND
("Fund")

INFORMATION TO PROSPECTIVE AND/OR NEW MEMBERS
PURSUANT TO THE REGULATIONS OF THE
SUPERANNUATION INDUSTRY (SUPERVISION) ACT

Notice is given pursuant to Division 2.3 of Part 2 of the *Superannuation Industry (Supervision) Regulations* in respect of the Fund as follows:

1. The Main Features of the Fund

1.1 Type of Fund

- (1) The Fund is of a type commonly known as an "accumulation fund".
- (2) In an accumulation fund, contributions and earnings are credited to individual accounts of members ("**Accumulation Accounts**") with relevant taxes and charges being debited to those accounts. When the member becomes entitled to a benefit, the amount of the benefit is the balance in his or her Accumulation Account. In other words, the superannuation benefit is merely an accumulation of the net contributions and earnings on those contributions over the years of membership.

1.2 Regulated Fund

- (1) The trustee of the Fund has made or will be making an election pursuant to section 19 of the *Superannuation Industry (Supervision) Act* ("**SIS**") to become a regulated superannuation fund.
- (2) The status of being a regulated superannuation fund means that the SIS provisions apply to the operation of the Fund generally and in particular to the conduct of the trustee.

1.3 Limitation on Membership

- (1) The Fund does not intend to admit more than 4 members. If membership is less than 5, the Fund will be classified as an *excluded fund* for the purposes of SIS.
- (2) The SIS standards in the following areas do not apply to *excluded funds*:
 - (a) equal trustee representation;
 - (b) internal dispute resolution mechanism;
 - (c) Superannuation Complaints Tribunal;
 - (d) restrictions on employer's power to direct the trustee;
 - (e) restrictions on exercise of discretions by parties other than the trustee;
 - (f) restrictions on employer's power to amend the trust deed; and
 - (g) the payment of surpluses to the employer.
- (3) The SIS standards are relaxed for excluded funds to:

- (a) permit acquisitions from a member of a business real property at market value, provided it does not exceed a limit of 40% of the Fund's total assets; and
- (b) provide for a less onerous set of reporting requirements to members, i.e. detailed reporting on the Fund as a whole is not required, but member benefit statement requirements are the same.

2. Management and Financial Information of the Fund

2.1 Management of the Fund

- (1) The trustee of the Fund is Rodney Elliott Maule and Sandra Annette Maule.
- (2) The trustee is not trustee of any other superannuation fund.

2.2 Financial Position

The financial position of the Fund as at the date of this statement is:

Assets	Nil
Liabilities	<u>Nil</u>

3. The Investment Performance of the Fund

3.1 Investment Performance

There are currently no investments made by the Fund. Consequently, the Fund does not have any investment performance record.

3.2 Investment Strategy

- (1) The trustee of the Fund intends to invest the assets of the Fund in the best interests of members and their dependents on those investments which are not prohibited or restricted by virtue of the standards prescribed by SIS in a manner in which a reasonably prudent man would invest funds on behalf of others.
- (2) The guidelines established for the investment of funds in various categories of investments are listed below:

Category of investment	Minimum percentage to be invested in category	Target percentage to be invested in category	Maximum percentage to be invested in category
Real estate	0%		100%
Australian equities	0%		100%
Foreign equities	0%		100%
Government bonds	0%		100%
Other bonds	0%		100%
Cash	0%		100%
Other	0%		100%

Trustee to complete these guidelines

4. Contact Details

- 4.1 The contact address for the Fund is Tannum Beach Caravan Village, The Esplanade, Tannum Sands. Qld 4680.
- 4.2 Rodney Elliott Maule is the contact person in relation to the Fund who is available to receive and deal with enquiries or complaints from members.

5. Benefits

- 5.1 You (or a dependant) may become entitled to a benefit if:
- (1) you retire on or after attaining age 55;
 - (2) you suffer a permanent incapacity;
 - (3) you die while still a member of the Fund; and
 - (4) you are dismissed from your employment.

6. Calculation of Benefits

- 6.1 The amount of your benefit is the credit balance in your Accumulation Account on the date upon which the benefit becomes payable.

7. Restricted Benefits

- 7.1 If any benefit includes a component the access to which is restricted by virtue of the standards prescribed by SIS, you will not be entitled to receive that component of the benefit until those standards have been satisfied.

8. Type of Benefit - Lump Sum/Pension

- 8.1 You may notify the trustee in writing whether your preference is to be paid as a lump sum, allocated pension or pension. The form of benefit you receive will be determined by the trustee.
- 8.2 If you are entitled to a lump sum, the whole or part of that benefit may be converted to a pension by a request to the trustee.
- 8.3 Where a pension is payable, the whole or part of the pension can be commuted to a lump sum upon request from you to the trustee subject to:
- (1) the restrictions contained in SIS; and
 - (2) the approval of the trustee.

9. Superannuation Complaints Tribunal

- 9.1 The Superannuation Complaints Tribunal is established by the *Superannuation (Resolution of Complaints) Act*. The Tribunal must, in carrying out its functions or exercising its power pursue the objects of providing mechanisms for:
- (1) the conciliation of complaints; and

- (2) if complaints cannot be resolved by conciliation - the review of the decision of the trustee to which the complaints relate;

that are fair, economical, informal and quick.

9.2 The functions of the Tribunal are:

- (1) subject to clause 9.2(2), to enquire into a complaint and try to resolve it by conciliation;
- (2) if the complaint cannot be resolved by conciliation - review the decision of the trustee to which the complaint relates; and
- (3) any functions conferred on the trustee by or under any other Act.

10. Trustee's Fees and Charges

10.1 The trustee will not impose any fees and charges in relation to the administration of the Fund.

Dated 1999.

SIGNED by the said **RODNEY ELLIOTT MAULE** in the presence of:

] 
]

Witness *S.A. Maule*

SIGNED by the said **SANDRA ANNETTE MAULE** in the presence of:

] 
]

Witness 

SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993

(GAINFULLY OCCUPIED PERSONS)

SUPERANNUATION TRUST DEED

FOR

John McGregor Superannuation Fund

**This Deed was drawn by
D.G.F. Morgan and Associates
Solicitors**



NO DUTY PAYABLE

This Deed is made at:

M. Daly 11/6/96
Stamp Duties

on:

by: (McGregor, John Middleton
Duncan, Gordon)

and whose address is at MS 388, 2-4 Anthonys Rest
The Hummock Bundaberg QLD 4670
94 Boundary Street
Bundaberg Qld 4670

in the capacity of Trustee and described in this Deed as Trustee in that capacity

and: McGregor, John Middleton

of: MS 388, 2-4 Anthonys Rest
The Hummock, Bundaberg Qld 4670

GRD
Trustee
but not a
member

called in this Deed "the Initial Member" in the

Whereas

- A. The Trustee and Initial Member have determined to establish and maintain an indefinitely continuing superannuation fund within the meaning of the Act for the purposes of the provision of benefits for Members upon their retirement, the provision of benefits upon their attaining a particular age, the provision of benefits for dependents of a Member upon death and for such other purposes permitted by the Superannuation Conditions.
- B. The party or parties named as Trustees shall be the first Trustee or Trustees.
- C. The Initial Member comprises the first membership of the Fund.

Now this Deed witnesses:

Fund Establishment

- 1.1 The Trustee and the Initial Member hereby establishes a superannuation fund which shall be known as the
John McGregor Superannuation Fund
("the Fund").
- 1.2 The Fund shall commence and come into operation on the date of this Deed.
- 1.3 The Trustees shall hold the Trust Fund upon the Trusts contained in this Deed.

Interpretation

2.1 In this Deed unless the context otherwise requires words importing gender shall include any gender and words importing number shall include the singular number and the plural number. The following words shall have the meanings set after them unless the contrary intention appears and subject to 2.3:-

"Act" means, the Superannuation Industry (Supervision) Act, the Occupational Superannuation Standards Act, 1987 or any other Act (as may be amended from time to time) governing superannuation funds from time to time and any re-enactment thereof and includes regulations from time to time made thereunder and the determinations from time to time of the Commissioner and where the context requires, the Guarantee Act.

"Actuary" means a Fellow or an Accredited Member of the Institute Actuaries of Australia.

"Associated Employer" means any company, person or firm which the Trustees admits under this Deed or the Rules of the Fund to participate as an Employer in the Fund.

"Auditor" means an approved Auditor as defined in Section 10 of SIS.

"Commissioner" means the Insurance and Superannuation Commissioner appointed under the Insurance and Superannuation Commission Act 1987, or a person for the time being acting as Insurance and Superannuation Commissioner under that Act or any other governmental authority responsible for administering the laws or rules relating to the concessional taxation of Superannuation Funds.

"Dependant" means the spouse and any child (in either case within the meaning of the Act) of the Member and any other person who in the opinion of the Trustees is and is accepted by the Commissioner to be at a relevant time a dependant of the member within the meaning of the Act.

"Eligible Person" means a person engaged in any business, trade, profession, vocation, calling, occupation or employment or otherwise a person permitted by the Superannuation Conditions to join the Fund of the nature of this Fund and includes any person who is under age 65 and who has at any time in the period of two years immediately preceding the date of the Deed constituting the Fund engaged in full-time or part-time gainful employment or any other person who is otherwise not excluded from membership of the Fund by the Superannuation Conditions.

"Employee" has the meaning given by Section 10 of SIS.

"Employer" has the meaning given by Section 10 of SIS.

"Employer Representative" has the meaning given by Section 10 of SIS.

"Employer-Sponsored Fund" has the meaning given by Section 16(3) of SIS.

"Employment" means gainful employment, part-time employment and full-time employment and includes the services of an independent contractor and all senses of the word employ include the same meaning.

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

"Deed" means this Deed and the Rules or any alteration to, addition to or variation made to it from time to time.

"Guarantee Act" means the Superannuation Guarantee (Administration) Act 1992.

"Mandated Employer Contributions" has the meaning given by the SIS Regulations.

"Mandated Employer-Financed Benefits" has the meaning given by the SIS Regulations.

"Member" means an Eligible Person who has been admitted to the Fund and where the context so requires or permits includes a Past Member, a former Member and a Pensioner.

"Member Financed Benefits" has the meaning given by the SIS Regulations.

"Member Representative" has the meaning given by SIS.

"Old-Age Pensions" has the same meaning as in paragraph 51(xxiii) of the Constitution.

"Past Member" means a former Member who still has a right to receive a benefit from the Fund.

"Pension Benefit Account" means an account that provides a retirement benefit.

"Pensioner" means a retired Member, Past Member of the Dependent of a deceased Member, Past Member or Pensioner who is in receipt of a Pension.

"Personal Representative" means in relation to a Member a person who satisfies the Trustees that such person is entitled to represent the Member and to give valid receipts and discharges on the Member's behalf and in relation to a deceased Member the person who has been granted probate of a will or letters of administration of an estate of that Member.

"Preserved Portion" means the portion of an account or a benefit that is preserved for the benefit of a Member under the Superannuation Conditions, this Deed or other agreement.

"Regulated Superannuation Fund" has the meaning given by Section 19 of SIS.

"Retire" means to cease to be engaged in the employment in which the Member is for the time being engaged and "Retirement" has a corresponding meaning.

"Retirement Date" means the sixty-fifth birthday or such other date as the Trustees determine, not being inconsistent with the Superannuation Conditions.

"Rules" means the Rules set out in the Schedule to the governing rules and includes any additions, variations and modifications thereto.

"SIS" means the Superannuation Industry (Supervision) Act 1993 as amended from time to time and regulations from time to time made thereunder. **"SIS Regulations"** mean the regulations made under SIS as amended from time to time.

"Spouse" in relation to a person, includes another person, although not

legally married to the person, lives with the person on a genuine domestic basis as the husband or wife of the person.

"Standard" means a standard prescribed by the Act.

"Standard Employer-Sponsor" has the meaning given by Section 16(2) of SIS.

"Standard Employer-Sponsored Fund" has the meaning given by Section 16(4) of SIS.

"Superannuation Conditions" subject to 2.4 means any provision which may be applicable to the Fund under the Act or other laws or rulings of the Commissioner which must or may be met for the Fund to be treated with the most concessional taxation treatment available or to be treated in any manner which, in the opinion of the Trustees, is concessionary.

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

"Vested Portion" means the portion of an account or benefit that is vested for the benefit of a Member including any such portion which is preserved for the benefit of a Member and any such portion which has been transferred in respect of a Member to the Fund from another superannuation fund as a vested benefit.

2.2 **Headings:** The headings in this Deed and the Rules are for convenience and reference only and shall not affect its interpretation.

2.3 **Interpretation:** Any word or expression which is defined in the Act shall in this Deed have the meaning ascribed to it by the Act and to the extent that a meaning ascribed to a word or expression within this Deed is inconsistent with the meaning ascribed to it by the Act the meaning ascribed by the Act shall prevail unless the contrary intention appears provided that where more than one meaning may be ascribed then the Trustees may determine which of those meanings shall apply.

2.4 **Inconsistencies with the Superannuation Conditions:** Where it appears to the Trustees that there is any inconsistency or difference between:-

- (a) any provision of any Act or other laws and another provision or provisions;
- (b) the rulings of the Commissioner and other rulings of the Commissioner; or
- (c) the Acts or laws referred to in (a) and the rulings referred to in (b)

then the Trustees may determine, either generally or in respect of any particular application, in their absolute discretion, which provision or ruling shall apply and the Deed shall be construed accordingly.

2.5 This Deed and the Rules shall be governed and construed and shall take effect in accordance with the laws of the State or Territory of residence of the Trustee provided that Section 35(b) of the South Australian Trustees Act 1936 shall not apply to this Deed. Any person having or claiming any interest under this Deed shall submit to the jurisdiction of the Courts of that State or Territory.

- 2.6 **Saving Provision:** To the extent any provision of this deed would be void or invalid, but for this paragraph ("an invalid provision"):
- (a) where a reading down or limitation of the operation of the invalid provision would remove the voidness or invalidity, that shall be done in constructing the Deed;
 - (b) where it is not possible to apply paragraph (a), the invalid provision shall be severed from the Deed;
 - (c) in any event, an invalid provision does not affect the continued operation of the remainder of the Deed.

Sole Purpose Test

- 3.1 **Core purposes:** The Trustees must ensure that the Fund is maintained solely for one or more of the core purposes or both one or more of the core purposes and for one or more of the ancillary purposes provided in SIS.
- 3.2 **Sole purpose:** Notwithstanding anything in this deed, the sole or primary purpose of the fund is the provision of old-age pensions.

Constitution of Fund

- 4.1 **Trusts:** All assets of the Fund shall be vested in the Trustees who shall stand possessed of the same upon trust to apply the same in the manner and for the objects and purposes of the Fund as set forth in the Deed and any amendment thereto.
- 4.2 **Perpetuities:** If the Deed is or becomes subject to a rule against perpetuities the Trustees shall not later than the specified date dissolve the Fund and pay to or secure for the Members or their Dependents or Personal Representatives such amounts as the Trustees may subject to this Deed determine notwithstanding that Members are then in the service of the Employer. For the purposes of this paragraph the "specified date" is that date which by the rule to which this Deed is or becomes subject is the last date limited for the vesting of the whole of the Fund without infringement of the rule and where that date is to be calculated by reference to a life in being the life is that of the last survivor of all the lineal descendants of His Late Majesty King George VI who are living at the date of execution of this Deed.

Constitutional Requirements

- 5.1 **Trustees to give notice to become a regulated fund:** The Trustees shall give to the Commissioner within the period provided by the Superannuation Conditions a written notice in the approved form and signed in the manner required by the Act electing that SIS is to apply in relation to the Fund.

Statutory Covenants

- 6.1 **Statutory covenants:** The purpose of this paragraph is explanatory only. The effect of Section 52 of SIS is that the Trustees covenant:-
- (a) to act honestly in all matters concerning the Fund;
 - (b) to exercise, in relation to all matters affecting the Fund, the same degree of care, skill and diligence as an ordinary prudent person

would exercise in dealing with property of another for whom the person felt morally bound to provide;

- (c) to ensure that the Trustees' duties and powers are performed and exercised in the best interests of the beneficiaries;
- (d) to keep the money and other assets of the Fund separate from any money and assets, respectively:-
 - (i) that are held by the Trustees personally; or
 - (ii) that are money or assets, as the case may be, of a standard employer-sponsor, or an associate of a standard employer-sponsor, of the Fund;
- (e) not to enter into any contract, or do anything else, that would prevent from, or hinder the trustee in, properly performing or exercising the Trustees' functions and powers; this does not prevent the Trustees from engaging or authorising persons to do acts or things on behalf of the Trustees.
- (f) to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the Fund including, but not limited to, the following:
 - (i) the risk involved in making, holding and realising, and the likely return from the Fund's investments having regard to its objectives and its expected cash flow requirements;
 - (ii) the composition of the Fund's investments as a whole including the extent to which the investments are diverse or involve the Fund in being exposed to risks from inadequate diversification;
 - (iii) the liquidity of the Fund's investments having regard to its expected cash flow requirements;
 - (iv) the ability of the Fund to discharge its existing and prospective liabilities;
- (g) if there are any reserves of the Fund - to formulate and to give effect to a strategy for their prudential management, consistent with the Fund's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;
- (h) to allow a beneficiary access to any information or documents prescribed under SIS.
- (i) to observe such covenants as are prescribed to be included in the governing rules of the Fund prescribed by the SIS Regulations.

Statutory Requirements

- 7.1 **Fund to be a regulated fund and non-public offer:** It is the intention of the Trustees that the Fund shall comply with and be administered as a regulated superannuation fund and one that is not a public offer superannuation fund. Notwithstanding any provision in this Deed to the contrary the Trustees are empowered to do all things necessary to be done by them to ensure that the Fund does not become a public offer superannuation fund and satisfies the relevant provisions of the

Superannuation Conditions applicable to regulated superannuation funds and notwithstanding any provision to the contrary the Trustees are restrained from doing or omitting to do anything the doing or omission of which will cause the Fund to fail to satisfy such provisions or cause the Fund to become a public offer superannuation fund.

Alterations to the Deed

- 8.1 **Methods to alter Deed:** Subject to this paragraph 8, the Superannuation Conditions and the Trustees consent, if required by those Conditions, this Deed and the Rules may be amended:
- (a) by deed executed by the Trustees and subject to compliance with the Superannuation Conditions, with the consent of a two thirds majority of members; or
 - (b) by oral resolution of the Trustees and subject to compliance with the Superannuation Conditions, with the consent of a two thirds majority of members.
- 8.2 **Effective date:** An amendment under this paragraph shall take effect from the date (prospective or retrospective) specified in the resolution or if not specified on the date on which the resolution is made.
- 8.3 **Prohibition:** If the Superannuation Conditions prohibit it, from the time that the Fund is a regulated Superannuation Fund, the Deed shall not be amended in such a way that:
- (a) an individual would be eligible to be appointed as Trustee unless the rules provide, and will continue to provide after the amendment is made, that the Fund has, as its sole or primary purpose, the provision of old-age pensions; or
 - (b) the sole or primary purpose of the Fund would be a purpose other than the provision of old-age pensions unless the governing rules provide, and will continue to provide after the amendment is made, that the Trustee must be a constitutional corporation.
- 8.4 **Notice to be given to members following alteration:** The Trustees shall give to each Member such information or notice in respect of the amendments as may be required by the Superannuation Conditions.

Trustees

- 9.1 **Written consent of Trustee required.** A person is not eligible for appointment as a Trustee, or, if the Trustee is a corporate Trustee, as a director of that corporate Trustee, unless the person has consented in writing to the appointment.
- 9.2 **Consent of new members to Trustees:** A person joining the Fund as a Member consents as a condition of joining the Fund to the Trustees at the date of the Member so joining continuing to act as Trustees.
- 9.3 **Chairperson:** The Chairperson of any meeting of the Trustees or of the body corporate sole Trustee shall not have any second or casting vote.
- 9.4 **Number of Trustees:** A constitutional corporation may act as sole Trustee and more than one Trustee may be appointed.

9.5 **Meetings of members:** The Trustees may establish procedures and policies for the regulation of meetings of members.

9.6 **Decisions of Trustees:** If required by the Superannuation Conditions, a decision of:

- (a) the individual Trustees of a Fund; or
- (b) the Board of Directors of the Corporate Trustee of a Fund;

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

9.7 **Basic equal representation rule:**

- (a) **Compliance with Rule:** The Fund shall, if required by the Superannuation Conditions, comply with the basic equal representation rule.
- (b) **Member Representatives:** If the Superannuation Conditions require, the Trustees shall establish further rules setting out a procedure for appointing and removing member representatives consistent with these conditions.
- (c) **Notice of procedure to be given to members:** The Trustees will, if required by the Superannuation Conditions, take reasonable steps to make members of the Fund aware of the procedure for appointment and removal of member representatives as required by the Superannuation Conditions.
- (d) **Appointment of Employer Representatives:** Where it becomes necessary for any reason for an employer representative to be nominated to the office of Trustee or to the board of a corporate Trustee that nomination shall be made in writing by the Associated Employers and shall be effective upon delivery of the nomination to the Trustee.
- (e) **Removal of Employer Representatives:** Subject to the Superannuation Conditions, an employer representative may be removed by notice of removal in writing by the Associated Employers which shall be effective upon delivery to the Trustee.
- (f) **Appointment of an independent Trustee:** Subject to the Superannuation Conditions, the Trustees may appoint a person as an Independent Trustee. Where the Trustees are so empowered, they may appoint an Independent Director to the Board of a corporate Trustee.
- (g) **Procedures for appointing and removing independent Trustees:** The Trustees shall, if required by the Superannuation Conditions, establish rules setting out a procedure for appointing and removing any independent trustee or an independent director of a corporate Trustee.
- (h) **Casting vote:** If there is an independent Trustee appointed as a Trustee of the Fund or an independent director of a corporate Trustee then that independent Trustee or director shall not, if prohibited by the Superannuation Conditions, have a casting vote in any proceedings of Trustees or the board of a corporate Trustee.

9.8 **Vacancy in office of Trustee:** The office of a Trustee or of a director of a body corporate sole Trustee shall ipso facto become vacant if the Superannuation Conditions require it or upon the Trustee's or director's:

- (a) death;
- (b) mental or physical incapacity;
- (c) retirement by written notice to the Members and any other Trustee;
- (d) becoming a disqualified person within the meaning of SIS;
- (e) suspension or removal under SIS;
- (f) tenure of the Trustee's position expires;

and a new Trustee may be appointed by the Members, subject to this Deed, by deed or other written instrument.

9.9 **Members to fill vacancy:** If a vacancy occurs in the membership of Trustees or board of a corporate trustee then the vacancy must be filled within 90 days after it occurred where the Superannuation Conditions require it or such other time as permitted under the Superannuation Conditions. And such vacancy may, subject to the Superannuation Conditions, be filled by a two-thirds majority of members.

9.10 (a) **Members may remove Trustee:** Subject to the Superannuation Conditions and if required by them, with the Trustees' consent, the Trustee or where there is more than one a Trustee (other than an Employer Representative) may be removed by a two-thirds majority of the Members and such removal shall be effective upon the passing of a resolution to that effect in accordance with this Deed.

(b) **Members may replace Trustee:** At the time of making a resolution under sub-paragraph (a) above the Members may (with the written consent of the appointee or appointees) by resolution made and effected in like manner appoint a Trustee or Trustees to replace the person or persons so removed.

9.11 (a) **Removal of employer representative:** Subject to the Superannuation Conditions and if required by them, with the Trustees' consent, an Employer Representative may be removed by a two-thirds majority of the Associated Employers and such removal shall be effective upon the passing of a resolution to that effect in accordance with this Deed.

(b) **Replacement of employer representative:** At the time of making a resolution under sub-paragraph (a) above the Associated Employers may (with the written consent of the appointee or appointees) by resolution made and effected in like manner appoint an Employer Representative to replace the person or persons so removed.

9.12 (a) **Approval of Members generally:** Subject to the Superannuation Conditions and to paragraph 9.7 where under the terms of this Deed there is required in relation to the exercise by the Trustees of any power or authority or there is otherwise required the resolution, consent, approval or agreement (herein referred to as "resolution") of the Members generally the passing or rejection of that resolution shall be determined in accordance with the succeeding provisions of this sub-paragraph unless all members of the Fund at the time of signature have signified their consent in writing.

- (b) **Written notice to members:** The Trustees of their own motion or upon written requisition by not fewer than ten percent of the Members shall give written notice by pre-paid ordinary mail to each Member:-
- (i) specifying the matter in respect of which resolution is sought;
 - (ii) setting out a comprehensible explanation of the reasons for which the resolution is sought;
 - (iii) specifying the effect of the provisions of this sub-paragraph in relation to the determination of the resolution;
 - (iv) containing provision for the Members indication of the passing or rejection of the resolution;
 - (v) containing a stamped addressed envelope to the Trustees.
- (c) **Trustee meeting to table responses:**
- (i) Upon the date which is fifteen (15) clear ordinary business days from the date upon which the notices under sub-paragraph (b) were posted to the Members the Trustee shall at a duly convened meeting of the Trustee table the responses of the Members received by the Trustee and in the event that the requisite majority of responses indicates the passing of the resolution it shall be passed and in the event that the requisite majority of such responses indicates the rejection of the resolution it shall be rejected.
 - (ii) Any Member shall be entitled to attend as an observer a meeting of the Trustees under this sub-paragraph.
- (d) The Trustees shall retain the responses with the Minutes of the Meeting at which they were tabled.
- (e) **Requisite majority:** In the provisions of this sub-paragraph the expression "requisite majority" shall mean:-
- (i) in the case where a two-thirds majority is required - two-thirds or more of the responses;
 - (ii) in any other case - one-half or more of the responses.
- (f) **Notification to members and employers:** The Trustee shall within fourteen (14) days of any meeting held under the provisions of this sub-paragraph notify all Members and Associated Employers of the result thereof.
- (g) **Strict compliance not essential:** Any resolution made under this paragraph is not invalidated by reason of any or want of strict compliance with these provisions unless it shall be shown that there has or may be caused thereby some substantial and irremediable injustice.

- 9.13 (a) **Approval of Members generally:** Where under the terms of this Deed there is required in relation to the exercise by the Trustees of any power or authority or there is otherwise required the resolution, consent, approval or agreement (herein referred to as

"resolution") of the Associated Employers generally the passing or rejection of that resolution shall be determined in accordance with the succeeding provisions of this sub-paragraph unless all Associated Employers at the time of signature have signified their consent in writing.

- (b) The Trustees of their own motion or upon written requisition by not fewer than ten percent of the Associated Employers shall give written notice by pre-paid ordinary mail to each Associated Employer:-
- (i) specifying the matter in respect of which resolution is sought;
 - (ii) setting out a comprehensible explanation of the reasons for which the resolution is sought;
 - (iii) specifying the effect of the provisions of this sub-paragraph in relation to the determination of the resolution;
 - (iv) containing provision for the Associated Employers indication of the passing or rejection of the resolution;
 - (v) containing a stamped addressed envelope to the Trustees.
- (c) **Trustees meeting to table responses:**
- (i) Upon the date which is fifteen (15) clear ordinary business days from the date upon which the notices under sub-paragraph (b) were posted to the Associated Employers the Trustee shall at a duly convened meeting of the Trustee table the responses of the Associated Employers received by the Trustee and in the event that the requisite majority of responses indicates the passing of the resolution it shall be passed and in the event that the requisite majority of such responses indicates the rejection of the resolution it shall be rejected.
 - (ii) Any Associated Employer shall be entitled to attend as an observer a meeting of the Trustees under this sub-paragraph.
- (d) The Trustees shall retain the responses with the Minutes of the Meeting at which they were tabled.
- (e) **Requisite majority:** In the provisions of this sub-paragraph the expression "requisite majority" shall mean:-
- (i) in the case where a two-thirds majority is required - two-thirds or more of the responses;
 - (ii) in any other case - one-half or more of the responses.
- (f) **Notification to Members and Employers:** The Trustee shall within fourteen (14) days of any meeting held under the provisions of this sub-paragraph notify all Members and Associated Employers of the result thereof.
- (g) **Strict compliance not essential:** Any resolution made under this paragraph is not invalidated by reason of any or want of strict compliance with these provisions unless it shall be shown that there has or may be caused thereby some substantial and irremediable injustice.

Indemnification of Trustees

- 10.1 **Indemnity:** Subject to SIS, the Trustee, or if there is more than one, each of them, shall be indemnified against all liability incurred while acting as Trustee. This includes things done or omitted to be done.
- 10.2 **Trustees may obtain advice:** The Trustees may seek advice from any person in respect of any matter relating to performance of the duties or the exercise of the powers of the Trustees and the indemnity referred to above includes the cost of obtaining such advice.

Indemnification of Directors of Trustees from Assets of Fund

- 11.1 **Directors' indemnity:** Subject to SIS, where the Trustee is a body corporate, each director shall be indemnified out of the assets of the Fund in respect of all liability incurred while acting as a director of the Trustee. This includes things done or omitted to be done.

Trustees not to be Subject to Direction

- 12.1 **Directions:** Where the Superannuation Conditions prohibit it, the Deed shall, notwithstanding anything contained in it, not permit the Trustees to be subject, in the exercise of any of the Trustees' powers under the Deed, to direction by any other person.
- 12.2 **Direction taken to be a request:** If any provision in this Deed is inconsistent with the preceding sub-paragraph then, notwithstanding such provisions, the Trustees shall treat the direction as a request and the Trustees shall not be bound by such provision or request.

Investments

- 13.1 **Investment Strategy:** If required to do so by the Superannuation Conditions, the Trustees must formulate and give effect to an investment strategy in accordance with the Superannuation Conditions.
- 13.2 **Loans:** The Trustees may not lend money to Members unless the Superannuation Conditions permit loans to members.
- 13.3 **Acquisition of assets from members:** The Trustees must not intentionally acquire an asset from:
- (a) a member of the Fund; or
 - (b) a relative of a member of the Fund.
- unless the Superannuation Conditions permit.
- 13.4 **Borrowing:** The Trustees may borrow money or maintain an existing borrowing of money if the Superannuation Conditions permit.
- 13.5 **In-house assets:** The Trustees must take all reasonable steps to ensure that the in-house assets rules applicable to the fund, if any, are complied with and may only invest in in-house assets if permitted by the Superannuation Conditions. Subject to those conditions the Trustees may continue to hold any existing in-house asset.
- 13.6 **Arms' length dealing required:** The Trustees must not, if prohibited by the Superannuation Conditions, invest money of the fund unless the

Trustees and the other party to the relevant transaction are dealing with each other at arms' length in respect of the transaction.

- 13.7 **Power to invest as if natural persons:** The Trustees may make any investment that a natural person may make. The Trustees have power to vary or transpose any of the investments so made. The Trustee's power of investment is subject to the Superannuation Conditions and any contrary provision in the Deed.
- 13.8 **Other investments:** Without limiting the generality of the preceding subparagraph but subject to it, the Trustees may invest in: -
- (a) any investment authorised by the laws of Australia or of any of its States or Territories for the investment of trust funds;
 - (b) the purchase of or subscription for preference or other shares or stock or preference or other share or stock options in any company incorporated in Australia or in any other country;
 - (c) the purchase of units or sub units of property or other investment trusts or other common fund;
 - (d) deposits with any bank, life insurance company or building society or on loan to any company, organisation or person not being a Member;
 - (e) policies of insurance, assurance, endowment, deposit administration or investment;
 - (f) the purchase of annuities and deferred annuities from a life insurance company or other organisation;
 - (g) the purchase of any real estate in Australia;
 - (h) deposits with or loans to an Employer;
 - (i) any other investment whether or not similar to any of the foregoing which the Trustees consider to be appropriate.
- 13.9 **Nominees for Trustees:** Any investment may be held in such names including the name of a nominee (whether an individual or corporation) as the Trustees from time to time shall determine, subject to the Superannuation Conditions.
- 13.10 **Continuation of loans to members:** The Trustees may continue any loans transferred in respect of a Member from another superannuation fund under conditions which will not cause the Fund to fail to satisfy the Superannuation Conditions.
- 13.11 **Member directed investments:** If the Superannuation Conditions do not prohibit it, the Trustees may at their absolute discretion, upon the written request of a Member enter into such arrangements with that Member in respect of the investment of funds standing to the credit of that Member as may be agreed between them.

Complaints

- 14.1 **Establishment of complaints procedure:** If required by the Superannuation Conditions, the Trustees will establish such reasonable procedures under which enquires and complaints may be dealt with.

Powers of Trustees

- 15.1 **Discretion powers of Trustees:** Subject to the Superannuation Conditions, the Trustees in the exercise of the authorities, powers and discretions hereby vested in them shall have an absolute and uncontrolled discretion and may exercise or enforce or delegate (by power of attorney or otherwise) all or any of the authorities, powers or discretions from time to time or may refrain from exercising all or any of such authorities, powers or discretions from time to time and their decision as to the interpretation and effect of this Deed shall be final and binding on all parties.
- 15.2 **Trustees actions subject to Superannuation Conditions:** The Trustees may only act in a manner which is not prohibited by the Superannuation Conditions.
- 15.3 **Additional powers:** Subject to the Superannuation Conditions, the Trustees also have the following powers -
- (a) to insure or re-insure any risks contingencies or liabilities of the Fund;
 - (b) to open and operate a bank account at any bank and to make regulations for the operation of such bank accounts including the signing and endorsing of cheques in connection therewith;
 - (c) to institute or defend or otherwise deal with any legal proceedings in respect of the Fund;
 - (d) to enter into any contract and do all such acts matters and things as the Trustees may consider necessary or expedient for any matter or purpose in respect of the Fund or this Deed;
 - (e) to engage the services of any company, person or firm as the Trustees may consider necessary for the proper administration and management of the Fund or to obtain expert advice;
 - (f) to appoint an Auditor of the Fund from time to time at such remuneration and on such other conditions as the Trustees think fit; and
 - (g) to deduct and pay from the Fund the amounts of administration and other costs including any tax or duty payable by the Trustees in connection with the Fund and to debit any of the accounts of the Fund (including an account representing Member Financed Benefits) with such amounts in such manner as the Trustees may determine and which shall not cause the Fund to fail to comply with the Superannuation Conditions;
 - (h) to deduct from any benefit or other payment hereunder any tax or duty payable whether from or in respect of it and whether payable by the person entitled thereto or the Fund and shall thereupon pay the said tax or duty to the relevant authority and the person shall be entitled to receive only the net benefit or payment after the deduction has been made;
 - (i) such other powers as are appropriate to the fulfilment of the purposes of the Fund and its proper and efficient management and its compliance with an exercise of powers authorities and discretions available under the Superannuation Conditions.

Notification of significant adverse effects

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

Insurance

- 17.1 **Life insurance:** The Trustees shall have power from time to time to effect policies of insurance upon the life of any Member to secure payment upon death of the Member or the happening of any other contingency in respect of that Member of such amount as the Trustees in their absolute discretion think fit and to renew any such policies for such period as the Trustees may think fit and the Trustees shall have power to accept an assignment of any policies of insurance effected in respect of a Member.
- 17.2 **Annuities:** The Trustees shall have power from time to time to effect annuity or deferred annuity policies upon the life of any Member or any of the Member's Dependents of such amount as the Trustees shall determine and the Trustees shall have power to accept an assignment of such annuity or deferred annuity policies effected in respect of a Member.
- 17.3 **Powers:** Policies shall be issued in the names of or assigned to the Trustees and shall be held by the Trustees upon and subject to the provisions of this Deed and the Trustees may enforce surrender sell or otherwise deal with any such policies as they shall in their absolute discretion think fit provided that the Trustees may also arrange for annuity or deferred annuity policies to be issued in the name of the beneficiary.
- 17.4 **Evidence to be provided by Member for insurance:** A Member shall provide any evidence that may be required from such Member in order to secure cover under any insurance policy and the Trustees shall not be bound to seek completion of such policy if evidence satisfactory to the insurance company is not provided.

Accounts

- 18.1 **Trustees to keep accounting records:** The Trustees may:
- (a) keep such accounting records as correctly record and explain the transactions and the financial position of the Fund.
 - (b) keep its accounting records so as to enable the preparation of the accounts and statements in accordance with the Superannuation Conditions.
 - (c) keep its accounting records so as to enable those accounts, statements and returns to be conveniently and properly audited in accordance with the Superannuation Conditions.
- 18.2 **Balance sheet:** The Trustees shall as soon as practicable after the expiration of each Financial Year cause to be drawn up-
- (a) a balance sheet as at the end of the Financial Year showing the assets and the liabilities of the Fund valued in accordance with the provisions of this deed giving a true and fair view of the state of the affairs of the Fund as at the end of the Financial Year;

- (b) an income and expenditure account showing the financial activities of the Fund during the year;
- (c) a profit and loss account of the Fund for the Financial Year showing the profit or loss arising from the activities of and investment of the Fund during the year and including but separately disclosing any surplus or deficiency arising from any revaluation of the assets of the Fund carried out during the year;

18.3 **Accounts and statements to be prepared:** The Trustees shall prepare such accounts and statements additional to those described in this paragraph as are required by the Superannuation Conditions or otherwise, as they think fit.

18.4 **Audit:** If required by the Superannuation Conditions, the Trustees shall ensure that the accounts and statements of the Fund are audited.

18.5 **Maintenance of reserves:** The Trustees may, if they consider it desirable to do so, maintain reserves of the fund.

18.6 **Records to be kept by Trustees:** The Trustees shall keep such minutes, records and reports as they consider appropriate for the proper administration of the Fund and such further records, minutes and reports as may be required by the Superannuation Conditions.

Payments to Contributors

19.1 **Payments out to employer-sponsor:** The Trustees may pay an amount or permit an amount to be paid out of the Fund to an employer sponsor if permitted by the Superannuation Conditions.

Rollover

20.1 **Trustees may pay rollovers:** The Trustees may pay benefits to an eligible rollover fund in accordance with the Superannuation Conditions.

Member Accounts

21.1 **Trustees to keep member and employer accounts:** Subject to complying with the Superannuation Conditions, the Trustees may keep such accounts in respect of member and employer contributions as they think fit.

21.2 **Power to retain prior categories of membership and vesting:** Where under any prior rules of this Fund or under the rules of any fund from which a benefit has been transferred in respect of a Member, provision was made for categories of membership or for vesting of contributions, the Trustees may, in their absolute discretion continue to apply or adopt those provisions or similar provisions accordingly.

21.3 **Accounts may be kept:** The Trustees may cause to be kept in respect of each Member a Member Account which may contain such particulars as the Trustees determine.

21.4 **Details of accounts:** Each Member Account may include -

- (a) an Employer Contribution Account showing -
 - (i) contributions by the Employer to that account;

- (ii) sums which the Trustees determine are properly to be credited or debited to the account in order to provide the benefits payable to or in respect of the Member in accordance with the Deed and Rules;
 - (iii) the portion of the account that is currently irrevocably vested for the Member (the Vested Portion); and
 - (iv) the portion of the account that is preserved and the conditions of such preservation (the Preserved Portion);
- (b) a Member Contribution Account showing -
- (i) contributions by the Member to that account;
 - (ii) sums which the Trustees determine are properly to be credited or debited to the account in order to provide the benefits payable to or in respect of the Member in accordance with the Deed and Rules;
 - (iii) the portion of the account that is currently irrevocably vested for the Member (the Vested Portion); and
 - (iv) the portion of the account that is preserved and the conditions of such preservation (the Preserved Portion); and
- (c) such other accounts or particulars of accounts as the Trustees deem to be necessary.

Valuation of the Fund and Allocation of Profits or Loss

- 22.1 **Valuation:** The Trustees shall as at the end of each Financial Year and may at any time value the assets and liabilities of the Fund and any surplus or deficiency including unrealised gains or losses revealed by such valuation shall be separately credited or debited to the profit and loss account of the Fund. For the purpose of effecting a valuation the Trustees shall have an absolute discretion in selecting the valuation basis for any asset or liability provided that such basis shall not be one which causes the Fund to fail to satisfy the Superannuation Conditions.
- 22.2 **Profit or loss distribution:** The Trustees may in their absolute discretion determine the amount of profit or loss of the Fund that shall be credited or debited to and amongst the Member Accounts and any other accounts that the Trustees nominate in such proportions and such manner as the Trustees shall decide and may set formulae or interest rates for this purpose provided that the Trustees shall in the exercise of their discretions under this paragraph act in a manner which is equitable as between the accounts within the Fund and is in accordance with the Superannuation Conditions. If the Trustees maintain reserves the Trustees may first determine what amount of the profit or loss is to be allocated to the reserve accounts, and the balance (if any) shall be credited or debited in accordance with the above.

Contributions

- 23.1 **Employer contributions:** Each Associated Employer shall contribute to the fund pursuant to an arrangement between such employer and the Trustees in respect of the employer's employee who is a member of the fund.

- (ii) sums which the Trustees determine are properly to be credited or debited to the account in order to provide the benefits payable to or in respect of the Member in accordance with the Deed and Rules;
 - (iii) the portion of the account that is currently irrevocably vested for the Member (the Vested Portion); and
 - (iv) the portion of the account that is preserved and the conditions of such preservation (the Preserved Portion);
- (b) a Member Contribution Account showing -
- (i) contributions by the Member to that account;
 - (ii) sums which the Trustees determine are properly to be credited or debited to the account in order to provide the benefits payable to or in respect of the Member in accordance with the Deed and Rules;
 - (iii) the portion of the account that is currently irrevocably vested for the Member (the Vested Portion); and
 - (iv) the portion of the account that is preserved and the conditions of such preservation (the Preserved Portion); and
- (c) such other accounts or particulars of accounts as the Trustees deem to be necessary.

Valuation of the Fund and Allocation of Profits or Loss

- 22.1 **Valuation:** The Trustees shall as at the end of each Financial Year and may at any time value the assets and liabilities of the Fund and any surplus or deficiency including unrealised gains or losses revealed by such valuation shall be separately credited or debited to the profit and loss account of the Fund. For the purpose of effecting a valuation the Trustees shall have an absolute discretion in selecting the valuation basis for any asset or liability provided that such basis shall not be one which causes the Fund to fail to satisfy the Superannuation Conditions.
- 22.2 **Profit or loss distribution:** The Trustees may in their absolute discretion determine the amount of profit or loss of the Fund that shall be credited or debited to and amongst the Member Accounts and any other accounts that the Trustees nominate in such proportions and such manner as the Trustees shall decide and may set formulae or interest rates for this purpose provided that the Trustees shall in the exercise of their discretions under this paragraph act in a manner which is equitable as between the accounts within the Fund and is in accordance with the Superannuation Conditions. If the Trustees maintain reserves the Trustees may first determine what amount of the profit or loss is to be allocated to the reserve accounts, and the balance (if any) shall be credited or debited in accordance with the above.

Contributions

- 23.1 **Employer contributions:** Each Associated Employer shall contribute to the fund pursuant to an arrangement between such employer and the Trustees in respect of the employer's employee who is a member of the fund.

- 23.2 **Employer sponsors:** The arrangement referred to in the preceding paragraph is that the Employer shall pay or cause to be paid into the Fund from time to time on a basis agreed with the Trustees contributions or other moneys as may be required in accordance with the Rules and subject to compliance with the Superannuation Conditions provided however that the Trustees may refuse to accept a contribution.
- 23.3 **Member contributions:** The Members shall pay or cause to be paid into the Fund from time to time on a basis agreed with the Trustees, contributions or other moneys as may be required in accordance with the Deed and subject to compliance with the Superannuation Conditions.
- 23.4 **Employer not bound to see to application of contributions:** Any contributing employer shall not be bound to see to the due application by the Trustees of any money so paid.
- 23.5 **Salary deductions:** With the agreement of the Employer and Member a Member's contributions may be deducted from the Member's remuneration from time to time by the Employer. The Employer shall pay Member contributions so deducted to the Trustees in such manner and at such time as is agreed between the Employer and the Trustees.
- 23.6 **Suspension of contributions:** An Employer may with the consent of the Trustees, if required by the Superannuation Conditions, suspend or reduce its contributions to the Fund and in this event the Trustees may acting on the advice of an Actuary vary the benefits under the Deed for such of the Employees of the Employer who are Members provided that the Trustees shall not do anything which would result in the Fund failing to comply with the Superannuation Conditions.
- 23.7 **Employer ceasing to contribute:** An Employer may with the consent of the Trustees if required by the Superannuation Conditions, cease to contribute to the Fund on giving notice to the Trustees. Any Member in respect of whom contributions by Employers have ceased may also cease to contribute from the same date and any accrued benefits will be held within the Fund until they may be paid under the terms of the Deed.
- 23.8 **Temporary absence of member:** The Trustees and an Employer may agree that contributions by and in respect of a Member may be either continued or suspended during periods of temporary absence from the Member's employment with the Employer.

Benefits

- 24.1 **Maximum Benefits:** Members and Dependents shall be entitled to benefits in accordance with the provisions of the Deed but the liability of the Trustees (if any) to make payments to or for any Member, Dependent or Personal Representative shall not in any event exceed the lesser of:-
- (a) the benefits provided under the Deed in respect of such Member, Dependent or Personal Representative; and
 - (b) the total balances of the relevant Member Accounts within the Fund.
- 24.2 **Additions:** Notwithstanding any provision in the Deed and subject to the Superannuation Conditions, the Trustees at the request of an Employer may from time to time or at any time commence to provide or add to:-
- (a) the vesting in or for Members within any Employer Contribution Accounts held for their benefit; or

- (b) any death, ill health or disability insurance policies upon the life of any Member.

24.3 Vesting: There shall vest in each Member:

- (a) the amounts required to be vested by the Superannuation Conditions;
- (b) the amounts, if any, already vested in that member pursuant to any rules of the Fund applicable prior to the date of this Deed;
- (c) any amount not otherwise vested which the Trustees with the consent of the Member's Employer agree shall be vested including any benefits or amounts transferred to the Fund as a vested benefit from another superannuation fund.

24.4 Application of benefits: The benefits payable to or in respect of Members, Dependents and Personal Representatives in accordance with the Deed shall be paid or applied to or for the benefit of such one or more of those beneficiaries in the form of lump sums, pensions or annuities and in such manner as the Trustees may in their absolute discretion decide provided that such payments do not cause the Fund to fail to satisfy the Superannuation Conditions, nor conflict with paragraph 3.2.

24.5 Members request: When a benefit is due to be paid the Member may request payment of such benefit as an immediate or deferred lump sum, Pension or annuity or the transfer of such benefit and while the Trustees will take due consideration of these requests the Trustees decision with respect to the form of any benefit payment will be final. The Trustees however must at all times observe the provisions of paragraph 3.2.

24.6 Designated beneficiary: A Member wishing to designate a Dependent as a beneficiary or to change such designation shall do so in writing to the Trustees in the form which the Trustees may from time to time approve. A notice so given does not limit the Trustee's discretion under this Deed.

24.7 Preserved Benefits:

- (a) Any benefit which is subject to preservation or has been preserved under the Superannuation Conditions, an agreement made by the Trustees or this Deed and the Rules, shall not be paid to or in respect of the Member at a date earlier than allowed from time to time under the Superannuation Conditions, the agreement or the Deed and the Rules.
- (b) The Trustees may transfer any preserved benefit to another superannuation fund nominated by the Member, an approved deposit fund nominated by the Member, a deferred annuity nominated by the Member or such other superannuation entity as the Superannuation Conditions allow.
- (c) If the Fund holds benefits that were not the subject of preservation prior to the date of this Deed then nothing in this Deed shall operate in a way which has the effect of preserving those benefits unless the Superannuation Conditions require it.

24.8 Member otherwise has no interest: Except as provided in this Deed and subject to the Superannuation Conditions, a Member, Dependent or Personal Representative shall have no right to or interest in the Fund.

- 24.9 **Trustees to determine amount to pay benefits:** Upon the happening of an event as the result of which there arises an absolute or contingent right to the payment of a benefit in accordance with this Deed to or in respect of a Member, Dependent or Personal Representative either immediately or at some future date the Trustees shall determine the amount required to meet that liability and any balance of the Member Accounts in excess of that amount shall be transferred to the Forfeited Benefits Account.
- 24.10 **Member to provide evidence of entitlement:** The payment or any benefit shall be subject to the person claiming the same producing such evidence, doing such acts and executing such documents as the Trustees may reasonably require and the Trustees may postpone the payment of any benefit until the requirements of this paragraph have been met.
- 24.11 **Trustee may transfer assets in specie:** The Trustees may, with the agreement of the Member or Beneficiary to whom a benefit is payable transfer investments of the Fund of equivalent value to such benefit in lieu of payment of the same in money. The Trustees shall take into account such associated costs, taxes or other expenses of such transfer as they think fit and make adjustments accordingly.
- 24.12 **Unclaimed monies:** If the Trustees cannot find a person entitled to a benefit then that benefit or part of that benefit may be paid or otherwise dealt with by the Trustees in such manner as the Superannuation Conditions permit.
- 24.13 **Unpaid benefits:** In the circumstances prescribed by the Superannuation Conditions the Trustees may pay an unpaid benefit to an eligible rollover fund, or to the Commissioner or other body prescribed by the Superannuation Conditions.

Forfeited Benefits Account

- 25.1 **Forfeited benefits account to be kept:** The Trustees shall keep an account for the receipt of amounts forfeited from Member Accounts and any other credit balances that cannot be otherwise allocated under the provisions of the Deed. Such account shall be known as the Forfeited Benefits Account.
- 25.2 **Application of forfeited benefits:** The Trustees shall in their absolute discretion apply amounts held in the Forfeited Benefits Account in the manner and to the purposes permitted by the Superannuation Conditions and, if permitted, these shall include:
- (a) welfare benefits to assist in events of financial hardship, sickness, accident or other misfortune causing hardship;
 - (b) supplementary benefits for retired Members;
 - (c) additional benefits for current Members on an equal basis, or on a pro rata basis among all Members or, among Members on the basis of economic needs;
 - (d) payment of administrative expenses of the Fund;
 - (e) payment of a Member's own contribution to relieve hardship;
 - (f) payment to an Employer in recompense for loss or damage as the consequence of employee misconduct;
 - (g) payment to an Employer in the form of assessable income.

Provided that the Trustees shall not apply any amount so held which is attributable to the contributions of an Employer to the provision of any benefit or advantage for any Member who is not its Employee without the consent of that Employer and where the Trustees shall have given notice of not less than twenty one (21) days to an Employer of the Trustees intention to so apply any amount and the Employer shall not have responded the Employer shall be deemed to have consented to that application.

Benefits charged with payments due to employer

- 26.1 The following provisions are subject to the Superannuation Conditions and apply to the extent to which they are not inconsistent with it.
- 26.2 **Charge:** Notwithstanding anything else herein contained, though subject to the Superannuation Conditions, the benefit payable in respect of a Member shall be charged with the payment to the Associated Employer of that Member of -
- (a) all amounts owing by him to that Employer;
 - (b) any loss incurred by that Employer in consequence of the Member's fraud, dishonesty or misconduct; and
 - (c) the costs of all proceedings civil or criminal incurred by that Employer in recovering any amount owing by him to that Employer or in respect of the Member's fraud, dishonesty or misconduct.
- 26.3 **Evidence:** A statement in writing signed by that Employer or by two directors (if a company) or by two partners (if a firm) of that Employer stating the amount charged and requesting that the same be paid to that Employer shall be sufficient authority to the Trustees to pay such amount to that Employer.
- 26.4 **Lien:** Notwithstanding any other provision contained in this Deed to the contrary, though subject to the Superannuation Conditions, the Trustees shall have at the date of payment of a benefit to a Member a lien over that benefit in respect of:-
- (a) all amounts owed by the Member to the Fund; and
 - (b) any loss or expense incurred by the Trustees in consequence of the Member's fraud, dishonesty, misappropriation or other misconduct in respect of the Fund including the costs to the Trustees of recovering the same where the loss, expense or costs have been quantified and constituted a debt owing by the Member to the Trustees in their capacity as Trustees.
- 26.5 **Certificate:** A certificate signed by the Trustees stating the amount of the lien over the Member's benefit claimed by the Trustees shall be prima facie evidence in the hands of the Trustees against all claimants of the amount owing to the Fund under the preceding sub-paragraph and shall be sufficient authority to the Trustees to retain in the Fund out of the amount of benefit to which the Member would otherwise be entitled the amount of such lien and the balance, if any, of the benefit which is not so retained in the Fund shall be paid to or in respect of the Member.

Application of Benefits in Certain Cases

27.1 **Member's insanity and other events:** This provision applies separately to vested and non-vested benefits. If the Superannuation Conditions do not prohibit it, if a Member in the Trustee's opinion:-

- (a) is declared an insane or incapable person; or
- (b) does or attempts to do or suffers any act or thing or if any event happens whereby if any benefit were payable to such Member absolutely that Member would be deprived of the right to receive it or any part of it or it would be disposed of or dealt with otherwise than in accordance with this Deed; or
- (c) is suffering from any physical or mental disability which in the opinion of the Trustees renders the Member unable to manage his or her own affairs;
- (d) has failed to pay a judgment debt for a period of 30 days from the date of judgment.

the member shall cease to be presently or presumptively entitled to his or her benefit or such part of that benefit as the Trustees in their absolute discretion determine.

27.2 **Payments:** In any of the events mentioned in the preceding sub-paragraph and if the Superannuation Conditions do not prohibit it, the Trustees may pay to the Dependent of the Member:

- (a) the whole or such part of the benefit, or
- (b) any vested benefit

as the Trustees, in their absolute discretion, determine and may apply the balance of such benefits then remaining in the hands of the Trustees for the maintenance and support of such Member or Dependent as the Trustees in their absolute discretion may determine provided that any such payment or application by the Trustees for the maintenance and support of a Member while such Member continues to be employed shall be made only for the purposes of and in such circumstances as warrant the relief of hardship as may be permitted by the Superannuation Conditions. Any amounts not applied under this paragraph may be transferred to the Forfeited Benefits Account by the Trustees.

27.3 **Discharge:** The payment or application of any moneys pursuant to the preceding sub-paragraph shall be a complete discharge to the Trustees therefor.

Transfer of Benefits

28.1 **Trustee to make arrangements with prior employer and trustee:** The Trustees may at the request of an Employee or Member and with the consent of his or her Employer, if any, make such arrangements as they think proper with that previous employer or the trustee of any other superannuation fund for the payment or transfer to the Fund of moneys or assets and other rights and benefits of and arising in relation to the membership by such person in such other superannuation fund and may make arrangements about any matter in relation to such payment or transfer which in their opinion is necessary and may also make such arrangements as are necessary to enable such Employee to be admitted to membership of the Fund, if that person is not a Member.

28.2 The Trustees shall hold any moneys or assets so paid or transferred to them from another superannuation fund according to the terms and conditions of this Deed.

28.3 **Application of transferred amounts:** On any such payment or transfer of monies or assets -

- (a) the amount of the entitlement of the Member concerned shall be credited to his or her Member Account in the manner resolved between the Member, the Trustees and the Trustees of the Fund from which the Member is transferring provided that any such monies or assets which represent a benefit which has vested in the Member shall be credited to his or her account as a vested benefit;
- (b) the amount which by the terms and rules of such other superannuation fund is required to be preserved shall be identified and held by the Trustees as a Preserved Portion under this Deed.
- (c) except to the extent required by the Superannuation Conditions, the money or assets so transferred shall not be subject to preservation. Where the Fund holds benefits that were not the subject of preservation in a prior Fund then nothing in this Deed shall have the effect of preserving those benefits unless the Superannuation Conditions require it.

28.4 **Application of benefits on member leaving Fund:** The money and assets comprising any benefit payable to a Member on leaving the Fund may with the approval of such Member be paid or transferred to or invested in (as the case may be) -

- (a) another superannuation fund nominated by the Member of which such Member is or intends to become a member and which satisfies the Superannuation Fund Conditions; or
- (b) an approved deposit fund nominated by the Member which satisfies the Approved Deposit Fund Conditions set out in the Superannuation Conditions; or
- (c) a deferred annuity nominated by the Member which does not pay benefits except in circumstances in which by the Superannuation Conditions or by this Deed benefits are payable to that person;
- (d) such other superannuation entity as the Superannuation Conditions permit.

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

28.5 **Application of preserved benefits:** The money and assets comprising any Preserved Portion of a benefit payable to a Member at a date after his or her leaving the Fund may be:

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

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

Disclosure of Information

- 29.1 The Trustees shall provide such information, reports or otherwise to such persons, superannuation entities or otherwise as may be necessary to comply with the Superannuation Conditions.

Notices

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

Associated Employers

- 31.1 **Approval of associated employers:** The Trustees may admit to the Fund any company, person or firm. Such Associated Employer shall make application in a form approved by the Trustees and on admission the Associated Employer shall be deemed to be bound by the Deed and the Rules.
- 31.2 Subject to the Superannuation Conditions an Employer shall cease to be an Associated Employer on:-
- (a) the Employer ceasing to be an Employer of any Member; or
 - (b) the Employer determining to cease contributing to the Fund; or
 - (c) the Employer's becoming bankrupt or being placed into liquidation or receivership or ceasing to carry on a business.
- 31.3 A Member who is an employee of an Employer that has ceased to be an Associated Employer shall not by reason of that event cease to be a Member.

Employers Rights Not Restricted

- 32.1 **Employer's rights unaffected:** Nothing herein contained shall in any way restrict the rights of an Employer to determine the employment of a Member (or remove from office any director who is a Member) at any time and the fact that such Member is a Member is not to be taken as a guarantee of his employment, or continuance in office.
- 32.2 **Damages:** The benefits to which a Member might claim to be entitled hereunder shall be disregarded in assessing damages in any action which may be instituted by such Member against the Employer in respect of his dismissal.
- 32.3 **Workers compensation:** Nothing contained in this Deed shall affect the right of a Member or his Personal Representative or other person to claim damages or compensation at Common Law or under Workers' Compensation Acts or any other Statute in force governing compensation to a Member injured or dying from any accident arising out of and in the course of his employment with the Employer and any benefits payable hereunder shall not be reduced by reason of any payment that may be made in respect of such damages or compensation.

Winding up of Fund

33.1 **Winding up:** Subject to the Superannuation Conditions and if so required, with the Trustees' consent, the Fund shall be wound up by the Trustees as at a date determined by them on the occurrence of any of the following events:-

- (a) if there are no assets of the Fund; or
- (b) if there are no Members of the Fund and no Associated Employers; or
- (c) if in respect of each Associated Employer an order is made or a resolution is passed for the winding up of such Employers and there are no members.

33.2 **Priorities:** Subject to the Superannuation Conditions and if so required, with the Trustees' approval, the assets of the Fund on its winding up shall be applied in the following order of priority and for the following purposes to the extent to which those assets will allow:-

- (a) firstly, in the payment of liabilities in respect of the administration and other costs associated with the winding-up proceedings;
- (b) secondly, in the discharge of all liabilities other than liabilities in respect of benefits payable to or in respect of Members;
- (c) thirdly, in securing the minimum guaranteed benefits of members;
- (d) fourthly, in securing for each Member the amounts standing to the credit of -
 - (i) his Member Contribution Accounts;
 - (ii) the Vested Portion of his Employer Contribution Accounts; and
 - (iii) any Preserved Portion of his Member Accounts in excess of the amount secured under (i) and (ii) above; and
- (e) lastly, in the distribution of any remaining balance to such of the Members and Dependents, and to any of the Employers in such proportions as in the opinion of the Trustees is appropriate in the circumstances and in accordance with the Superannuation Conditions.

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

Schedule

The Rules

Interpretation

- 1.1 **Matters covered by Rules:** These Rules relate to the following matters concerning the Fund:-
- (a) membership of the Fund;
 - (b) the kinds of benefit provided by the Fund;
 - (c) the circumstances of payment of benefits;
- 1.2 **Interpretation:** In these Rules the following words shall have the following meanings:-
- (a) "Ancillary Benefits" means (subject to the Superannuation Conditions):-
 - (i) Benefits payable (including benefits payable on total and permanent disablement, incapacity, redundancy, retrenchment and early retirement) to a Member on termination of service prior to retirement;
 - (ii) Death Benefit payable to a Member in whole or in part to a Member's estate;
 - (iii) Income Benefit payable to a Member while unable to carry out his previous normal work duties;
 - (iv) Such other benefits as are approved by the Commissioner from time to time as ancillary or like benefits.
 - (b) "Death Benefit" means the Benefit payable under Rule 3.4.
 - (c) "Early Retirement Benefit" means the Benefit payable under Rule 3.2.
 - (d) "Retirement Benefit" means the Benefit payable under Rule 3.1.
 - (e) "Temporary Incapacity Benefit" means the Benefit payable under Rule 3.5.
 - (f) "Withdrawal Benefit" means the Benefit payable under Rule 3.3.

Membership

- 2.1 **Eligibility:** Any Eligible Person may make application in writing to the Trustees in a form prescribed by the Trustees from time to time to join the Fund.
- 2.2 **Trustees may refuse:** The Trustee may accept or refuse any application for membership in its absolute discretion and shall not be required to assign any reason for any refusal.
- 2.3 **Trustees to give notice:** A person shall become a Member when the Trustees give notice in writing to that person that such application has been approved and accepted, however the initial members do not have to be notified.

- 2.4 **Member bound by Deed:** A person upon becoming a Member shall be deemed to have consented to and be bound by the provisions of this Deed and Rules.
- 2.5 **Cessation of membership:** A person shall cease to be a Member on the happening of the first of the following:-
- (a) death;
 - (b) when the total of all amounts payable under this Deed and Rules in respect of the Member's membership has been paid; or
 - (c) when under this Deed and Rules any benefit payable to the Member or any person on the Member's account ceases to be payable.

Benefits

- 3.1 **Benefit payable on Retirement:** In the event of a Member:
- (a) ceasing to be employed on or after his retirement date; or
 - (b) reaching retirement date;
- there shall be payable a Retirement Benefit which is comprised of the total balance of his Member Accounts.
- 3.2 **Early retirement:** In the event of a Member retiring within the period of ten (10) years prior to his Retirement Date there shall be payable an Early Retirement Benefit of an amount determined by the Trustees and being not less than the amount of benefits which are vested in that Member.
- 3.3 **Other circumstances:** In the event of a Member withdrawing from the Fund there shall be payable a Withdrawal Benefit being of an amount determined by the Trustees and being not less than the amount of benefits which are vested in that Member.
- 3.4 **Death before retirement:** Subject to paragraph 3.2 of the Deed, in the event of death of a Member prior to his Retirement Date there shall be payable a Death Benefit being a lump sum or pension sum in an amount determined by the Trustees and approved by the Employer in relation to that Member and being not less than the amount of benefits which are vested in that Member.
- 3.5 **Temporary incapacity:** Where during any period a Member suffers from temporary incapacity the Trustees may pay a Temporary Incapacity Benefit in an amount or amounts and upon terms that are not inconsistent with the Superannuation Conditions.
- 3.6 **Ancillary benefits:** The Trustees may at their sole discretion, but only if permitted by the Superannuation Conditions make payment of Ancillary Benefits in such manner as the Superannuation Conditions permit.
- 3.7 **Other benefits:** If the Superannuation Conditions permit, a benefit of such sum as the Trustees, (with the agreement of the Employer, if any) of the relevant member approves. Such benefit may be paid in such manner and at such time as the Trustees determine and the Superannuation Conditions permit.
- 3.8 **Minimum benefits:** Subject to the Superannuation Conditions, the minimum benefits of a member are the member financed benefits and the members mandated employer financed benefits.

3.9 **Maintenance of minimum benefits:** The Trustees must, subject to the Superannuation Conditions, maintain the minimum benefits of members which must remain in the Fund until they are paid, transferred or rolled over in accordance with the Deed and the Superannuation Conditions.

3.10 **Benefits subject to Superannuation Conditions:** All benefits are subject to compliance with the Superannuation Conditions and shall not be paid unless such payments are permitted by those conditions.

Payment of Benefits

4.1 **Accounts:** Subject to paragraph 3.2 of the Deed and these Rules and to the Superannuation Conditions a Retirement Benefit or Early Retirement Benefit payable from a Member Account shall be paid in the form of a pension or annuity equivalent in value to the total balance of such account and in accordance with Rule 4.3.

4.2 **Form of payment:** Subject to paragraph 3.2 of the Deed where any benefit is payable in the form of a lump sum it shall be paid or applied to or for the benefit of the Member or applied to provide such Pension or annuity as the Trustees may determine having regard to but not bound by the expressed wishes of the Member provided that the Trustees shall not make any payment which fails to comply with the Superannuation Conditions.

4.3 (a) **Pension or annuity:** Subject to paragraph 3.2 of the Deed, where a Retirement Benefit is payable from any Member's account, such account may be applied to provide a pension or annuity which shall be payable in such manner and subject to such conditions as the Trustees shall determine and the Superannuation Conditions permit.

(b) **Lump sum:** Subject to paragraph 3.2 of the Deed and to the Superannuation Conditions, the whole or any balance of the Pension Benefit Account not paid or applied in the form of a Pension or annuity pursuant to paragraph (a) of this Rule may be paid to the Member in the form of a lump sum.

(c) **Manner of payment of pension:** Subject to paragraph 3.2 of the Deed, where, pursuant to these Rules or the Deed, the Trustees are to pay a pension, the pension payments shall be paid in such manner as shall ensure that the fund complies with the Superannuation Conditions and if the Trustees so determine, in such manner as will result in the payee receiving the most concessional tax treatment of that pension.

(d) **Pension conditions deemed included:** Where the Trustees pay a pension and to comply with the Superannuation Conditions, or to be a pension as defined in SIS or the SIS Regulations, it is necessary for the conditions applicable to the pension to be included in the governing rules of the Fund, then such conditions shall be deemed to be included in these Rules, commencing from the time immediately prior to the first day of the period to which the first payment of the pension relates.

4.4 **Temporary incapacity benefit:** Where a Temporary Incapacity Benefit is payable it shall be paid to the Member in such manner as the Trustees shall determine and in accordance with the Superannuation Conditions.

4.5 **Payment of death benefit:** Where a Death Benefit is payable pursuant to these Rules it shall be paid or applied to or for the benefit of the member's

legal personal representative or one or more of the members dependants or in favour of such other person as the Superannuation Conditions permit.

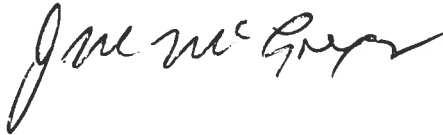
4.6 **Timing of payments:** Benefits shall not be paid by the Trustees otherwise than at such times as the Superannuation Conditions permit.

4.7 **Other payments:** The Trustees may pay to a member from his or her account such amount as a member may request and the Trustees approve provided that such payment is permitted by the Superannuation Conditions and further provided that such payment is made in accordance with the requirements of the Superannuation Conditions.

IN WITNESS whereof the parties hereto have set their hands and affixed their seals at the place and on the date appearing above.

SIGNED SEALED and DELIVERED by
McGregor, John Middleton

the presence of:



.....
C. P. Glen.....

SIGNED SEALED and DELIVERED by
Duncan, Gordon

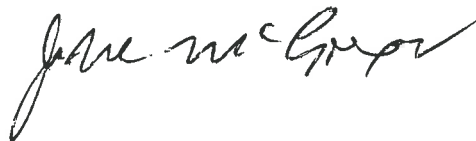
the presence of:



.....
C. P. Glen.....

SIGNED SEALED and DELIVERED by
McGregor, John Middleton

the presence of:



.....
C. P. Glen.....

JOHN McGREGOR
SUPERANNUATION FUND

INVESTMENT STRATEGY

SIS REG. 4.09.

Investments will be made in the following proportion of fund monies:

Shares	0 – 100%
Property	0 – 100%
Cash	0 – 100%

The investment strategy is to be implemented in such a way that future benefits of the fund will be maximised.

**MINUTES OF MEETING
OF TRUSTEES OF:**

John McGregor Superannuation Fund

HELD AT:

MS 388, 2-4 Anthonys Rest
The Hummock Bundaberg QLD 4670

ON:

Friday, 24 May 1996

PRESENT:

McGregor, John Middleton
Duncan, Gordon

CHAIRMAN:

McGregor, John Middleton

FUND:

It was resolved that the Trustees act as Trustee(s) of a Superannuation Fund to provide certain superannuation benefits for persons gainfully occupied.

TRUST DEED:

It was resolved that the Trustees execute the Superannuation Deed Tabled.

MEMBERS OF FUND:

It was noted that the initial members of the fund would be:
McGregor, John Middleton

It was noted that the initial members were parties to and had signed the deed.

It was also noted that further members may be admitted pursuant to the rules by written application and notice of approval being given by the Trustee to the applicant in accordance with the Deed.

NOTICE OF ELECTION:

It was resolved that the notice to the Insurance and Superannuation Commissioner tabled at the meeting electing that the fund become a regulated superannuation fund be executed by the Trustees and forwarded immediately to the Insurance and Superannuation Commissioner.

BANK ACCOUNT:

It was resolved that a bank account would be opened and that any one of the Trustees be authorised to operate the account.

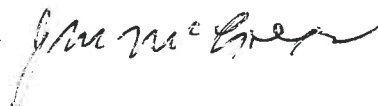
INVESTMENT STRATEGY:

It was resolved that the company formulate and give effect to an investment strategy in accordance with the provisions of the Superannuation Industry Supervision Act 1993 if required by SIS.

CONFIRMATION:

Signed by the Chairman as and for a true and accurate record.

CHAIRMAN



DATE