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GEORGE COMYN MCKENZIE and ALISON MARY MCKENZIE

DEED

Ref: RWD:999995

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D&T

DEED

COMMISSIONER OF STAMPS

THIS DEED is dated ^X25 June 1996.

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DEED

PARTIES

GEORGE COMYN MCKENZIE and ALISON MARY MCKENZIE both of 10 Statenborough Street, Leabrook, South Australia 5068 (the "Trustee").

RECITALS

- A The Trustee wishes to establish a fund which is an indefinitely continuing superannuation fund to be known as The Tartan Superannuation Fund (the *Fund*) to provide retirement and other benefits for members of the Fund and for such other purposes as may be permitted by Superannuation Law.
- B The Trustee is to act as trustee of the Fund.

OPERATIVE PART

1. Definitions and Interpretation

In this Deed, unless the contrary intention appears:

Accounts means the accounts established and maintained by the Trustee in accordance with this Deed or any one or more of them;

Actuary means an actuary appointed by the Trustee under sub-clause 6.5;

Auditor means an approved auditor appointed by the Trustee;

Associated Employer means any company which has been admitted as an Associated Employer under clause 11 and has not ceased to be an Associated Employer;

Benefit means any amount payable or which may become payable to a Member or in respect of a Member from the Fund;

Benefit Account means an account in respect of an Employer or Member established and maintained by the Trustee in accordance with this Deed or any one or more of them;

Business Day means a day which is not a Saturday, a Sunday or a public holiday in South Australia;

Commencement Date means the date of the Deed or such other date as the Trustee may determine;

Contribution means any amount paid to the Fund by or on behalf of an Employer or a Member and includes any amount transferred to the Fund in respect of a Member;

Custodian Trustee means a custodian which satisfies the requirements of Superannuation Law;

Deed means this Deed and any Rules made under this deed;

Division means a division of the Fund established under clause 3;

Eligible Fund means a complying superannuation fund, a complying ADF or a roll-over annuity, an eligible annuity, an annuity complying with the standards prescribed under Superannuation Law or such other fund or annuity which the Trustee determines to be an Eligible Fund the acceptance of moneys or assets from or the payment or transfer of moneys or assets to which would not in the opinion of the Trustee jeopardise the status of the Fund as a complying superannuation fund in any year of income;

Eligible Rollover Fund means a fund in respect of which a declaration under section 243 of the Superannuation Industry (Supervision) Act 1993 is in force;

Employee means a person who is in the Full-Time Employment or Part-Time Employment of an Employer or a person who is otherwise entitled to be a member of a superannuation fund or in respect of whom tax deductible contributions to a superannuation fund may be made and includes a director of an Employer;

Employer includes the Principal Employer and each Associated Employer and when used in relation to an Employee or a Member who is an Employee means the employer of that Employee or that Member;

ETP means an eligible termination payment as defined in Section 27A of the Tax Act;

Full-Time Employment in relation to a person means a person who is Gainfully Employed for 30 hours or more weekly or such greater or lesser period prescribed by Superannuation Law as being necessary for a person to be treated as in full-time employment for the purposes of Superannuation Law;

Fund means the superannuation fund established by this Deed;

Gainfully Employed in relation to a person means a person employed for earnings including business income, bonuses, commissions, fees, gratuities, salary or wages or such other person who is treated as Gainfully Employed for the purposes of Superannuation law;

Government Entity means:

- (a) any government or semi-government or any government person or entity of Australia or any State or Territory of Australia; or
- (b) any person or entity whose obligations are secured by a guarantee or indemnity of any person or entity specified in paragraph (a) of this definition;

Income Tax Acts means the Tax Act, the Income Tax Rates Act 1986, the Income Tax (Companies, Prescribed Unit Plans and Superannuation Plans) Act 1985 and any other Act relating to the imposition, collection and administration of Tax and any regulations made under the foregoing Acts;

Insurance Policy means a policy of insurance issued to the Trustee by an Insurer;

Insured Benefit means an Insured Death Benefit or Insured Disability Benefit;

Insured Death Benefit means a Benefit or part of a Benefit to be provided in respect of a Member on the death of a Member under an Insurance Policy but does not include any Benefit or part of a Benefit payable in respect of a Member on the death of the Member from a Benefit Account;

Insured Disability Benefit means a Benefit or part of a Benefit to be provided in respect of a Member under an Insurance Policy upon the Member becoming Totally and Permanently Disabled, Totally and Temporarily Disabled or becoming disabled in a manner described or defined in the Rules of a Division as the case may be but does not include any Benefit or part of a Benefit payable in respect of a Member in any of those events from a Benefit Account.

Insurer means any insurance company which issues a policy of insurance to the Trustee for the purpose of insuring any Benefit payable under this Deed, or any asset of the Fund;

Member means:

- (a) an Employee; or
- (b) any other person who the Trustee has accepted for membership of the Fund,

who has not ceased to be a Member and includes a Self Employed Member and a person who at the relevant time is receiving or is entitled to receive a Benefit from the Fund;

Part-Time Employment in relation to a person means a person who is Gainfully Employed for 10 hours or more weekly but less than 30 hours weekly or such other period prescribed by Superannuation Law as being necessary for a person to be treated as in part-time employment for the purposes of Superannuation Law;

Prescribed Agreement or Award means an agreement or award (including a consent award) that is certified or made by a Commonwealth industrial authority or State industrial Authority on or after 1 July 1986;

Principal Employer includes a person who, by execution of an appropriate deed, is or becomes the Principal Employer for the purposes of the Fund and this Deed;

Preservation Requirements means any requirement imposed by Superannuation Law that requires that a Benefit not be paid to a Member until the occurrence of certain events or that it be paid only in a certain manner or form or to an Eligible Fund or particular type of Eligible Fund, the non-compliance with which requirement would result or may result in the Fund failing to be a complying superannuation fund in any year of income and includes any requirement or guideline that is imposed or established by or under the Superannuation Benefits (Supervisory Mechanisms) Act 1990 or under the terms on which a transfer of moneys or assets into the Fund is made;

Rules means those rules governing each Division established by the Trustee under sub-clause 3.4 and contained in the Schedule to this Deed;

Self Employed refers to a Member who is self employed in a business, trade, profession, vocation, calling or occupation;

Secretary of the Fund means the person appointed to that office by the Trustee with the approval of the Principal Employer;

Service means in relation to a Member that Member's employment with the Employer of the Member and a reference to a Member ceasing to be in the Service of an Employer includes a reference to that Member ceasing to be employed or engaged under a Prescribed Agreement or Award by that Employer but does not include:

- (a) any transfer of employment between one Employer and another Employer unless the Principal Employer requires by notice to the Trustee that the transfer is to be treated as a cessation of Service; or
- (b) any suspension of Service approved by the Principal Employer and notified to the Trustee,

but a reference to a Member ceasing to be employed or engaged under a Prescribed Agreement or Award includes a reference to the date on which any suspension of Service referred to in paragraph (b) ceases where at or before the end of the period of suspension of Service the Member has not resumed employment with an Employer;

Superannuation Authority means any person or body appointed under any Superannuation Law who is empowered under that legislation or some other legislation to exercise any discretion, give any consent or approval or otherwise give effect to and administer the Superannuation Law;

Superannuation Guarantee Charge Acts means the Superannuation Guarantee Charge Act 1992 and the Superannuation Guarantee (Administration) Act 1992 and any other Act relating to the imposition, collection and administration of the superannuation guarantee charge and any regulations made under the foregoing Acts;

Superannuation Law means requirements in any of the Superannuation Industry (Supervision) Act 1993, the Superannuation Entities (Taxation) Act 1993, the Tax Act, the Superannuation Guarantee Charge Acts and regulations made under those Acts and all other requirements, whether legislative or otherwise including:

- (a) any administrative guidelines issued by a Superannuation Authority; or
- (b) statements by government advising changes and proposed changes to Superannuation Law,

in each case with which the Fund must comply (or which, in the reasonable opinion of the Trustee, the Fund ought comply) in order to be a complying superannuation fund;

Tax means income tax (including any tax on the disposal of assets), contributions tax, withholding tax, stamp, financial institutions and other duties, tax and other taxes, levies, imposts, deductions and charges whatsoever (including in respect of any duty imposed on receipts or liabilities of financial institutions any amounts paid in respect thereof to another financial institution) together with interest thereon and penalties with respect thereto (if any) and charges, fees or other amounts made on or in respect thereof;

Tax Act means the Income Tax Assessment Act 1936;

Total and Permanent Disablement in respect of a Member has the meaning which that term or like term is given under the Insurance Policy applicable to that Member and **Totally and Permanently Disabled** has a corresponding meaning;

Total and Temporary Disablement in respect of a Member has the meaning which that term or like term is given under the Insurance Policy applicable to that Member and **Totally and Temporarily Disabled** has a corresponding meaning;

Trustee means the Trustee named in this Deed and any other Trustee appointed in accordance with the provisions of this Deed and where the Trustee is natural persons means all or any one or more of those natural persons;

A reference to a person who is "gainfully employed" is a reference to a person employed for earnings including business income, bonuses, commissions, fees, gratuities, salary or wages or such other person who is treated as gainfully employed for the purposes of Superannuation Law;

A reference to a person effecting, maintaining, claiming under or otherwise dealing with an Insurance Policy includes where that Insurance Policy is a group or master policy effecting or maintaining membership under or claiming under or otherwise dealing with that Insurance Policy on behalf of a Member under that Insurance Policy.

1.1 Definitions from Superannuation Industry (Supervision) Act

In this Deed and in any document issued by the Trustee or the Principal Employer under this Deed, unless the contrary intention appears, the following terms shall have the same meaning as they have in the Superannuation Industry (Supervision) Act 1993 and the Superannuation Industry (Supervision) Regulations and if any definition of such a term is amended that term shall have the amended meaning on and from the date that amendment takes effect unless either before or after that date the Trustee resolves to the contrary:

"actuary"
"adopted child"
"approved auditor"
"approved deposit fund"
"approved purposes"
"associate"
"child"
"Commissioner"
"constitutional corporation"
"dependant"
"disqualified person"
"investment manager"
"legal personal representative"
"old-age pensions"
"pensions"
"public offer superannuation fund"
"relative"
"spouse"
"Superannuation Complaints Tribunal"
"superannuation fund"
"year of income".

1.2 Definitions from Tax Act

In this Deed and in any documents issued by the Trustee or the Principal Employer under this Deed, unless the contrary intention appears, the following terms shall have the same meaning as they have in the Tax Act and if any definition of such a term is amended the term shall have the amended meaning on and from the date the amendment takes effect unless either before or after that date the Trustees resolve to the contrary:

"complying ADF"
"complying superannuation fund"
"eligible annuity"
"eligible scheme"
"registered organisation"
"rollover annuity"

1.3 Payment in Respect of a Member

In this Deed, unless the contrary intention appears, a payment in respect of a Member includes a payment or transfer of assets from the Fund in satisfaction of any obligation to or in respect of a Member and, without limiting the generality of the foregoing, includes a payment or transfer of assets:

- (a) to or for the benefit of a Member;
- (b) to or for the benefit of a dependant of a Member;
- (c) to another person at the direction of a Member or the legal personal representative of a Member; or
- (d) to or for the benefit of the legal personal representative of a Member.

1.4 Interpretation

In this Deed unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes all genders;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) references to a person includes a corporation, a body corporate, an unincorporated body or other entity, including any Government Entity and vice versa;
- (e) headings are for convenience only and shall not affect interpretation;
- (f) references to any party to this Deed or any other agreement or document include the party's successors and permitted assigns;
- (g) references to any agreement or document include references to such agreement or document as amended, novated, supplemented, varied or replaced from time to time except to the extent prohibited by this Deed; and

- (h) references to any legislation or to any provision of any legislation include any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments under it.

2. Overriding Prudential Requirements

2.1 Superannuation Law Covenants Deemed to be Included

Notwithstanding any provision of this Deed (including any provisions of this Deed which purport to apply notwithstanding other provisions of this Deed), the Trustee covenants to comply with the covenants required from time to time by Superannuation Law to be contained in this Deed and those covenants are deemed to be contained in this Deed, subject to any exemption granted or any modification made by the Commissioner.

2.2 Power to Comply with Superannuation Law

The Trustee may comply with any requirement of Superannuation Law, including, without limitation, any requirement in relation to:

- (a) equal representation;
- (b) borrowing money or maintaining an existing borrowing;
- (c) investing the assets of the Fund;
- (d) acquiring assets from a Member or their relatives;
- (e) appointing investment managers and Custodian Trustees;
- (f) establishing procedures for dealing with enquiries into or complaints about the operation and management of the Fund;
- (g) providing financial assistance to Members or their relatives;
- (h) maintaining Fund records;
- (i) reporting significant adverse events in relation to the Fund;
- (j) preparing statements in relation to the Fund;
- (k) providing information about the Fund to Members;
- (l) complying with notices and requests in relation to the Fund;
- (m) in-house assets;
- (n) acceptance of contributions by the Fund; and
- (o) payment of benefits, including the payment of pensions and unclaimed benefits.

2.3 Power to Elect

The Trustee may elect that from the date of the election the Fund shall be a regulated superannuation fund and any election made under this sub-clause may not be revoked.

3. The Fund

3.1 Establishment of the Fund

On the Commencement Date the Trustee is appointed as or becomes trustee of the Fund and the Fund is established as a superannuation fund which is intended to be a complying superannuation fund and which is established for the primary purpose of providing old-age pensions to or in respect of Members on their retirement or on reaching a particular age, providing superannuation benefits to or in respect of Members on their death or disablement and for all other purposes which may be permitted under Superannuation Law.

3.2 Assets of the Fund

The assets of the Fund shall be vested in the Trustee upon trust for Employers and Members to apply the same in the manner set forth in this Deed.

3.3 Initial Divisions

As at the Commencement Date the A Division is established with its Rules set out in the Schedule to this Deed.

3.4 Constitution of New Divisions

The Principal Employer (or if there is no Principal Employer, the Trustee) may establish other Divisions of the Fund and upon the Principal Employer giving notice to the Trustee of an intention to establish a new Division the Trustee shall join with the Principal Employer in executing a memorandum of commencement constituting the new Division of the Fund and containing the following particulars:

- (a) the name of the Division;
- (b) the Rules for that Division; and
- (c) such other matters as the Principal Employer and the Trustee may specify,

and that memorandum of commencement shall take effect upon the date stated in the memorandum of commencement.

3.5 Beneficial Interest in Division

Each Member is entitled to a beneficial interest in the Division in respect of which the person is a Member as set forth in this Deed but that interest shall not:

- (a) entitle the Member other than as provided for in this Deed or permitted by law to:
- (b) interfere with the rights or powers of the Trustee or Principal Employer in respect of the Division;

- (c) exercise any rights, powers or privileges in respect of any investments of the Division; or
- (d) require the transfer to such Member of any assets of the Division; or
- (e) confer any interest in any particular asset of the Division.

3.6 Employers and Members Bound by Deed

All Employers and Members and any person claiming through them are bound by this Deed.

3.7 Membership of More than One Division

A Member may be a Member in more than one Division and where the Employer so requires it a Member shall be a Member of more than one Division.

3.8 Closure of Division or Part of Division

The Principal Employer (or if there is no Principal Employer, the Trustee) may by giving notice to the Trustee cease to make contributions to a Division or a part of a Division and thereafter no new Members shall be admitted to the Division and no further contributions to that Division or part of a Division shall be accepted by the Trustee unless the Principal Employer has given notice to the Trustee reopening the Division or part of the Division previously closed.

4. The Trustee

4.1 Eligibility

The Trustee may be natural persons or a corporation.

4.2 Number of Trustees

Where the Trustee is natural persons the number of Trustees shall be not less than 2 or such greater number determined by the Principal Employer.

4.3 Appointment

Subject to Clause 10 and Superannuation Law, the Trustee shall be appointed by the Principal Employer.

4.4 Term of Office

The Trustee or, where the Trustee is natural persons, each of those persons, shall hold office until:

- (a) the Trustee or person is a disqualified person or is otherwise disqualified from that office by operation of law;
- (b) the Trustee or person is removed from that office by notice in writing from the Principal Employer;

- (c) the Trustee or person retires from that office by giving 60 days written notice to the Principal Employer (or such lesser period as the Principal Employer may agree); or
- (d) in the case of a natural person:
 - (i) the person dies; or
 - (ii) the person becomes of unsound mind.

4.5 Retirement of Trustee

- (a) Subject to Clause 10 and Superannuation Law, if the office of Trustee becomes vacant the Principal Employer shall by deed appoint another person to act as Trustee in accordance with this clause.
- (b) Upon retirement, the Trustee shall be deemed to be discharged from the trusts of this Deed and the duties and obligations of a Trustee under this Deed at the time and on the date of retirement.
- (c) If the Trustee has retired from office, the Trustee shall thereupon or at any time thereafter (if called upon by the then Trustee so to do) do, deliver, sign and execute all such things, papers, records, writings, documents, deeds and other property as may be necessary to give proper effect to such retirement from office and the transfer or assignment to or otherwise the vesting of the assets of the Fund in the new Trustee.

4.6 Alternate Trustees

Where the Trustee is natural persons, a Trustee may with the approval of the Principal Employer appoint any person (whether a Trustee or not) as his Alternate Trustee to exercise as his delegate any of the powers duties and discretions conferred upon him as a Trustee under this Deed, including the right to attend and vote at meetings of the Trustee at which the Trustee making the appointment is not present. The appointment of Alternate Trustee may be terminated at any time by the Trustee making the appointment or upon written notice from the Alternate Trustee and shall determine automatically if that Trustee ceases to be a Trustee.

4.7 Antecedent Breach by Trustee

Nothing contained in this Deed shall relieve a person who ceases to be Trustee from liability for any antecedent breach of trust for which it would otherwise be liable.

4.8 Remuneration

- (a) No Trustee shall be entitled to remuneration for its services as a Trustee;
- (b) The Trustee shall be reimbursed from the Fund for all reasonable expenses incurred by it in carrying out its duties in relation to the Fund.

5. Proceedings of Trustee

5.1 Corporate Trustee

A Trustee which is a corporation may act by resolution of its board of directors or by any person appointed for the purpose by resolution of its directors, whether or not the exercise of a discretion is involved.

5.2 Individual Trustees

Except during such time as the Trustee is a corporation:

- (a) the Trustees may meet, adjourn and regulate their meetings as they see fit and a meeting of the Trustees at which a quorum is present shall be competent to exercise all or any of the powers, authorities, and discretions exercisable by the Trustee under this Deed;
- (b) a Trustee may at any time convene a meeting of Trustees by giving not less than 7 days prior written notice to each other Trustee but all Trustees may by unanimous decision determine that a meeting of Trustees shall be held at shorter notice or held without prior notice;
- (c) subject to Superannuation Law, motions presented at a meeting of Trustees shall only be passed if approved by not less than two-third of the Trustees present and voting, with each Trustee having one vote;
- (d) the Trustees may elect one of their number to be the Chairman to preside over the meetings of the Trustees. If the Chairman so appointed is not present at a meeting or if at the time of a meeting there is no chairman so appointed, another Trustee shall be appointed by the Trustees present at such meeting to act as Chairman of that meeting;
- (e) at a meeting of Trustees, the number of Trustees whose presence is necessary to constitute a quorum, shall be 2;
- (f) in the event of a vacancy or vacancies in the office of Trustee, the remaining Trustees may act but if the number of remaining Trustees is not sufficient to constitute a quorum at a meeting of Trustees, the Principal Employer shall appoint additional Trustees pursuant to Clause 4.3;
- (g) the Trustees shall keep or cause to be kept proper minutes in a book provided for the purpose of all resolutions made and matters arising at any meeting of the Trustees. Minutes of any meeting signed by the Chairman of such meeting or of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated therein;
- (h) a written resolution signed by all Trustees shall be effective as a resolution passed at a meeting of Trustees duly convened and held. If such an instrument is signed by the Trustees on different days, the resolution shall be effective as a minute of a meeting of the Trustees on the date it is signed by the last Trustee. A resolution signed by the Trustees pursuant to this clause may be signed in a number of counterparts and each such counterpart taken together shall constitute a resolution of the Trustees; and
- (i) a meeting of Trustees shall be valid notwithstanding that they did not meet at one place if during the meeting a quorum of Trustees were in communication with each other by telephonic or other means.

6. Powers and Duties of the Trustee

6.1 General Powers

Subject to this Deed and Superannuation Law, the Trustee shall have power to do all acts and things which it considers necessary, desirable or expedient for the administration, maintenance and preservation of the Fund or any part of it and in the exercise and performance of its powers and obligations under this Deed and without limitation the Trustee may:

- (a) provide receipts, releases or discharges for money or other assets payable or transferable to the Fund or for claims by or against the Fund;
- (b) open and operate on bank accounts or accounts with cash management trusts or other financial institutions as it thinks fit and all cheques and other negotiable instruments and all receipts for money paid to the Fund shall be signed, drawn, accepted and endorsed or otherwise executed in such manner as the Trustee thinks fit;
- (c) enter into all contracts, deeds and documents and do all acts and things which it considers necessary or desirable for the purpose of carrying out the trusts of this Deed;
- (d) settle, compromise or submit to arbitration any claims or matters relating to this Deed, the Fund or the rights of any Member;
- (e) commence, carry on or defend any proceedings in relation to this Deed, the Fund or the rights of any Member;
- (f) effect or acquire policies of insurance of any kind on or relating to any risk, contingencies, liabilities of the Fund or the life of lives of any person or otherwise to insure the payment of the Benefits or any part thereof payable under this Deed;
- (g) pay all insurance premiums, rates, Taxes, rents and other outgoings in connection with any real or personal property included in the Fund or any expenses of or incidental to the management or administration of the Fund;
- (h) accept and receive as part of the Fund any property whether real or personal which may be conveyed, transferred, paid and accepted by the Trustee by way of addition or accretion to the Fund;
- (i) at the expense of the Fund, instruct actuaries, auditors, solicitors, accountants and other advisers and act upon their advice without being liable to any Member, Employer or other person under this Deed in respect of anything done in accordance with such advice;
- (j) delegate all or any of its powers and duties to any such person as the Trustee may think fit and the Trustee shall not be responsible for any loss thereby incurred and shall be entitled to make payment out of the Fund to such persons for work done or services rendered;
- (k) make regulations and adopt procedures in relation to the calculation and rounding off of Contributions, Benefits, amounts debited or credited to any account, the valuation of assets or any other matters as shall be necessary or convenient for the Fund; and

- (l) subject to Superannuation Law, borrow moneys from any person, firm or company upon such terms and conditions and upon giving such security as the Trustee in its absolute discretion may determine and to invest any moneys so borrowed as part of the Fund and to mortgage, charge or encumber the whole or any part of the trust property from time to time to secure repayment of the moneys borrowed and interest thereon.

6.2 Investment Powers

Subject to Superannuation Law, the Trustee shall invest the Fund at arm's length, but otherwise in such manner as it shall in its absolute discretion determine and notwithstanding any statutory provisions or any rule of law or equity to the contrary, and in addition to all other powers conferred on it under the provisions of this Deed or by statute or rule of law or equity, the Trustee shall have full and absolute powers of investing and transposing moneys and buying selling or otherwise acquiring or dealing with property both real and personal and varying all or any part of the investments of the Fund from time to time in all respects as if it were the absolute owner of and beneficially entitled to those investments and the Trustee's power to invest shall not be restricted by any legislation relating to trustee investments. Without limiting the generality of the absolute powers given to it, the Trustee shall in particular have the following powers:

- (a) to invest in any investment for the time being authorized by the laws of the Commonwealth of Australia or any State or Territory thereof for the investment of trust funds;
- (b) to purchase or in any other manner whatsoever, hold, deal in, sell and mortgage shares of any description (whether fully paid or contributing) in any company or corporation whatsoever whether public, private or otherwise and/or in any real and/or personal estate of whatsoever kind and wheresoever situate and in any security undertaking or venture of any kind whatsoever;
- (c) to purchase, lease, hire or in any other way acquire any real and/or personal property of whatsoever nature and kind and wheresoever situate including without limitation, freehold, leasehold or conditionally purchased land whatsoever whether such property is obtained subject to mortgage or otherwise;
- (d) to purchase or in any other manner whatsoever, hold, deal in, sell and mortgage units, sub-units or other interests in any unit trust or similar scheme;
- (e) to invest in any mortgage or charge over land or any personal property of whatsoever kind and wheresoever situate;
- (f) to sell either for distribution in cash or for re-investment or for any other purpose whatsoever the whole or any part of the trust property at any time or times for such price or prices and on such terms and conditions as the Trustee may think fit and to invest the proceeds of any such sale in a manner authorised by this Deed;
- (g) to invest in any of the public stocks or funds or government securities of any country, kingdom, republic or any state anywhere in the world;
- (h) to deposit moneys with any bank or company wheresoever situate and to place moneys on deposit fixed or on call with or without interest in any bank or public or private company anywhere in the world;

- (i) to invest, enter into or deal in any futures contract, any underwriting or sub-underwriting, options, foreign currency or rights or interests in relation thereto, interest rate or currency swap contracts or other like investments, contracts or dealings;
- (j) to apply the whole or any part of the Fund to or for the purpose of and to apply the same to commence, carry on, manage, control, direct or otherwise participate in any company, undertaking, profit making venture, or other activity wheresoever situate as the Trustee in its absolute discretion may deem fit;
- (k) to sell, call-in or otherwise convert any assets or investments comprised in the Fund at any time or from time to time and to re-invest the proceeds of sale calling-in or conversion or apply the same in accordance with the trusts and discretions contained in this Deed and in the sale, calling-in, conversion or realisation of any assets comprised in the Fund to sell or otherwise dispose of the same for such consideration and by public auction or private sale or for cash or upon terms or in any such other manner as the Trustee may in its absolute discretion think fit;
- (l) to invest any of the moneys of the Fund in a common pool with the moneys of any other superannuation fund or other fund and to make such arrangements for determining the proportion of the investments so held which is attributable to the Fund and to such other superannuation fund or other fund as it considers just and equitable,

but in exercising its investment powers under this Deed the Trustee shall not acquire any asset from a Member or a Relative of a Member, except as permitted by Superannuation Law.

6.3 Trustees and Custodians

- (a) The Trustee may appoint one or more bodies corporate to act as investment manager and one or more persons to act as Custodian Trustee subject to such conditions as the Trustee determines and may delegate to and confer upon such investment manager or Custodian Trustee such powers as the Trustee may think fit.
- (b) Subject to Superannuation Law, the Trustee shall not be liable or responsible for any act, omission, error of judgement, negligence or breach of trust of any such investment manager or Custodian Trustee and shall not be bound to take proceedings against any investment manager or Custodian Trustee in respect thereof.
- (c) The Trustee may pay out of the Fund to any such investment manager or Custodian Trustee such remuneration for its services as the Trustee considers proper and may remove such investment manager or Custodian Trustee or alter the terms of its appointment as it sees fit.
- (d) Any powers, discretions or authorities delegated by the Trustee to an investment manager or Custodian Trustee may be exercised by that investment manager or Custodian Trustee alone or jointly with the Trustee as the Trustee in its discretion shall determine, but in any event must be exercised on behalf of the Trustee.
- (e) Any appointment of an investment manager shall be in writing and the Trustee must ensure that the document appointing the investment manager contains adequate provisions to ensure that the investment manager provides to the Trustee:

- (i) appropriate information as to the making of, and return on, the investments managed by the investment manager; and
- (ii) such information as is necessary to enable the Trustee to assess the capability of the investment manager to manage the investments of the Fund.

6.4 Appointment of Secretary

The Trustee may appoint a Secretary of the Fund on such terms as the Trustee thinks fit and the Trustee may remove a Secretary and appoint another person as Secretary of the Fund. The Secretary shall be a person nominated by the Trustee and approved by the Principal Employer and shall perform the duties and have the powers set out in this Deed and such other powers and duties as the Trustee may determine from time to time.

6.5 Appointment of Actuary

The Trustee may from time to time appoint as Actuary to the Fund a person satisfying any requirements specified in Superannuation Law and on such terms as the Trustee may think fit. The Trustee may remove any such Actuary and appoint another person as Actuary to the Fund.

6.6 Expenses

Except to the extent that an Employer pays an expense of or incidental to the establishment, management or administration of the Fund on the basis that any such expense will be reimbursed by the Trustee out of the Fund, the Trustee shall pay out of the Fund all expenses of or incidental to the establishment, management and administration of the Fund, including any insurance premiums in relation to the Fund or the directors of the Trustee in the discharge of their duties as directors of the Trustee.

6.7 Superannuation Law

The Trustee may do all things considered by it as necessary or convenient to comply with any provision of Superannuation Law and without limiting the generality of the foregoing the Trustee may:

- (a) require Employers, Members, dependants of Members or other persons entitled to a Benefit or making Contributions to the Fund to provide such information as the Trustee may require in order to satisfy it that any provision of Superannuation Law is complied with, to determine whether any Tax is payable or to calculate any Benefit;
- (b) refuse to accept any Contribution or refuse to pay any Benefit to any person where acceptance of the Contribution or the payment of the Benefit may in the reasonable opinion of the Trustee result in the Fund ceasing to be a complying superannuation fund or where information sought under paragraph (a) has not been provided; and
- (c) lodge any returns or other documents required by Superannuation Law, make objection to any assessment or seek review of any determination of any Superannuation Authority or to pursue any objection or review by way of legal or other proceedings.

6.8 Delegation

The Trustee may delegate any power vested in it to any person in such manner and upon such terms and conditions as it thinks fit and without limiting the generality of the foregoing the Trustee may delegate any or all of the following functions and powers:

- (a) the establishment and maintenance of any Accounts;
- (b) the receipt of Contributions and the payment of Benefits;
- (c) the establishment and maintenance of any records, registers or other information required to be maintained by this Deed;
- (d) the power to do anything or obtain any approval that may be necessary or convenient in order to comply with Superannuation Law or the Income Tax Acts;
- (e) the power to accept or reject applications by Members to join the Fund; and
- (f) such other matters relating to the administration and operation of the Fund as the Trustee may determine.

6.9 Acting on Advice

The Trustee may act on the advice or opinion of any consultant, accountant, actuary, barrister, solicitor, medical practitioner or other professional person or expert (whether or not such advice or opinion has been obtained by the Trustee) and shall not be liable to the Fund for any loss or damage for so acting in good faith.

6.10 Exercise of Powers and Discretions

The Trustee in the exercise of any power, discretion or authority under this Deed or otherwise vested in the Trustee shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of those powers, discretions or authorities from time to time or at any time and may refrain from exercising any of those powers, discretions or authorities from time to time or at all.

6.11 Disputes

Subject to Superannuation Law, if there is any dispute or difference as to the effect or interpretation of this Deed the decision of the Trustee shall be final and binding.

6.12 Loans to Members

Subject to Superannuation Law, the Trustee shall not lend money of the Fund nor give any other financial assistance using the resources of the Fund to a Member of the Fund or a relative of a Member of the Fund.

6.13 Enquiries or Complaints

The Trustee shall comply with Superannuation Law in relation to enquiries into and complaints about the operation or management of the Fund. The Trustee may determine to require a person making an enquiry or complaint to pay the Trustee's costs and expenses reasonably incurred in responding to that enquiry or complaint in relation to the operation or management of the Fund.

6.14 Trustee to Keep Records

The Trustee shall keep all records and reports as required by Superannuation Law in accordance with Superannuation Law.

6.15 Report of Significant Adverse Event

The Trustee shall comply with Superannuation Law in relation to the notification of significant adverse events.

6.16 Appointment of Member Representatives

When required by Superannuation Law, the Trustee shall establish rules setting out a procedure for appointing Member representatives during such time as the Trustee is:

- (a) a corporation - to the board of directors of the Trustee;
- (b) natural persons - as Trustees.

The Trustee shall publish the rules in such a way as will make Members aware of the procedures for appointment and removal of Member representatives and must ensure that the Member representatives appointed in accordance with those rules may only be removed by the same procedure as that by which they were appointed, except in the event of the:

- (c) death of the Member representative;
- (d) mental or physical incapacity of the Member representative;
- (e) retirement of the Member representative;
- (f) termination of employment of the Member representative;
- (g) Member representative becoming a disqualified person; or
- (h) suspension or removal of the Trustee in accordance with Superannuation Law.
- (i) other circumstances prescribed under Superannuation Law.

6.17 Disqualified Person - Corporate Trustee

Where the Trustee is a corporation, if a director, secretary or executive officer of the Trustee becomes a disqualified person the Trustee shall immediately notify the Commissioner.

6.18 Disqualified Person - Individual Trustees

Where the Trustee is natural persons, if a Trustee becomes a disqualified person, that Trustee shall immediately notify the Commissioner.

6.19 Compliance with Notices

The Trustee shall comply with notices and directions from the Commissioner and the Superannuation Complaints Tribunal.

6.20 Reserves

Subject to Superannuation Law, the Trustee may retain reserves within the Fund.

6.21 Payments of Levies

The Trustee may make any levy payment or other payment out of the Fund as is required by Superannuation law from time to time to be made.

7. Accounts, Audit and Information

7.1 Records and Accounts

The Trustee shall maintain or cause to be maintained proper accounts and records of the Fund and its administration as may be required by Superannuation Law and as the Trustee may otherwise determine.

7.2 Provision of Information

Subject to sub-clause 7.6, the Trustee shall provide Employers and Members with such information in relation to the Fund as is required by Superannuation Law or as the Trustee otherwise determines.

7.3 Annual Statements

The Trustee shall prepare in respect of each year of income those accounts and financial statements required by Superannuation Law.

7.4 Audit

The Trustee shall appoint an Auditor and have the Fund audited in each year of income.

7.5 Accounts Evidence Payment

The accounts of the Fund shall be sufficient evidence of all payments shown in them to have been made to or for the benefit of any person and the receipt of the Trustee for any property or for the payment of any moneys or for any stock, shares, funds or securities of any kind transferred to it shall effectually discharge the person or persons paying or transferring the same in respect of any such obligation and from being bound to see to the application or being answerable for the loss or misapplication of such property.

7.6 Confidentiality

The Trustee shall not be required to disclose to any person other than an Employer any information relating to an Employer, a Member or a person who has ceased to be an Employer or Member unless that disclosure:

- (a) is reasonably necessary or convenient for the purpose of obtaining advice by the Trustee in relation to any matter pertaining to the Fund or is required by an Insurer for the purpose of effecting or maintaining any insurance policy;
- (b) is required by law;

- (c) is authorised by the person in respect of whom the information relates;
- (d) is to a Member and is of information relating to that part of the Fund of which the person is a Member so long as the information does not include information relating to Benefits of other Members or personal information pertaining to other Members of the Fund,

and the Trustee may require before disclosing any information that the consent of persons about whom the information relates is obtained and that the person to whom the information is provided gives such undertakings as to the use of the information or confidentiality of the information as the Trustee may require.

8. Valuations

8.1 Valuations

Unless otherwise provided in the Rules, the Trustee shall cause a valuation of all assets of the Fund to be made at least once in each year of income of the Fund and at such other dates and by such persons and utilizing such methods as the Trustee may determine.

8.2 Excess Amount

Where the value of the assets of the Fund is more than the value of the liabilities of the Fund (the "excess amount"), the Trustee may, with the consent of the Principal Employer and in such manner and to such extent as the Trustee decides, apply the excess amount:

- (a) to reduce the Contributions payable by the Employers or by any one of them;
- (b) by repaying it to the Principal Employer or any Associated Employer nominated by the Principal Employer;
- (c) as a reserve; or
- (d) for such other purposes as the Principal Employer and Trustee agree.

9. Liability of Trustee

9.1 Liability for Acts or Omission

The Trustee shall not be liable to the Fund nor to any person whatsoever for any loss or damage suffered by reason of:

- (a) any act or omission on the part of the Trustee other than a fraudulent act or omission or wilful misconduct or dishonesty;
- (b) neglect or default of any delegate, Actuary, Auditor, accountant, actuary, solicitor, or other agent or advisor engaged by or relied on by the Trustee in good faith.

9.2 Discretions and Powers of the Trustee

Every discretion or power conferred by this Deed on the Trustee shall be an absolute and uncontrolled discretion or power and the Trustee shall not be held liable for any loss or damage

occurring as a result of its concurring or refusing or failing to concur in the exercise or proposed exercise of such discretion or power, or on account of its failure to carry out any of its duties or obligations by reason of the fact that it has not received any (or has received insufficient or inadequate) instructions or information from an Employer, Member, or any other person at any time.

9.3 Liability of Trustee

In the execution of the trusts and powers the Trustee shall not be liable for any loss to the Fund arising by reason of any investment made in good faith or for the negligence or fraud of any person, firm or corporation (or any employees of any such person, firm or corporation) employed at any time and from time to time by the Trustee although the employment of such person, firm or corporation was not strictly necessary or expedient or by reason of any mistake or omission made in good faith by the Trustee or by reason of any other matter or thing except fraud, wilful misconduct or dishonesty on the part of the Trustee who is sought to be made liable.

9.4 Indemnity

Subject to Superannuation Law, the Trustee and, during such time as the Trustee is a corporation each director of the Trustee, shall be indemnified by the Fund in respect of any liability incurred while acting as the Trustee or as director of the Trustee (as the case may be) except where the liability arises from a breach of trust where the Trustee or director:

- (a) fails to act honestly in a matter concerning the Fund;
- (b) intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund, the degree of care and diligence required to be exercised,

or the liability is for a monetary penalty under a civil penalty order imposed under Superannuation Law. The Trustee may realise any assets of the Fund (including any insurance policy or any units or interests under any insurance policy) in whole or in part for the purposes of such indemnity and, without limitation, the indemnity shall extend to all legal and other costs, charges and expenses of administering or winding up the Fund and otherwise of performing any trusts, powers, authorities and discretions under this Deed. The indemnity provided to the Trustee and the directors of the Trustee under this sub-clause shall be in addition to any other indemnity allowed by law or given under this Deed.

9.5 Lien

Subject to Superannuation Law, the Trustee shall have a lien on and may dispose of all assets of the Fund in the hands of the Trustee for the purpose of the indemnity set forth in sub-clause 9.4.

9.6 Information Provided to Trustee

The Trustee shall be entitled to rely upon information provided to it by an Employer or a Member or any other person acting at the request of or on behalf of an Employer or a Member and the Trustee shall be indemnified by the Employer or Member who provided the information or at whose request or on whose behalf the information was provided in relation to any loss, damage or expense incurred by the Trustee arising as a result of any such information proving to be incorrect or misleading.

9.7 Trustee Not Obligated to Pay

Subject to Superannuation Law and the obligations under this Deed, except in the case of dishonesty or unless the Trustee has failed to show the degree of care and diligence required of a trustee having regard to the powers, authorities and discretions conferred on the Trustee by this Deed, in no event is the Trustee bound to make any payment to any person in connection with this Deed or the Fund or liable to any person in connection with this Deed or the Fund to any greater extent than the assets of the Fund.

10. Equal Representation

The Trustee shall ensure that the Fund complies with the equal representation rules prescribed by Superannuation Law as are applicable to the Fund from time to time.

11. Employees and Members

11.1 Application by Associated Employer

Any employer may with the approval of the Principal Employer make written application to the Trustee to become an Associated Employer of the Fund in respect of some or all of its employees. Such application shall be in such form and contain such information as may from time to time be agreed between the Principal Employer and the Trustee.

11.2 Acceptance of Application by Associated Employer

On acceptance by the Trustee of an application by an employer, the employer shall execute such agreements or acknowledgements as the Trustee may require in such form as the Trustee and the Principal Employer may agree and upon the date agreed by the Trustee and Principal Employer or, if there is no such date, on acceptance of the duly executed application by the Trustee, the employer shall become an Associated Employer and this Deed shall become binding on the Associated Employer and the Employees of that Associated Employer who become Members.

11.3 Delegation by Employers

The Principal Employer may do any act or thing as is required to be done or may be done under this Deed by an Associated Employer and any Employer may by notice to the Trustee in a form approved by the Trustee delegate to another Employer any or all of the duties and functions of the first named Employer under this Deed.

11.4 Eligibility for Membership

An Employer may by notice to the Trustee nominate from time to time Employees whom it wishes to become Members of the Fund. The Employer shall supply to the Trustee such information relating to those Employees as may be required by the Trustee.

11.5 Application by Employees of an Employer

Upon being nominated by an Employer or on wishing to become a Member of the Fund, an Employee may make application to the Trustee to become a Member in such form and providing such information as the Trustee may require on the date specified by the Trustee or, if no date is so specified, on acceptance by the Fund. Notwithstanding that an Employee who

is nominated by an Employer (or any other applicant) has not made application to the Trustee or provided the required information to the Trustee the Employee shall become a Member of the Fund. An Employee who becomes a Member shall be admitted as a Member of the Division nominated by his Employer or the Trustee.

11.6 Members Bound by Deed

Every person being or becoming a Member shall be deemed to have approved of and to be bound by the Deed and the Rules.

11.7 Ceasing to be Employee or in Full or Part-Time Employment

Each Employer shall promptly give written notice to the Trustee upon a Member ceasing to be an Employee or upon a Member ceasing to be in Full-Time Employment or Part-Time Employment.

11.8 Cessation of Membership

Unless otherwise provided in the Rules, a Member shall cease to be a Member of the Fund upon the earlier of:

- (a) the payment of the whole of the Member's Benefit to or in respect of the Member;
- (b) the transfer of the whole of the Member's Benefit to another Eligible Fund in accordance with sub-clause 13.4;
- (c) the payment of part of the Member's Benefit to or in respect of a Member and the transfer of the balance of the Member's Benefit to another Eligible Fund in accordance with sub-clause 13.4;
- (d) if the Member ceases to be entitled to a Benefit.

11.9 Member to Provide Information

When requested to do so, each Member or person to whom a Benefit may become payable shall provide to the Trustee information in relation to the Member or that person or the Member's membership of any other Eligible Fund or like fund or annuity or any other information that the Trustee may reasonably require in order to satisfy itself that the Fund is complying with Superannuation Law.

12. Contributions

12.1 Limit of Contributions

Contributions shall be made by Employers or Members in accordance with this Deed, the Rules or any other arrangement agreed by the Trustee but the Trustee may refuse to accept any Contribution which may, in the opinion of the Trustee, jeopardise the status of the Fund as a complying superannuation fund.

12.2 Authority to Deduct Member Contributions

Where appropriate, each Member authorises its Employer to deduct Contributions due by the Member (if any) from the Member's remuneration and to pay those moneys to the Fund on behalf of the Member.

12.3 Excessive Contributions

No Employer or Member shall make Contributions in respect of which the Employer or Member claims or intends to claim a tax deduction in any year of income which exceed the maximum amount of deductible Contributions calculated in accordance with Superannuation Law which can be made to the Fund in that year of income without jeopardising the status of the Fund as a complying superannuation fund.

12.4 Termination, Reduction or Suspension of Contributions by Employer

Subject to the Rules, an Employer may by notice to the Trustee terminate, reduce or suspend the payment of Contributions by it in respect of some or all of the Members in respect of which it is contributing and on receipt of such notice the Trustee shall advise that Employer's Members, and may:

- (a) adjust any Benefits in respect of the relevant Members; and
- (b) with the consent of the Principal Employer permit the relevant Members to terminate, reduce or suspend their Contributions (if any) to the Fund.

12.5 Deemed Termination of Contributions

If:

- (a) an Employer fails to make Contributions as required by this Deed for a period of at least 3 months, the Trustee may give notice to the Employer of that fact and if unpaid Contributions are not paid in accordance with this Deed within one month of that notice; or
- (b) an order is made or a resolution is passed for the winding up of an Employer;

then the Trustee may determine that the Employer has ceased to make Contributions and the provisions of sub-clause 12.4 will operate as if the Employer had given one month's notice that it has ceased Contributions.

12.6 Termination of Contributions by Principal Employer

If the Principal Employer terminates its Contributions or is deemed to have terminated its Contributions under sub-clauses 10.2 or 12.5, the powers and discretions vested in the Principal Employer under this Deed shall be exercisable by such of the Associated Employers as the Trustee shall determine who elect to assume the responsibilities of the Principal Employer under this Deed.

12.7 Additional Contributions

An Employer or Member may make such additional Contributions to a Division as the Trustee may from time to time agree and those Contributions shall be applied by the Trustee as the Employer or Member, as the case may be, directs and as agreed by the Trustee.

12.8 Refund of Payments

If any moneys paid to the Fund will or will be likely to jeopardise the status of the Fund as a complying superannuation fund or is found by the Trustee to have been paid by mistake (whether of law or of fact), the Trustee may refund those moneys to the person who paid them to the Fund but the Trustee shall not be liable to pay any interest, or account for any earnings or compensate the person who paid those moneys in any way and a person shall not be deemed to have become an Employer or a Member merely by reason of the receipt by the Trustee of those moneys.

12.9 Acceptance of Assets

The Trustee may agree to accept the transfer of an asset by an Employer or Member as a contribution to a Division of the Fund, and the amount of the contribution shall be the value of the asset to be transferred as agreed between the Trustee and the Employer or Member (as the case may be), and shall be applied by the Trustee as a contribution by or in respect of the Member to whom it relates.

13. Transfer To and From Other Funds

13.1 Transfer In

The Trustee may accept into a Division of the Fund:

- (a) moneys or assets from another Eligible Fund (the "other fund") under an arrangement with the trustee, employer or member or members of that other fund where the member or members of the other fund are or propose to become Members of the Division of the Fund;
- (b) an ETP of a person under an arrangement between that person and the Trustee where that person proposes to become or is a Member of the Division of the Fund; or
- (c) moneys or assets from another Division of the Fund where the Member or Members intend to become Members of the first-mentioned Division of the Fund;

and the amount of the moneys or the value of the assets transferred shall be applied by the Trustee in accordance with the arrangements relating to the transfer as agreed by the Trustee.

13.2 Non-acceptance of Transfer In

The Trustee may, in its absolute discretion, decline to accept from another Eligible Fund any transfer or payment of moneys or from a person any ETP or from a Division any transfer to another Division of the Fund for any reason and the Trustee shall not accept any transfer of moneys which would, in the opinion of the Trustee, jeopardise the status of the Fund as a complying superannuation fund.

13.3 Preserved Transfers

If any moneys which are subject to Preservation Requirements are transferred from an Eligible Fund or a Division of the Fund the Benefits represented by the moneys so transferred may not be paid to the Member otherwise than in accordance with the Preservation Requirements.

13.4 Transfer Out

Where a Member is or becomes eligible for membership of another Eligible Fund then at the request of the Member, or if required by law, the Trustee may, subject to such conditions as the Trustee may decide (including a condition that the fund into which the Benefit is to be paid complies with Preservation Requirements) pay all or part of a Member's Benefit to such other fund together with such other amount as the Trustee with the consent of the Principal Employer may agree.

13.5 Receipt of Trustees of Another Fund

Where an amount is paid to the trustees of an Eligible Fund pursuant to this clause the receipt of the trustees of the Eligible Fund (including in the case of an annuity effected in respect of a Member, the body providing that annuity) given in respect of the amount paid is a full discharge to the Trustee of all its obligations to or in respect of the Member under this Deed and the Trustee shall not be in any way responsible for or liable in respect of the application or disposal of such money by such trustee or other person.

14. Insurance Policies**14.1 Insurance Policies Effected by Trustee**

The Trustee may effect Insurance Policies in its own name by a separate Insurance Policy or as part of the insurance provided in respect of a number of Members under a group or master policy issued to the Trustee and the terms of an Insurance Policy in respect of a Member shall bind the Member and any person who is or becomes entitled to a Benefit in respect of the Member.

14.2 Operation of Insurance Policy

Any Insured Benefit shall be subject to the terms of the Insurance Policy under which it is provided and no payment shall be required to be made in respect of a Member in satisfaction of any Insured Benefit of any amount greater than the amount received by the Trustee under the Insurance Policy less any deductions for Taxes the Trustee is entitled to make under this Deed.

14.3 Cover Declined

If the Insurer under an Insurance Policy declines to provide, or will only provide subject to qualifications, insurance for any Benefit under that policy then the Trustee shall not be required to arrange any other or alternative Insurance Policy.

14.4 Advice of Decline

The Trustee shall advise the Employer or a Member of the Insured Benefits declined for insurance under an Insurance Policy.

14.5 Maintenance of Benefits

The Trustee shall only be required to effect or maintain an Insurance Policy in accordance with its terms.

14.6 Medical Examination and Availability of Insurance Policy

In respect of any Insured Benefit, the obligations of the Trustee to effect an Insurance Policy under this clause shall be conditional upon the Member submitting to such medical examination and providing such information as the insurer under an Insurance Policy requires.

14.7 Restriction on Insurance

If the Trustee effects or seeks to effect an Insurance Policy or an increase in the cover provided by an Insurance Policy in respect of an Insured Benefit and:

- (a) the insurer under an Insurance Policy refuses to provide or increase the cover under the Insurance Policy in respect of a Member on its standard terms; or
- (b) the insurer under an Insurance Policy for any reason whatsoever fails to provide, increase or maintain or reduces, terminates or withholds insurance or does not admit or defers a claim in whole or in part,

then the Insured Benefit in respect of which such Insurance Policy has been or would have otherwise been effected shall be reduced or varied to the extent to which an Insurance Policy or cover under an Insurance Policy has not been effected on standard terms or has otherwise not been obtained, increased or maintained or has been reduced, terminated or withheld or in respect of which a claim is not admitted or is deferred, and the Insured Benefit shall be adjusted or not be provided in accordance with the requirements or decision of the insurer under an Insurance Policy.

14.8 Alternative Policy

If any of the events specified in sub-clause 14.7 occur the Trustee shall forthwith give written notice of such event to the Member but the Trustee shall not be bound to seek an alternative Insurance Policy with the same or another insurer or, if it does decide to seek an alternative Insurance Policy, it may limit that search to such insurer as it sees fit.

14.9 Adjustment of Benefits

The Trustee may adjust the amount of, the time for payment and the basis of payment of all or part of the Insured Benefit in respect of which an Insurance Policy has been effected in such manner as it considers appropriate to take account of the terms and conditions upon which the proceeds of such Insurance Policy are payable by the Insurer and the amount of such proceeds and where an Insured Benefit is provided by an Insurance Policy that Benefit shall not exceed the amount actually paid by the Insurer in respect of the Member to whom the Benefit is payable.

14.10 Adjusted Benefit in Full Satisfaction

Any adjusted Insured Benefit provided pursuant to sub-clause 14.9 shall be in lieu of and in full satisfaction of the Benefit which would or may have been payable but for the operation of sub-clause 14.9.

15. Benefits

15.1 Compliance with Superannuation Law

The payment of Benefits shall be subject to any applicable Preservation Requirements and the Trustee shall not be required to pay a Benefit to a Member, dependant, legal personal representative or any other person other than in accordance with Superannuation Law.

15.2 Compulsory Payment of Benefit

If the Trustee is required to pay a Benefit at or by a certain time by Superannuation Law or is otherwise required to pay a Benefit by Superannuation Law then notwithstanding any provision in the Rules or the fact that a claim has not been made under this clause, the Trustee may pay the Benefit to or in respect of a Member in accordance with Superannuation Law less any deduction that is required to be made in respect of any Taxes.

15.3 Treatment of Preserved Benefits

If any Benefit (or part thereof) otherwise payable to a Member is unable to be so paid by reason of Preservation Requirements then the Benefit may be transferred to another Eligible Fund elected by the Member and approved by the Trustee.

15.4 Payment of Benefits

Subject to Superannuation Law, the Trustee may pay the Benefit to or in respect of a Member by way of a pension, purchase of an annuity or lump sum and otherwise in accordance with the Rules applicable to the Member.

15.5 Nominated Beneficiary

A Member may direct the Trustee that if upon the death of the Member a Benefit becomes payable in respect of that Member then all or a specified part of that Benefit is to be paid to one or more dependants nominated by the Member (the "Nominated Beneficiary").

15.6 Acceptance of Nominated Beneficiary

If the Trustee accepts a nomination by a Member under sub-clause 15.5 then on the death of the Member the Trustee shall make reasonable enquiries to determine:

- (a) which is the most recent nomination by the Member; and
- (b) whether the person nominated was a dependant of the Member at the time of death,

and if the Trustee is satisfied on these points and the Nominated Beneficiary has survived the Member by 30 days or such other period as the Trustee and Member may have agreed, then the Trustee may pay (but shall not be required to pay) the Benefit or the specified part of the Benefit to the Nominated Beneficiary and that payment shall constitute a complete and absolute discharge of the obligation of the Trustee to pay that Benefit or specified part of that Benefit under this Deed.

15.7 Acceptance

The Trustee:

- (a) may establish and from time to time vary the procedure for the nomination and acceptance by the Trustee of Nominated Beneficiaries; and
- (b) is not required to accept a nomination of a Nominated Beneficiary.

15.8 Variation of Nomination

If a Member notifies the Trustee in writing of a variation to any previous nomination of a Nominated Beneficiary or any direction in relation to a Nominated Beneficiary, then that variation shall not take effect unless and until it is received and accepted by the Trustee and in that event it shall terminate any prior nomination or direction given by the Member.

15.9 Death Benefits

If or to the extent that the Trustee is not satisfied as to the results of its enquiries under sub-clause 15.6 or if there is no Nominated Beneficiary then the Trustee shall pay the Benefit to the legal personal representative of a Member or to dependants (as defined in the Tax Act for the purposes of Section 27A(12)) of the Member or any combination of those persons.

15.10 Disputes

Subject to Superannuation Law the decision of the Trustee as to the effect, validity or the terms or conditions of any direction given by a Member under this clause or of the identity of any Nominated Beneficiary shall be final and binding on all persons who may have a claim or entitlement to a Benefit or part of a Benefit in relation to which the nomination is determined by the Trustee to relate.

15.11 Place and Manner of Payment

- (a) Subject to this Deed, Benefits shall be payable at the place and in the manner as determined or approved of by the Trustee and the Trustee may make payment by cheque or cause an Insurer to draw and pay by cheque on behalf of the Trustee and the Trustee or Insurer may mail the cheque to the payee at the last address known to the Trustee of that payee.
- (b) Notwithstanding any other provision of this Deed, a Member shall not be entitled to be paid a Benefit until the Trustee has:
 - (i) in the case of sub-clause 15.2, determined to pay a Benefit; or
 - (ii) in any other case, received a claim from an Employee or Member (as the case may be) together with such other information as the Trustee may require,

and in the case where any Insured Benefit is payable, the Insurer under an Insurance Policy has determined to accept and pay the claim.

15.12 Proofs

Whenever it is necessary for the Trustee to decide questions of fact the Trustees may act upon such proofs or presumptions as it considers satisfactory whether or not they are strictly legal proofs or legal presumptions.

15.13 Payment of Benefit Conditional Upon Evidence

The Trustee may suspend payment of a Benefit until all information and evidence required by the Trustee is received from the Employer, the Member or the person to whom the Benefit is to be paid and in particular the Trustee may require any person to whom a Benefit is to be paid to satisfy the Trustee that the person is entitled to receive the Benefit in accordance with Superannuation Law.

15.14 Discharge of Trustee

The receipt of a person to whom a Benefit is paid shall absolutely discharge the Trustee in respect of the Benefit paid to that person and the Trustee is not bound to see to the application of that Benefit.

15.15 Legal Disability of Person

If it appears to the Trustee that a Member or other person to whom a Benefit would otherwise be payable is under any legal disability or is unable for any reason whatsoever to satisfactorily deal with such Benefit the Trustee may pay or apply the whole or part of any such Benefit in one or more of the following ways:-

- (a) to any dependant of the Member or other person;
- (b) for or towards the maintenance, education, advancement or otherwise for the benefit of the Member, other person or any dependant of the Member or other person in such form and manner and subject to such terms and conditions as the Trustee thinks fit; and
- (c) without limiting the generality of paragraph (b), to a person who appears to the Trustee to be a trustee for or a parent or guardian of or to have for the time being the care or custody of the Member or other person or to have the financial expense of the care or custody of the Member or other person.

15.16 Trustee Not Obligated

The Trustee is not obliged to have recourse to sub-clause 15.15 or to consider whether recourse should be had to sub-clause 15.15 notwithstanding that the Trustee may have actual notice of any legal disability of the Member or other person.

15.17 Claim for Benefits

Upon the Trustee being satisfied that a claim for an Insured Benefit has arisen, the Trustee shall, as soon as practicable, lodge a claim with the Insurer in relation to that Member and upon receiving payment of such Insured Benefit the Trustee shall promptly pay such Benefit to or in respect of the Member or cause the Insurer to pay the Benefit to or in respect of the Member.

15.18 Notice of Claim

An Employer or Member shall promptly advise the Trustee of any event which would entitle a Member to receive a Benefit in such form as is required by the Trustee.

15.19 Unclaimed Moneys

If:

- (a) a Member has reached the eligibility age for an age pension;
- (b) the Trustee determines that, under the Rules, the Member is entitled to be paid a Benefit from the Fund;
- (c) the Member has not applied to the Trustee to have the Benefit paid to the Member; and
- (d) the Trustee is unable to pay the Benefits to the Member because the Trustee, after making reasonable efforts to find the Member, is unable to find the Member,

the Benefit of the Member is unclaimed moneys and shall be dealt with by the Trustee in accordance with Superannuation Law.

15.20 Trustee May Require Proof of Continued Employment

The Trustee may by notice to a Member require the Member to provide evidence satisfactory to it that the Member is still in Full-Time Employment, Part-Time Employment or is otherwise not entitled to be paid a Benefit and if the Member has reached an age at which a Benefit is payable and the Trustee is not satisfied that the Member is in Full-Time Employment or Part-Time Employment or is otherwise prohibited from receiving a Benefit then the Trustee may pay the Benefit to the Member as if that Member had become entitled to it on the date of payment.

15.21 Deferral of Benefit Payment

Where the Trustee must dispose of any assets of the Fund and convert them to cash in order to pay a Benefit, the Trustee may delay payment of the Benefit for such period as the Trustee sees fit in order to reasonably facilitate the orderly disposal of those assets.

15.22 Additional Benefits

Where in respect of any Employee, the Employer or the Employee, with the prior approval of the Trustee, pays or transfers to the Trustee for the credit of the Fund an amount either as a capital sum at or after the date of his admittance or pays additional Contributions, whilst he is a Member or for a limited period, the Trustee shall credit the Employee in respect of whom they are paid with additional Benefits, or shall vary his Contributions, in such manner as may be agreed by the Principal Employer, Trustee and Employer.

15.23 Special Membership

The Trustee may, with the consent of the Employee, at the request of the Principal Employer, make such arrangements as they think proper with the Employee in regard to any matter concerning his membership of the Fund (including the provision of Benefits determined in a different manner from those provided for elsewhere in this Deed and Rules).

15.24 Maximum Liability of Trustee

Notwithstanding any other provision of this Deed or the Rules, the Trustee shall not be required to make any payment from the Fund in excess of the net realisable assets of the Fund nor shall any Employer or Member bear any liability for such excess.

15.25 Payment of Benefit to Eligible Rollover Fund

If:

- (a) the Trustee determines that a Benefit is payable to or in respect of a Member;
- (b) the period of 90 days has elapsed since the Benefit became payable; and
- (c) the Benefit has not been paid,

the Trustee may pay the Benefit to an Eligible Rollover Fund, and must pay the Benefit to an Eligible Rollover Fund if, in addition to the above matters, at least two [annual] reports to the Members of the Fund have not been received by the Member. The Trustee shall, in relation to the payment to the Eligible Rollover Fund, comply with the requirements of Superannuation Law.

15.26 Notice to Members

The Trustee shall give to each Member of the Fund:

- (a) in the case of a new Member, at the time that person becomes a Member of the Fund; and
- (b) in any other case, at least once each year,

a written notice specifying the circumstances in which the Member's Benefit may be paid to an Eligible Rollover Fund and the name and address of the place of business of the Eligible Rollover Fund to which the Member's Benefit will be paid in the specified circumstances.

15.27 Discharge

The receipt of the trustee of an Eligible Rollover Fund in respect of the Benefit of a Member paid to that Eligible Rollover Fund shall absolutely discharge the Trustee in respect of the Benefit of that Member and the Member shall cease to have any rights against the Fund.

16. Forfeiture of Benefits

16.1 Dealings in Breach of Superannuation Law

A Member shall not deal with or assign his or her Benefit in a manner which is in contravention of Superannuation Law and in that event the Trustee may declare the Benefit forfeited or suspended and the Benefit so forfeited or suspended shall be held by the Trustee in accordance with the provisions of this clause.

16.2 Application of Benefits

Subject to Superannuation Law, the Trustee may apply the whole or any part of any Benefit which has been forfeited or suspended under this clause to or for the benefit of the Member or the dependants of the Member in such manner as the Trustee determines.

16.3 Cessation of Disabling Event

If the Trustee is satisfied that the events specified in sub-clause 16.1 no longer apply to the Member then the Trustee may apply any Benefit or part of a Benefit not dealt with under sub-clause 16.2 in such manner as the Trustee would have been entitled to apply it if the events specified in sub-clause 16.1 had not occurred.

16.4 Defalcation or Fraud

Subject to Superannuation Law, if a Member is a party or privy to any defalcation or fraud in respect of the Fund or an Employer the amount representing the Member's interest in the Fund shall be applied so far as it shall extend to make good the defalcation or fraud and to meet any costs or losses (including the costs of any prosecution or civil proceedings) incurred by any one or more of the Trustee or Employers as a result of or incidental to or arising howsoever out of the defalcation or fraud and the amount so applied shall be paid by the Trustee to the Employer proving such losses or costs incurred or retained in the Fund as the case may be and the Member's Benefit shall be reduced accordingly.

17. Expenses and Taxation**17.1 Payment of Tax**

The Trustee shall pay such Taxes or instalments thereof in respect of the Fund as may be determined pursuant to the provisions of the Income Tax Acts in accordance with the provisions of the Income Tax Acts and the Trustee may allocate the Taxes among Benefit Accounts, establish Benefit Accounts for providing for Taxes or reserves for Taxes and realise any asset of the Fund (including any Insurance Policy, or units or interests under any Insurance Policy) in whole or in part allocated to those Benefit Accounts for the purpose of meeting its liability under this clause.

17.2 Provision for Tax

Notwithstanding any provision of this Deed, the Trustee may from time to time and at any time deduct, set aside and make a provision or provisions from the Fund for such Tax as it, in good faith, and in its absolute discretion and in accordance with the Income Tax Acts estimates will be payable from time to time by the Fund pursuant to the Income Tax Acts in respect of the relevant year of income for the purposes of the Income Tax Acts and, without limitation, in deducting and setting aside and making provision for such Tax the Trustee shall be entitled to have regard to the unrealised capital gains accrued on the investments of the Fund (or any part thereof) and any other matter or thing which the Trustee in good faith and in its absolute discretion considers appropriate and the Trustee may transfer amounts from any Benefit Accounts to Benefit Accounts established for the purpose of providing for Taxes or reserves for Taxes.

17.3 Taxation Credits or Rebates

Subject to the Income Tax Acts, where the Trustee is in receipt of any income in respect of which there arises any taxation credit or rebate (whether in the nature of an imputation credit or rebate, foreign tax credit pursuant to the Tax Act or otherwise) the Trustee shall be entitled in its absolute discretion to offset such credits or rebates against any provisions for Tax established pursuant to this Deed and, notwithstanding the time at which such credits or rebates are received, shall be entitled in its absolute discretion to apportion such credits or rebates

across the relevant year of income for the purposes of the Income Tax Acts as the Trustee thinks fit.

17.4 Adjustments

The Trustee shall pay Taxes for the Fund as determined pursuant to the Income Tax Acts and shall, in respect of the amount or amounts of such payments debit the provisions for Taxes made pursuant to this Deed in respect of the year of income to which such Taxes relate and:

- (a) where the provisions for Taxes made in respect of any year of income exceed the Taxes payable in the year of taxation in respect of such year of income, the Trustee shall credit the provisions for the Fund in respect of the next succeeding year of income (or part thereof as the Trustee in its absolute discretion determines) with such amount or otherwise deal with it as it considers equitable; and
- (b) where the provisions for Taxes made in respect of any year of income is less than the amount of Taxes payable in the year of taxation in respect of that year of income, the Trustee shall be entitled, as the Trustee sees fit, to debit the excess of Taxes to such provisions for Taxes the Trustee may have made in respect of the next succeeding year of income of the Fund (or part thereof as the Trustee in its absolute discretion determines).

17.5 Expenses and Obligations

Notwithstanding anything contained in this Deed, the Trustee may from time to time and at any time:

- (a) realise any asset of the Fund in whole or in part; and/or
- (b) from the Fund deduct, set aside and make a provision or provisions;

as the Trustee in good faith and in its absolute discretion deems proper for meeting such anticipated expenses or obligations (other than income tax obligations except those as are hereinafter in this paragraph referred to) as in the opinion of the Trustee should be provided for, including (without limitation) a provision or provisions for Tax which will or may in the opinion of the Trustee be payable in respect of capital gains which may or might be realised on the disposal of assets of the Fund in succeeding years of income. Such realisation of assets, deduction, setting aside or provision may be made from or against such part of the Fund as the Trustee in its absolute discretion deems appropriate.

17.6 Determination by Trustee

Notwithstanding anything contained in this Deed the Trustee may in its absolute discretion determine:

- (a) whether any amount received or receivable is or is to be received on capital or income account, or whether any outgoing, loss, expense, provision or amount is incurred on capital or income account;
- (b) whether a capital profit or loss has been realised;
- (c) the amount of any realised or unrealised capital profit or loss;
- (d) the amount of any consideration received on the disposal of a part of the Fund;

- (e) the amount paid or deemed paid or the value given for a part of the Fund at the time it became part of the Fund; or
- (f) whether any Tax is payable and, if so, the amount payable,

and every such determination shall be final and conclusive and no Member or former Member shall have any right or claim against the Trustee personally arising out of such decision or its implementation but shall not by reason of this proviso be debarred from asserting any claim in respect of his interest in the Fund.

17.7 Arrangements with other Entities

The Trustee may from time to time and at any time in its absolute discretion and upon such terms as it sees fit enter into an arrangement or arrangements with an insurer under an Insurance Policy, a registered organisation or a pooled superannuation trust or any other appropriate entity which has the effect of transferring to that entity all or part of the liability for Tax of the Fund.

17.8 Payment of Greater Amount

The Trustee may with the consent of the Principal Employer in its absolute discretion and in such manner and upon such terms as it sees fit pay an amount greater than the Benefit to which a Member is entitled in circumstances where the payment of such greater amount results in the securing or better securing of relief from Tax of any income of the Fund (including Contributions to the Fund) and/or of the greater amount.

17.9 Liability of Trustee

The Trustee shall not incur any liability, be liable to account to anyone (including any Employer, Member or former Employer or Member) or be liable for any loss or damage as the result of the exercise of the discretion or power set out in or in respect of any determination of fact or law made as part of, or as a consequence of, the exercise of the discretion or power pursuant to this Deed relating to Tax notwithstanding any error or miscalculation in any provision made for Tax.

18. Conditions of Employment Not Affected

Nothing in this Deed whether express or implied shall:

- 18.1** in any way restrict an Employer in varying or terminating any contract of employment or terms of engagement of a Member who is an Employee;
- 18.2** in any action against an Employer by a Member who is an Employee be used as a ground for awarding damages or compensation or increasing an award for damages or compensation or for conferring any rights on a Member other than those expressly conferred by this Deed.

19. National or Other Superannuation Schemes

19.1 Valuation of Contributions

If any government introduces or varies any scheme including any scheme established by the making or varying of any Prescribed Agreement or Award (a "Scheme") for insurance, superannuation, social service, pension or retirement benefits similar to the benefits provided under this Deed in respect of which Members may be or become eligible the Trustee may and shall if required by the Principal Employer in such manner as is permitted by Superannuation Law reduce or otherwise vary the Contributions made by an Employer and Members employed by that Employer and the basis on which those Contributions are vested.

19.2 Prescribed Agreements and Awards

If with the intention of complying with any requirement to provide any superannuation benefits required under any Prescribed Agreement or Award an Employer or Member makes contributions to any Division then:

- (a) the Employer or Member must satisfy him, her or itself that the payment of the Contribution and the terms of the Fund meet the requirements of any such Prescribed Agreement or Award;
- (b) the Trustee shall not be liable to the Employer the Member or any of the Employer's Members for any failure of those Contributions or the Division to which they are applied to satisfy the requirements of any such Prescribed Agreement or Award;
- (c) if the Employer or Member notifies the Trustee that the payment of the Contributions to the Division is in breach of any such Prescribed Agreement or Award then the Trustee may refuse to accept any further Contributions paid in that regard and may transfer the Benefit or part of the Benefit that has arisen from those Contributions to an Eligible Fund that complies with the requirements of the relevant Prescribed Agreement or Award in accordance with the provisions of clause 13.

20. Rules

20.1 Inconsistency

If the Rules are inconsistent with any provisions of the Deed then the provisions of the Deed shall prevail unless the Rules expressly provide to the contrary.

20.2 Express Provision in Rules

A provision in the Rules that deals with the same matter as a provision in the Deed shall not be taken to limit the provision appearing in the Deed unless it does so expressly.

21. Amendment of Trust Deed

21.1 Amendments

Subject to sub-clause 21.2 the Principal Employer, with the prior written consent of the Trustee, may at any time by Deed or by oral or written resolution, amend, add to, delete or replace all or any of the provisions contained in this Deed, including the provisions of this clause, and the

amendment, addition to, deletion or replacement may be retrospective or take effect on a specified date.

21.2 Amendment Not To Reduce Benefits

No amendment shall be made under sub-clause 21.1 which would have the effect of:

- (a) reducing the amount of a Benefit, calculated on the basis of Contributions to the Fund and earnings on those Contributions, which has accrued or become payable to a Member before the amendment; or
- (b) reducing the amount of a Benefit, other than a Benefit referred to in paragraph (a), that is, or may become, payable to a Member in relation to a period before the amendment; or
- (c) otherwise reducing the Benefits that have accrued, or become payable, to a Member unless:
 - (d) the reduction is required because of, and does not exceed the value of, any Tax payable on the income of the Fund; or
 - (e) the reduction is required only to enable the Fund to comply with Superannuation Law; or
 - (f) the Member approves in writing of the reduction; or
 - (g) the Insurance and Superannuation Commissioner approves in writing of the reduction; or
 - (h) the amendment is otherwise permitted by Superannuation Law.

21.3 Actuary's Advice

In determining whether or not the effect specified in paragraphs 21.2(a), (b) or (c) will occur the Trustee may rely on the advice of the appointed Actuary (if any).

21.4 Amendment not to Permit Change of Primary Purpose

No amendment shall be made to the Deed which would have the effect of permitting the primary purpose of the Fund to be other than the provision of old-age pensions.

22. Superannuation Law

22.1 Superannuation Law Deemed to be Included

Notwithstanding any provision of this Deed any provision of Superannuation Law that is required to be included in this Deed for the Fund to remain or to be a complying superannuation fund shall be deemed to be included in this Deed as if every such provision was set out in this Deed on and from the date that the provision is required to be so included.

22.2 Inconsistency of Provisions

In the event of any inconsistency between the provisions deemed by sub-clause 22.1 to be included in this Deed and the terms of this Deed, the provisions deemed to be included by sub-clause 22.1 shall prevail.

22.3 Trustees not in Contravention

The Trustee shall not be taken to be in contravention of this Deed or to be in breach of trust if it does anything or fails to do anything which is in contravention of Superannuation Law if:

- (a) the contravention is approved by the Commissioner; or
- (b) the contravention is rectified within 30 days from the date the Trustee became aware of the contravention.

22.4 Modification or Exemption

Subject to Superannuation Law, the Trustee may seek modification of or exemption from the requirements of Superannuation Law, and if any modification or exemption is granted by the Commissioner, the Trustee is relieved from compliance with those provisions of the Trust Deed and Superannuation Law expressed in that modification or exemption subject to any conditions in that modification or exemption.

23. Termination

23.1 Termination of Fund

Subject at all times to Superannuation Law, if:-

- (a) the Principal Employer advises the Trustee that it has ceased to carry on business for any reason or it has terminated or it is deemed to have terminated its Contributions to the Fund and no Associated Employer assumes the obligations of the Principal Employer under this Deed;
- (b) an order is made or an effective resolution is passed for winding up of the Principal Employer (unless for the purpose of reconstruction or amalgamation and the new entity has the necessary power and agrees to assure the obligations of the Principal Employer under this Deed); or
- (c) the Principal Employer gives the Trustee 6 months' notice in writing that it wishes to terminate the Fund,

the Fund shall terminate from the date of the occurrence of such event or the expiration of that notice (the "Termination Date").

23.2 Consequences of Termination

On and from the Termination Date:

- (a) no further Employees shall be admitted to membership of the Fund; and

- (b) the Trustee shall not accept any further contributions (other than those due on or prior to the Termination Date) and all outstanding contributions shall be paid forthwith.

23.3 Payments on Termination

Upon termination of the Fund, the Trustee shall make such provision out of the assets of the Fund as is necessary to provide for the following in the following order of priority:

- (a) Tax, whether or not assessed or presently payable;
- (b) expenses of the Fund, including those incurred or to be incurred by the Trustee in connection with the termination of the Fund;
- (c) Benefits which became payable prior to the Termination Date subject to this being not less than that Benefit which would have been paid to the Member if his employment had been terminated by the Member's Employer; and
- (d) an amount equal to the Benefit which would be payable to each Member in accordance with the appropriate Division of this Deed if his Service was terminated by his Employer on that date or such greater amount as the Trustee with the consent of the Principal Employer may determine.

23.4 Surplus

If after making the provisions set forth in sub-clause 23.3 the Trustee is of the opinion that the value of assets of the Fund exceeds the value of the liabilities then the excess amount may be applied by the Trustee with the consent of the Principal Employer for any of the following purposes:

- (a) to be repaid to the Principal Employer or any Associated Employer the Principal Employer nominates;
- (b) in increasing the provisions made for Members of the Fund as at the Termination Date;
- (c) for such other purposes as the Trustees and Principal Employer may agree.

23.5 Payment of Benefits on Termination

The Benefits payable on termination by the Fund shall be in such form and be provided through such arrangements as the Trustee shall determine. Each Member shall accept the Benefits allotted to him by the Trustee in full discharge of all claims in respect of the Fund and shall have no further claim whatsoever in relation to the Fund. Any decision by the Trustee in relation to the amount or method of payment of any such Benefits shall be final.

23.6 Termination of Participation of Associated Employer on Occurrence of Certain Events

If any of the following events occur, the Principal Employer may by notice to the Trustee terminate the participation of an Associated Employer in a Fund:

- (a) if the Associated Employer terminates or is deemed to have terminated its Contributions to the Fund;
- (b) the Associated Employer ceases to carry on business or is placed in liquidation;

- (c) if there ceases to be any Members employed by that Associated Employer in the Fund; or
- (d) the Principal Employer gives 30 days written notice to the Associated Employer terminating its participation in the Fund.

23.7 Consequences of Termination of Participation of an Associated Employer

Upon the termination of an Associated Employer's participation in the Fund, the Trustee shall notify all Members employed by that Associated Employer (the "Out-Going Members") and from the date of that notice, the Out-Going Members shall cease to be Members of the Fund.

23.8 Provision for Out-going Members

The Trustee shall appropriate in respect of each Out-going Member an amount equal to the benefit which would be payable to the Member in accordance with the appropriate Division of this Deed if his employment was terminated by the Associated Employer on that date or such greater amount as the Trustee with the consent of the Principal Employer may determine (the "Appropriated Amount").

23.9 Payment of Appropriated Amount

The Trustee shall pay or apply the Appropriated Amount in respect of each Out-Going Member in any one or more of the following ways as determined by the Trustee:-

- (a) with the consent of the Out-going Member, to another Eligible Fund;
- (b) if the employment of the Out-going Member by such Associated Company has terminated and subject to Superannuation Law, to the Out-going Member; or
- (c) if the employment of the Out-going Member has not been terminated, by holding the Appropriated Benefit in a separate account until the Out-going Member ceases to be so employed whereupon the Out-going Member shall be entitled to receive, in lieu of his Benefit under the Rules, the Appropriated Benefit together with such income (if any) thereon as the Trustee may determine.

23.10 No Further Claims

An Out-going Member to whom an Appropriated Amount has been paid or applied under sub-clause 23.8 shall have no right or claim against the Fund.

24. Payments to Employer

24.1 Payment of Surplus or Reserve Amounts

Subject to sub-clause 24.2, no amount shall be paid to an Employer under this Deed other than in compliance with Superannuation Law.

24.2 Payment for Services Rendered

The Trustee may pay an amount to an Employer in respect of services rendered by it in connection with the management or operation of the Fund.

25. Notices

Subject to Superannuation Law, any notice or information required to be given by the Trustee to:

25.1 Members under this Deed shall be deemed to have been duly given if given in writing to a Member by letter addressed to the Member at the Member's address appearing in the Register of Members;

25.2 the Principal Employer shall, if so given, satisfy any obligation to give notice or provide information to an Associated Employer,

and any notice given by post shall be deemed to have been served at the time when it was posted and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted and a statement signed by the Trustees that it was so addressed and posted and when it was so posted shall be conclusive of that fact.

26. Copies of Trust Deed

A copy of this Deed (but only including those Rules applicable to the Employer or Member seeking inspection) shall at all times during usual business hours be made available by the Trustee at the registered office of the Principal Employer for the inspection of Employers and Members who shall be entitled to receive from the Trustee a copy of this Deed which is available for inspection by that Employer or Member.

27. Miscellaneous

27.1 Currency

All Benefits are expressed and paid in Australian currency unless expressly otherwise agreed by the Trustee with an Employer or Member.

27.2 Governing Law

This Deed shall be governed by and construed in accordance with the law of South Australia.

27.3 Indemnities

Each indemnity in this Deed is a continuing obligation and shall survive the termination of this Deed. It is not necessary for any person entitled to the benefit of an indemnity under this Deed to incur expense or make payment before enforcing a right of indemnity conferred by this Deed.

THE SCHEDULE**RULES OF THE TARTAN SUPERANNUATION FUND
DIVISION A****A1. APPLICATION OF RULES**

These Rules apply to Members of Division A of the Fund established under clause 3 of the Trust Deed.

A2. INTERPRETATION**A2.1 Definitions**

The following rules of interpretation apply unless the context requires otherwise.

Compulsory Contribution Account means a Benefit Account maintained by the Trustee in respect of a Member which is credited with Contributions in respect of that Member that are made in satisfaction of an obligation to contribute under a Prescribed Agreement or Award, the superannuation guarantee charge legislation or other legal requirement.

Declared Rate means such rate of interest, either positive or negative, as may be determined by the Trustee, after obtaining the advice of the Actuary and the approval of the Principal Employer, in respect of any period for the purposes of the whole or any particular provision of the Deed.

Early Retirement Date means the 55th anniversary of the date of birth of a Member or such other date agreed by the Trustee and the Employer.

Employer Contribution Account means the following sub-accounts maintained in respect of a Member which are credited with Contributions by an Employer in respect of a Member:

- (a) Non-Preserved Account;
- (b) Preserved Account.

Employer Reserve Account means a Benefit Account maintained by the Trustee in respect of an Employer to which:

- (a) is transferred moneys held in the Employer Contribution Account in respect of a Member and which upon a Benefit becoming payable to a Member are not vested in the Member in accordance with a Vesting Scale or which are not otherwise paid to or in respect of a Member and such other moneys as provided in these Rules; and
- (b) is credited moneys deducted from a Benefit or from Benefit Accounts to meet unpaid Tax including unpaid Tax on Contributions.

Member Accounts means one or more of the following Benefit Accounts maintained by the Trustee in respect of a Member:

- (a) Member Contribution Account;

- (b) Employer Contribution Account;
- (c) Special Account;
- (d) Compulsory Contribution Account.

Member Contribution Account means the following sub-accounts maintained by the Trustee in respect of a Member which is credited with Contributions by that Member:

- (a) Non-Preserved Account; and
- (b) Preserved Account.

Normal Retirement Date means the 65th anniversary of the date of birth of a Member or such other date agreed by the Trustee and the Employer.

Non-Preserved Account means a sub-account maintained by the Trustee in respect of a Member which is credited with Contributions in respect of that Member which are not subject to Preservation Requirements;

Permanent Incapacity or Invalidity means in respect of a Member who has retired from the workforce that the Member has been certified by 2 registered medical practitioners that in their opinion the Member is unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience.

Prescribed Age means the age or ages prescribed under Superannuation Law at which a Benefit may or must be paid to a person from a superannuation fund without that person having retired from any business, trade, profession, vocation, calling, occupation or employment in which the Member is engaged.

Preserved Account means a sub-account maintained by the Trustee in respect of a Member which is credited with Contributions in respect of that Member which are subject to the Preservation Requirements.

Review Date means a date or dates in each year of income as agreed by the Principal Employer and the Trustee from time to time either generally or in respect of particular Members or a particular Member.

Special Account means the following sub-accounts maintained by the Trustee in respect of a Member which are credited with Contributions in respect of that Member which are designated as "special" by agreement between the Trustee and the Employer:

- (a) Non-Preserved Account;
- (b) Preserved Account.

Vesting Scale means the years of Service of a Member set out in the Table below (if any) with the Employer of that Member and the following corresponding proportion of the Employer Contribution Account which is payable upon the Member becoming entitled to a Benefit **PROVIDED THAT** if there is no Vesting Scale provided for the purposes of these Rules the Vesting Scale shall be as determined by the Principal Employer and/or the Trustee and notified to the Member from time to time:

Years of Service**% Payable****A3. MEMBERSHIP****A3.1 Eligibility**

A person who is in Part-Time Employment or Full-Time Employment of an Employer or a person in respect of whom an Employer may, under Superannuation Law, make Contributions to this Division and who is nominated by the Employer is eligible for membership of this Division and upon acceptance by the Trustee of an application under the Deed the person shall become a Member of this Division of the Fund.

A3.2 Information

A Member and an Employer shall on request by the Trustee promptly provide to the Trustee or the insurer under an Insurance Policy:

- (a) evidence of age and health of the Member;
- (b) such other information as the Trustee or the insurer under the Insurance Policy may reasonably require,

and the Member shall sign such applications and documents and give such authorities as may be required by an insurer under an Insurance Policy in respect of any Insured Benefit.

A4.4 CONTRIBUTIONS**A4.1 Employer Contributions**

An Employer shall make the Contributions to the Fund as agreed from time to time between the Employer and the Trustee in respect of each of the Employer's Members and, with the consent of the Trustee, an Employer may make additional Contributions in respect of any one or more of those Members.

A4.2 Member's Contributions

A Member shall make the Contributions to the Fund, if any, as agreed from time to time between the Member, the Employer and the Trustee and with the consent of the Trustee the Member may make additional Contributions to the Fund.

A4.3 Commencement and termination

Subject to Rule A4.4, Superannuation Law and the Deed, a Member may commence to make Contributions and the Employer shall commence to make Contributions in respect of that Member on the Member becoming a Member of the Fund or on such other date as is agreed by the Trustee and shall cease to make Contributions in respect of the Member on the Member ceasing to be in the Service.

A4.4 Suspension of Service

Where the Employer notifies the Trustee that the Member has been suspended from Service then:

- (a) notwithstanding that the Member may have otherwise ceased to be in Service the Member may remain a Member of this Division of the Fund for such period as may be permitted by Superannuation Law from the date the suspension commenced or such shorter period as may be agreed by the Employer and the Trustee; and
- (b) during that period:
 - (i) an Employer and Member may make such Contributions to the Fund in respect of that Member as may be agreed by the Employer and the Trustee; and
 - (ii) any Insured Benefit in respect of the Member shall cease but may be continued or varied if the Trustee, the Employer and the insurer under the Insurance Policy applicable to the Member agree.

A5. ACCOUNTS**A5.1 Establishment**

The Trustee shall establish in respect of each Employer and its Members:

- (a) in respect of each Member - the Member Accounts;
- (b) in respect of each Employer - the Employer Reserve Account.

A5.2 Payment of Benefits

Benefits and expenses (including any premiums for any Insured Benefit and Taxes) may be paid out of the Fund by debiting Benefit Accounts in accordance with the Deed.

A5.3 Deductions and Payment of Premiums and Tax

To the extent that they are not otherwise paid by the Employer, the Trustee may:

- (a) debit any Employer Contribution Account or the Employer Reserve Account (or such other Accounts as may be agreed by an Employer, Member and the Trustee) with amounts equal to:
 - (i) premiums payable under an Insurance Policy in respect of a Member;

- (ii) any Taxes including those payable in respect of the Contributions to the Member Accounts or Employer Contribution Account;
 - (iii) any expenses or charges that become payable under the Deed; and
 - (iv) any negative Declared Rate of interest;
- (b) deduct from Contributions or debit any Member Accounts to pay or make provision for the payment of Taxes including those payable in respect of the Contributions to the Member Accounts and where the deduction is made to make provision for any Taxes the provision shall be allocated to the Employer Reserve Account pending payment of the Tax and when the Tax becomes payable, withdraw sufficient amounts from the Employer Reserve Account to pay the Tax and apply the amount to pay the Tax;
- (c) if there are insufficient funds to meet the payments referred to in paragraph (a) after the Trustee has had recourse to the Accounts specified in paragraph (a), debit any other relevant Member Account for the purpose of paying those premiums, Taxes, expenses and charges or debiting amounts equal to any negative Declared Rate of interest.

A5.4 Deductions for Unpaid Contributions Tax on Benefits

In addition to the powers under Rule A5.3 where a Benefit is to be paid or any amount is to be transferred to an Eligible Fund and any part of that Benefit or amount arises from Contributions liable to Tax or a liability for Tax has or will otherwise arise and in respect of which that Tax has not been paid then, before paying that Benefit or amount, the Trustee may withdraw an amount from the Benefit Account to which those Contributions have been applied or in respect of which the Tax has or will arise, equal to the amount of Tax on those Contributions as determined by the Trustee, and shall credit the Employer's Reserve Account with that amount.

A5.5 Tax

In addition to the powers under Rule A5.3 if a Contribution is liable to Tax or a liability for Tax otherwise arises then at the end of a year of income the Trustee may:

- (a) debit an amount equal to the amount of Tax payable:
 - (i) in the case of Tax referable to Contributions to the Benefit Account to which those Contributions were made;
 - (ii) in the case where the Tax payable or any part of it has been previously transferred to the Employer's Reserve Account, to the Employer's Reserve Account;
 - (iii) in any other case or where the amount debited under sub-paragraph (i) or (ii) is insufficient to meet the Tax, from the Employer Contribution Account,

and apply the amount to pay the Tax or credit the Employer Reserve Account with the amount pending payment of the Tax and when the Tax becomes payable to debit the Employer Reserve Account to pay the Tax and apply the amount to pay the Tax;

- (b) transfer the liability to meet the Tax to a pooled superannuation trust or Insurer and for this purpose pay an amount not greater than the Tax otherwise payable to the pooled superannuation trust or to the Insurer and for the purpose of making this payment, debit the following Benefit Accounts with amounts equal to the amount to be so paid:
- (i) in the case of Tax referable to Contributions, the Benefit Account to which the Contributions have been made in respect of which Tax is payable; or
 - (ii) in the case where the Tax payable or any part of it has been previously transferred to the Employer Reserve Account, from the Employer Reserve Account; and
 - (iii) in any other case or where the amount debited under (i) or (ii) is insufficient to meet the amount payable, from the Employer Contribution Account; or
- (c) debit Benefit Accounts to pay the Tax or transfer the liability to meet the Tax partly under paragraph (a) and partly under paragraph (b).

A5.6 Breach by Employer or Member

If in the opinion of the Trustee the act or default of an Employer or Member of this Fund has caused this Fund or part of it not to be a complying superannuation fund, then the Trustee may debit Benefit Accounts of that Employer or Member with amounts which the Trustee determines to be sufficient to meet any additional Taxes that the Trustee determines have or may become payable by reason of that fact and pay that Tax.

A6. DECLARED RATE

A6.1 Determination of Declared Rate

The Trustee may prospectively determine a Declared Rate on an interim basis in respect of a particular period and for a particular purpose, and may subsequently and retrospectively determine a Declared Rate on a final basis in respect of that period and for that purpose.

A6.2 Allocation of Interest

An amount equal to the Declared Rate shall be allocated to Member Accounts on:

- (a) each Review Date;
- (b) the date on which a Benefit is paid to or in respect of a Member; and
- (c) such other dates (if any) as the Trustee considers appropriate either generally or in any particular case.

A7. BENEFITS**A7.1 Benefits Subject to Preservation**

The Benefits expressed to be payable under this Rule are subject to any Preservation Requirements applicable to all or part of a Benefit and such amount may only be paid in accordance with those Preservation Requirements and the provisions of the Deed.

A7.2 Normal Retirement Benefit

If a Member ceases Service on or after the Member's Normal Retirement Date, the Trustee shall pay to the Member a Benefit by way of a pension or purchase of an annuity equal to the balance of the Member Accounts of that Member, less any deduction that is entitled to be made under the Deed.

A7.3 Benefit at Prescribed Age - Continuing Employment

If a Member has reached a Prescribed Age at which the Member is entitled to receive all or part of the Benefit of the Member and has not ceased Service then the Member may by notice to the Trustee require the payment to the Member of all or part of a Benefit of that Member by way of a pension or purchase of an annuity equal to all or part of the balance of the Member Accounts of that Member as requested by the Member less any deduction that is entitled to be made under the Deed.

A7.4 Minimum Balance After Payment Under Rule A7.3

If a Member seeks to receive part of a Benefit under Rule A7.3 then the Trustee may determine that the whole of the Benefit is to be paid by way of a pension or purchase of an annuity and in that event the Trustee shall notify the Member and within 7 days of the date of that notification the Member may elect by notice to the Trustee to receive all the Benefit or withdraw the request under Rule A7.3.

A7.5 Benefit at Prescribed Age - Not Continuing Full-Time or Part-Time Employment

If a Member has reached the Prescribed Age and has ceased to be in Full-Time Employment or Part-Time Employment or has otherwise reached the Prescribed Age at which Superannuation Law requires a Benefit to be paid then the Trustee shall pay to the Member a Benefit by way of a pension or purchase of an annuity equal to the balance of the Member Accounts of that Member less any deduction that is entitled to be made under the Deed.

A7.6 Early Retirement Benefit

If a Member ceases Service on or after the Member's Early Retirement Date and before the Member's Normal Retirement Date, the Trustee shall pay to the Member a Benefit by way of a pension or purchase of an annuity equal to the balance of the Member Accounts of that Member less any deduction that is entitled to be made under the Deed.

A7.7 Withdrawal Benefit

If a Member ceases to be in Service prior to the Member's Normal Retirement Date and the Member is not entitled to any other Benefit under these Rules then the Trustee shall, subject to the Deed and Superannuation Law, pay to the Member a Benefit by way of a lump sum equal to the balance of the Member Accounts of the Member but not including any part of the Employer Contribution Account that has not been vested in the Member under any applicable

Vesting Scale at the date the Member ceases to be in Service and less any deduction that is entitled to be made under the Deed.

A7.8 Death Benefit

If a Member dies while in Service prior to the Member's Normal Retirement Date then the Trustee shall pay a Benefit by way of a lump sum in respect of the Member equal to the aggregate of:

- (a) the balance of the Member Accounts of that Member; and
- (b) any Insured Death Benefit of the Member received by the Trustee in respect of that Member,

less any deduction that is entitled to be made under the Deed.

A7.9 Total and Permanent Disability Benefit

If a Member ceases to be in Service by reason of being Totally and Permanently Disabled prior to the Member's Normal Retirement Date then the Trustee shall pay a Benefit to the Member by way of a lump sum equal to the aggregate of -

- (a) the balance of the Member Accounts of that Member; and
- (b) any Insured Disability Benefit of the Member received by the Trustee in respect of the Member upon the Member ceasing Service by reason of being Totally and Permanently Disabled,

less any deduction that is entitled to be made under the Deed.

A7.10 Total and Temporary Disability Benefit

Subject to Superannuation Law, if a Member becomes Totally and Temporarily Disabled prior to the Member's Normal Retirement Date and is entitled to an Insured Disability Benefit on becoming Totally and Temporarily Disabled then the Trustee shall pay a Benefit to the Member equal to any Insured Disability Benefit of the Member received by the Trustee in respect of the Member upon the Member becoming Totally and Temporarily Disabled less any deduction that is entitled to be made under the Deed.

A7.11 Permanent Incapacity or Invalidity

If a Member ceases Service due to Permanent Incapacity or Invalidity prior to the Member's Normal Retirement Date then the Trustee shall pay a Benefit to the Member equal to the balance of the Member Accounts of that Member less any deduction that is entitled to be made under the Deed.

A7.12 Augmentation

An Employer may request the Trustee to pay and the Trustee may pay a Member an additional amount under this Rule on the Member becoming entitled to a Benefit and such additional amount shall be met by the Trustee by debiting the Employer Reserve Account or the Employer Contribution Account but the Trustee shall not be required to pay any amount greater than the balance of the Employer Reserve Account or the Employer Contribution Account less any deduction that is entitled to be made under the Deed.

A7.13 Termination of Insured Benefits

Unless otherwise provided in the Insurance Policy providing any Insured Benefit, the cover provided by such policy in respect of a Member shall cease upon the earlier of:

- (a) the Member ceasing to be in Service of the Employer;
- (b) the Member ceasing to be a Member of this Division;
- (c) where the Employer notifies the Trustee that the Member shall remain a Member of the Fund notwithstanding that the Member has ceased to be in Service of the Employer by reason of a suspension of Service referred to in Rule A4.4, the date referred to in Rule A4.4; and
- (d) the Normal Retirement Date of the Member.

A7.14 Value of Insured Benefit

The amount payable in relation to any Insured Benefit shall equal the amount actually received by the Trustee under the Insurance Policy in respect of that Benefit less any Taxes or other deductions from such amount as the Trustee is entitled to deduct.

A7.15 Commutation of Pensions

The Trustee may, at the request of a Member, pay all or part of the Member's Benefit payable under Rule A7.2, A7.3, A7.4, A7.5 or A7.6 by way of a lump sum.

A8. VESTING SCALE

If a Vesting Scale is applicable to some or all the Employer's Members, then that part of the Benefit payable in respect of a Member out of the Employer Contribution Account the subject of the Vesting Scale shall only be payable in accordance with that Vesting Scale and upon a Benefit becoming payable in respect of a Member only those amounts subject to the Vesting Scale and which have become vested in the Member in accordance with that Vesting Scale shall be debited to the Employer Contribution Account and be paid in respect of the Member and the balance of the Employer Contribution Account shall be transferred to the credit of the Employer Reserve Account or otherwise dealt with in such manner as the Employer and Trustee agree.

A9. EMPLOYER RESERVE ACCOUNT

A9.1 Use of Employer Reserve Account

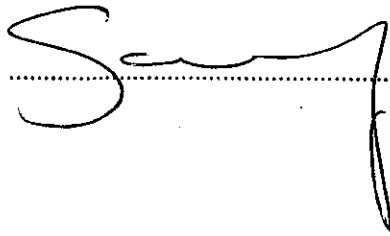
Subject to any requirement of Superannuation Law, at the request of the Employer the Trustee may debit the Employer Reserve Account and apply the proceeds:


- (a) to meet any liability to make Contributions by the Employer;
- (b) to augment Benefits of any Member;
- (c) to meet any liability for premiums in respect of an Insurance Policy, expenses or charges or Taxes;

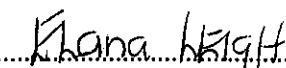
(d) by paying all or part of the proceeds to the Employer.

EXECUTED as a Deed in South Australia

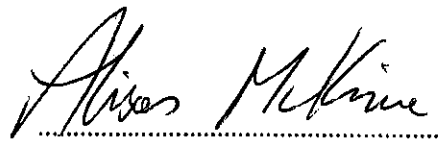
SIGNED SEALED AND DELIVERED
by **GEORGE COMYN McKENZIE**
in the presence of:

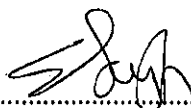
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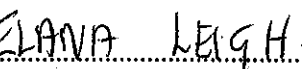
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Signature of witness

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Full name of witness
(BLOCK LETTERS)

SIGNED SEALED AND DELIVERED
by **ALISON MARY McKENZIE**
in the presence of:

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Signature of witness

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.....)
Full name of witness
(BLOCK LETTERS)