

TRUST DEED

Establishing the

W.D.A. SUPERANNUATION FUND

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**RULES
(EXCLUDED FUND)**

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"Part Time" Service or Gainful Employment of a person means that the person is employed for at least Ten (10) hours per week and less than Thirty (30) hours per week or otherwise satisfies the requirements of the Relevant Laws.

"Pension" means the Benefit payable by the Trustee to the Member by instalments of the amount standing to the credit of the Member's Accumulated Credit and which shall not in any event offend the Relevant Laws.

"Plan" means the entire superannuation plan as constituted by the Deed and the Rules.

"Plan Earning Rate" means the rate from time to time determined under Rule 7.6.

"Plan Membership" means in relation to a Member the sum of:

- (a) all periods of Service or other Gainful Employment in respect of which the Member has contributed to the Plan or an Employer has contributed to the Plan in respect of the Member; and
- (b) any other periods determined by the Trustee.

"Reasonable Benefit Limits" means the limits from time to time imposed by the Relevant Laws, Commonwealth Government or a Responsible Authority on the amount of retirement benefits which will be subject to concessional taxation treatment, and includes any announced proposals to alter those limits which are to have immediate or retrospective effect.

"SIS" means the Superannuation Industry (Supervision) Act 1993.

"SIS Regulations" means any regulations made under SIS.

"Relevant Laws" means any requirements from time to time imposed under SIS or the SIS Regulations (and the operating standards prescribed thereunder) or the Superannuation Entities (Taxation) Act [formerly the Occupational Superannuation Standards Act 1987 or Regulations made thereunder], or the Act or any other law, or by the Responsible Authority, or any announced proposals for requirements which are to have immediate or retrospective effect, in each case being requirements which must be satisfied by a superannuation fund in order for it and any contribution to it to qualify for the maximum income tax concessions available to or in respect of superannuation funds.

"Required Payment Date" means in relation to a Member the date (if any) stipulated by the Relevant Laws, having regard to the circumstances of the Member, at which the Member's Benefit must be paid or commence to be paid.

1.2 In this Deed and the Rules unless the contrary intention appears:-

- (a) a reference to the Deed or the Rules or any other instrument includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) words importing a gender include any other gender;
- (e) the word person includes a firm, a body corporate, an unincorporated association or an authority; and
- (f) a reference in the Rules to a Member ceasing to be in Service or to be a Gainfully Employed Person means:-
 - (i) if the Member is an Employee, the Member ceasing to be in Service;
 - (ii) if the Member is not an Employee, the Member ceasing to be a Gainfully Employed Person; and
 - (iii) references to a Member remaining in Service or a Gainfully Employed Person, or returning to Service or resuming Gainful Employment are to be interpreted in a similar manner to that set out above.

1.3 Headings are inserted for convenience and do not affect the interpretation of these Rules.

2. PLAN PURPOSE AND TRUSTEE

Appointment and Removal of Trustee

2.1 The purpose of the Plan is the provision of superannuation benefits in accordance with the Relevant Laws and the Plan shall have a Trustee which shall be a Constitutional Corporation except during any period when the Trustee being a Constitutional Corporation has elected in writing that Rule 15 shall apply or where the Trustee is not a Constitutional Corporation these Rules provide that the sole or primary purpose of the Plan is the provision of Old-Age Pensions and Rule 15 shall apply in any event.

2.2 (a) Subject to Rule 2.1, any new Trustee must not be nominated otherwise than in accordance with the Relevant Laws and must be appointed by notice in writing.

- (l) to insure or re-insure any risks, contingencies or liabilities of the Plan with an insurance company, mortgage insurance company, re-insurance company or superannuation plan;
- (m) after obtaining any advice which it thinks fit, to make rules or to adopt procedures not inconsistent with the provisions of the Deed and the Rules in relation to the calculation and rounding off of contributions, Benefits and interest, or to the determination of periods of time, and to any other matters which may be appropriate for the convenient administration of the Plan;
- (n) to make provision for and pay from the Plan any tax or impost for which it is liable in respect of the Plan;
- (o) to transfer in accordance with the Act its liability to pay income tax or any other tax or impost in respect of the Plan;
- (p) to take any action in the administration of the Plan which it thinks fit for the purposes of complying with the Relevant Laws; and
- (q) generally to do all acts and things which the Trustee considers necessary or expedient for the administration, maintenance and preservation of the Plan and in performance of its obligations under the Deed and Rules.

Delegation

- 2.6 Subject to the Relevant Laws, the Trustee may from time to time delegate to any director of the Trustee where the Trustee is a sole body corporate and any individual Trustee where the Trustee is a natural person the right and power on behalf of the Trustee to sign, draw, accept, make, endorse, issue, discount or otherwise execute, as the case may be, all or any cheques, promissory notes, drafts, bills of exchange, bills of lading and other negotiable or transferable instruments, all or any receipts for money paid to the Trustee and all or any other documents connected with the due administration of the Plan or with the Deed or these Rules, and may similarly delegate those rights and powers to the Plan secretary or to any administrator or investment manager appointed by it and may delegate to those people any powers, authorities and discretions which it from time to time thinks fit.

Indemnity to Trustee

- 2.7 (a) Subject to the Relevant Laws, the Trustee is indemnified against all liabilities incurred by its through any act or omission in the exercise of the powers and discretions under the Deed and the Rules or in the bona fide intended or purported exercise of its powers and discretions under the Deed and the Rules and has a lien on the Plan for that indemnity.

- (b) Subject to the Relevant Laws, the Trustee is not liable for any act or default done or omitted to be done in the exercise or bona fide intended or purported exercise of its powers and discretions or for any loss or expenses incurred by the Plan through the insufficiency or deficiency of any security in or on which any of the money of the Plan may be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any money or security is deposited or for ~~any other loss, damage or misfortune~~ whatever except where due to the Trustee's own dishonesty or wilfully or knowingly being a party to a breach of trust.
- (c) References in this Rule to the Trustee include directors of the Trustee and delegates appointed by it under the Rules.

2.8 If the Trustee relies upon information supplied to it by any Member or Employer in making provision for a taxation or stamp duty liability and as a result the provision is inadequate the Trustee must be indemnified by that Employer or Member to the extent of the inadequacy.

Instructions from Employer

2.9 For the purposes of the Deed and the Rules the Trustee may regard an exercise of a discretion or the giving of an instruction or other authorisation made orally or in writing and signed by, or purported to be signed by, a director for the time being of an Employer as a valid exercise of discretion, instruction or other authorisation of the Employer.

Trustee's discretions

- 2.10 The Trustee, any director or other officer of the Trustee and any member of the Management Committee may exercise or concur in exercising all powers and discretions conferred on the Trustee or that person as the case may be by the Deed or these Rules or by law notwithstanding that it or that person may have a direct or other personal interest in the mode or result of exercising the power or discretion but that person may nevertheless abstain from acting except as a formal party in any matter in which the person may be personally interested.
- 2.11 The Trustee or the Management Committee as the case may be in the exercise of the powers and discretions vested in it by the Deed and these Rules has an absolute and uncontrolled discretion and may exercise or enforce all or any of those powers and discretions at any time and from time to time or may refrain from exercising all or any of them from time to time or at all.

Instruction by Members

2.12 For the purposes of the Deed and the Rules the Trustee is entitled to regard as valid an instruction, consent or other authorisation given or purported to be

- (b) on becoming disqualified pursuant to the provisions of the Relevant Laws;
- (c) if in the opinion of the Trustee the representative becomes mentally ill;
- (d) on death;
- (e) being an Employer Representative, if the Employers give notice in writing to the Trustee under Rule 3.3.
- (f) being an Employer Representative, on ceasing to be in Service or to be in Gainful Employment or ceasing to be a Member;
- (g) being a Member Representative, on the expiry of the representative's term of office; or
- (h) if without reasonable cause the representative fails to attend three consecutive meetings of the Management Committee, and the other members of the Management Committee determine that the representative should be removed, and notify the Trustee accordingly.

Vacancies

- 3.6 Any vacancy in the membership of the Management Committee must be filled as soon as is reasonably practicable after it occurs, but in no case may more than 30 days elapse before a vacancy is filled. The remaining members of the Management Committee may, subject to Rule 3.8, continue to act in that capacity notwithstanding the vacancy.

Powers of Management Committee

- 3.7 Subject to the Relevant Laws, the Management Committee may exercise all powers, authorities and discretions conferred on the Trustee under the Deed or the Rules.

Manner of Exercise by Management Committee of Powers

- 3.8 The Management Committee:-
- (a) may meet together for the dispatch of business, provided that a quorum of two thirds of their number is present in person or by proxy;
 - (b) may adjourn and otherwise regulate their meetings as they think fit;
 - (c) must appoint a chairman for the time being or from time to time or of each meeting; and

- (d) may act on any resolution approved by two-thirds of the total number of members of the Management Committee, voting in person or by proxy at the meeting at which it is proposed.

If the Management Committee cannot agree upon a chairman for the time being or from time to time or for a particular meeting, an Employer Representative must nominate a chairman to act in that capacity until a chairman is appointed under paragraph (c) of this Rule.

Proxies

- 3.9 A member of the Management Committee may attend and vote by proxy at a meeting of the Management Committee if the proxy has been appointed in writing under the hand of the appointor and:-
- (a) a copy of the written appointment is delivered to the chairman of the meeting in person, by post or by facsimile at or before the time of the meeting;
 - (b) in the case of an Employer Representative, the proxy has been approved by the Employer or by all of the other Employer Representatives; and
 - (c) in the case of a Member Representative, the proxy has been approved by all of the other Member Representative.

Telephone Meetings

- 3.10 A meeting of the Management Committee may be held by telephone if:-
- (a) all members of the Management Committee may have been given by written or oral notice of the meeting;
 - (b) the members of the Management Committee taking part in the meeting constitute a quorum and each is able to hear each of the others at the commencement of the meeting; and
 - (c) the Telephone facilities are such that any member of the Management Committee who wishes to take part in the meeting at the notified time and has access to a Telephone is able to take part in terms of Rule 3.10(b).

Circulatory Resolutions

- 3.11 A resolution in writing, signed by all the Employer Representatives and all the Member Representatives, is as valid and effectual as if it had been duly approved at a meeting of the Management Committee duly convened and held,

and may consist of several documents in like form each signed by one or more Employer Representatives or Member Representatives.

Minutes

- 3.12 (a) The Management Committee must cause proper minutes of its proceedings and resolutions to be kept.
- (b) Minutes of each meeting of the Management Committee must be confirmed by the signature of the chairman of the next meeting, and if so confirmed are evidence of the proceedings minuted, and unless the contrary is proved that meeting is deemed to have been duly convened and held.

Indemnity to Management Committee

- 3.13 Subject to the Relevant Laws, each Employer Representative and each Member Representative and each independent additional member, if any, of the Management Committee is entitled to an indemnity and relief from liability under Rule 2.7 as if references in that Rule to the Trustee were references to each Employer Representative and Member Representative and any independent additional member.

4. ASSETS, EXPENSES AND INVESTMENTS

Assets

- 4.1 The following property as it may from time to time be invested and the income from it constitute the assets of the Plan, namely:-
- (a) contributions;
- (b) any assets transferred to the Trustee in accordance with any arrangements made by the Trustee under the Rules; and
- (c) any other moneys received or receivable by the Trustee for the purposes of the Plan.

Plan Held by Trustee

- 4.2 The assets of the Plan are to be held by the Trustee upon trust to be applied in accordance with the provisions of the Rules.

Expenses of the Plan

- 4.3 All the expenses of the operation of the Plan incurred from time to time which are not paid by an Employer are payable out of the Plan.

Investments and Life Assurances

4.4 The Trustee may cause all moneys received by the Trustee but not required to meet current payments to be and remain on deposit in the name of the Trustee with or without security or be reinvested either directly or indirectly in any manner in which the Trustee, if it were personally entitled to the money, could invest, and without limitation the Trustee may invest it in Australia or elsewhere:-

- (a) in any one or more of the modes of investment authorised by law for the investment of trust funds;
- (b) on deposit with any bank, company or financial institution;
- (c) in the purchase or acquisition of, or by way of loan on the security of (including by way of contributory mortgage), any real or personal property and whether or not subject to encumbrances or involving liabilities of any kind as it thinks fit;
- (d) in the shares, stocks, notes, options, debentures or other securities of any company or the securities of any government, semi-governmental body or public authority;
- (e) in units of any common fund, property trust or unit trust;
- (f) in any policies of life insurance, assurance or endowment including policies providing a sum or sums on the death or disablement of a Member;
- (g) in option, hedging contracts, futures contracts and other financial instruments; or
- (h) in underwriting or sub-underwriting the subscription of the shares, stocks, notes, options or debentures of any corporation or of any other class of investment specified in the preceding paragraph;
- (i) in any joint venture which does not offend the Relevant Laws;
- (j) in a loan to a Member if that is consistent with the Relevant Laws;

with full power to vary, replace, encumber and otherwise deal with investments as fully and effectively as a person absolutely and beneficially entitled dealing with that person's own property may do, including mixing investments with investments of other people or trusts PROVIDED THAT the Trustee may not invest in any manner which is inconsistent with the Relevant Laws.

4.5 The Trustee may cause any investments to be held in any names (including the names of individual or corporate nominees) which the Trustee from time to time determines.

Borrowing

- 4.6 The Trustee may borrow or raise money up to any amount which it thinks proper and may secure payment or repayment by charge or mortgage over all or any of the assets of the Plan or in any other manner which it thinks fit, PROVIDED ALWAYS THAT the Trustee shall not permit the Plan to offend the Relevant Laws.

Appointment of Manager

- 4.7 Subject to the Relevant Laws, the Trustee may:-
- (a) appoint in writing on any terms which it thinks fit, including the granting of any indemnity reasonably required, one or more persons as a Manager to act on behalf of the Trustee in regard to the administration or investments of the Plan and delegate any powers to the Manager as the Trustee thinks fit; and
 - (b) revoke or vary any of those appointments subject to the terms of any agreement entered into by the Trustee with the Manager.

Allocated Investments

- 4.8 The Trustee may establish and maintain separate parts of the Plan comprising assets held in respect of all or part of the Contribution Accounts of any Member or group of Members, with the result that for the purposes of Rules 7.6 to 7.9:-
- (a) the Trustee must determine a separate Plan Earning Rate and (where appropriate) Investment Fluctuation Reserve in respect of each part of the Plan, having regard to the investment performance of that part of the Plan and the share of the expenses of the Plan which the Trustee thinks proper; and
 - (b) the Trustee must apply each Plan Earning Rate by way of credit or debit to, and having regard to the balance in, any Contribution Accounts or parts thereof represented (wholly or partly) by investments comprised in the relevant part of the Plan.

- 4.9 The Trustee may transfer assets between different parts of the Plan maintained under Rule 4.8.

5. ADMISSION AND RETIREMENT OF EMPLOYERS

Admission of Employers

- 5.1 (a) The Trustee must admit to the Plan any employer which, upon written application to the Trustee, has been approved for admission as an

Employer by the Trustee and which has agreed in a manner approved by the Trustee to be bound by the Deed and these Rules.

- (b) On admission the Trustee may make any arrangements which it thinks fit with the Employer regarding the terms on which its Employees are to be admitted to membership of the Plan.

Retirement of Employers

5.2 The participation in the Plan by an Employer:-

- (a) may be terminated:-
 - (i) by the Employer by notice in writing to the Trustee; or
 - (ii) by the Trustee by notice in writing to the Employer;
- (b) shall be terminated automatically if the Employer ceases to have any Employees who are Members.

5.3 On termination of participation under with Rule 5.2:-

- (a) the Trustee shall specify the Retirement Date upon which the Retiring Employer ceases to participate in the Plan;
- (b) the Retiring Employer and its Employees who are Members must forthwith pay all arrears, if any, of contributions up to the Retirement Date;
- (c) the Trustee must continue to pay out of the Plan Benefits which have become payable on or before the Retirement Date; and
- (d) the Trustee must ascertain the interest in the Plan of the Retiring Employer and its Employees who are Members and must deal with those interests in a manner determined by the Trustee which is consistent with the Relevant Laws and does not in the opinion of the Trustee prejudicially affect the rights of those Members to Benefits relating to their Service up to the Retirement Date without their consent.

6. ADMINISTRATION

Tax

- 6.1 (a) If the Trustee is or believes that it will become liable for any tax or impost in respect of any payment out of the Plan it may deduct an amount equal to the tax from the payment as it thinks proper.

- (b) Nothing in this Rule prejudices any other rights which the Trustee has to deduct any tax or impost from any payment out of the Plan, or to pay from the Plan any tax or impost which it incurs.

Rights of Members

- 6.2 No person whether as a Member or otherwise has any claim, right or interest to or in respect of the Plan or any contributions or any interest in the Plan or any claim upon or against the Trustee or an Employer except under these Rules.
- 6.3 Every Member has the right to inspect a copy of the Deed and these Rules upon request to the Trustee.

Members to Give Information

- 6.4 Every Member and every person claiming a Benefit must from time to time give to the Trustee any information and produce to it any documents which the Trustee considers are required for the purpose of giving effect to these Rules.

Trustee to Give Information

- 6.5 The Trustee must give to each Member and each prospective member any information stipulated in the Relevant Laws at the following times:-
- (a) as soon as practicable after the person becomes a Member;
 - (b) as soon as practicable (and no more than 6 months) after the end of each Financial Year;
 - (c) as soon as practicable after the person ceased to be a Member; and
 - (d) on any other occasions which the Relevant Laws provide.

Notices

- 6.6 Any notice to be given under these Rules is deemed to have been validly given if handed to the party to be served or if posted by ordinary prepaid post and duly addressed to the party to be served at its last known address.

Power of Attorney

- 6.7 Each Member irrevocably appoints the Trustee the Member's attorney to execute and sign and do all deeds, instruments and things which the Trustee considers necessary or desirable in order to carry out, exercise and give effect to the Deed or Rules or the powers, authorities and discretions vested in the Trustee under the Deed or Rules.

Social Security Act, Compulsory Superannuation and National Compensation

6.8 If:-

- (a) an Employer is at any time compelled or required by law to make contributions or payments or provisions to or in respect of:-
 - (i) any scheme of national or social security for the benefit of Employees;
 - (ii) any scheme or superannuation (including the Plan); or
 - (iii) any scheme of compensation to provide a continuation of part or all of the earnings of Employees on disablement on account of accident, injury, illness, or the like;
- (b) the means test under the Social Security Act 1947 for the receipt of any age pension is liberalised or totally or partly removed; or
- (c) any benefits for Members in the nature of superannuation become available to Members on retirement whether provided directly or indirectly by the Employer or not,

subject to Rule 6.9, and to the extent that those modifications are not prohibited by the provisions of any relevant legislation, the Relevant Laws, any award or agreement, the Trustee is entitled at any time thereafter and whether or not any obligation in respect of any such matter was in existence at the date hereof to make any modifications as the Trustee decides:-

- (i) to the contributions of Employers;
- (ii) to the contributions of Members;
- (iii) to the Benefits payable to Members; and
- (iv) otherwise.

6.9 No reduction of a Member's Benefit in respect of Service up to the date of the modifications may be made under Rule 6.8 without the Member's consent in writing.

6.10 The Trustee must notify the Members and the Employers of the effect of any modification under Rule 6.8.

Employer's Rights

- (c) The Trustee must send a copy of the income and expenditure account and statement of net assets to every Employer.
- (d) Every Member is entitled to inspect a copy of the income and expenditure account and statement of net assets of the Plan.

Contribution Accounts

7.4 The Trustee must cause such of the following accounts to be opened and maintained in respect of each Member as the case requires:

- (a) An Employer Contribution Account in which must be recorded:-
 - (i) contributions to the Plan made by an Employer in respect of the Member, other than Award Contributions or contributions directed by the Employer to be credited to the Member Contribution Account;
 - (ii) amounts debited to this account at the Trustee's discretion to pay premiums on policies of insurance effected to provide benefits on the death or disability of the Member;
 - (iii) proceeds of policies of insurance effected in respect of the Member to the extent that the policies were funded by premiums referred to in Rule 7.4(a)(ii);
 - (iv) amounts transferred to or from the Forgone Benefits Account;
 - (v) any part of an amount transferred from another fund in respect of the Member under Rule 8.7 which the Trustee has determined is to be credited to this account;
 - (vi) amounts credits or debited to this account in respect of the earnings or losses of the Plan;
 - (vii) amounts paid by way of Benefits from this account in respect of the Member, or transferred to another superannuation fund in respect of the Member;
 - (viii) amounts which the Trustee in its discretion determines should be debited to this account in respect of any tax or impost to which the Trustee is or may become liable; and
 - (ix) any other amount which should be credited or debited to this account for the purposes of the Rules.
- (b) A Member Contribution Account in which must be recorded:-

- (i) contributions made to the Plan by the Member;
 - (ii) contributions to the Plan made by an Employer in respect of the Member which the Employer directs the Trustee to credit to this account;
 - (iii) amounts debited to this account at the Trustee's discretion to pay premiums on policies of insurance effected to provide benefits on the death or disability of the Member;
 - (iv) proceeds of policies of insurance effected in respect of the Member to the extent that the policies were funded by premiums referred to in Rule 7.4(b)(iii);
 - (v) amounts transferred from another fund in respect of the Member under Rule 8.7 which the Trustee has determined is to be credited to this account;
 - (vi) amounts credited or debited to this account in respect of the earnings or losses of the Plan;
 - (vii) amounts paid by way of Benefits from this account in respect of the Member, or transferred to another superannuation fund in respect of the Member;
 - (viii) amounts which the Trustee in its discretion determines should be debited to this account in respect of any tax or impost to which the Trustee is or may become liable; and
 - (ix) any other amount which should be credited or debited to this account for the purposes of the Rules or the Relevant Laws;
- (c) An Award Contribution Account in which must be recorded:-
- (i) Award Contributions made to the Plan in respect of the Member;
 - (ii) amounts debited to this account at the Trustee's discretion to pay premiums on policies of insurance effected to provide benefits on the death or disability of the Member;
 - (iii) proceeds of policies of insurance effected in respect of the Member to the extent that the policies were funded by premiums referred to in Rule 7.4(c)(ii);
 - (iv) any part of an amount transferred from another fund in respect of the Member under Rule 8.7 which the Trustee has determined is to be credited to this account;

- (v) amounts credited or debited to this account in respect of the earnings or losses of the Plan;
- (vi) amounts paid by way of Benefits from this account in respect of the Member, or transferred to another superannuation fund in respect of the Member;
- (vii) amounts which the Trustee in its discretion determines should be debited to this account in respect of any tax or impost to which the Trustee is or may become liable; and
- (viii) any other amount which should be credited or debited to this account for the purposes of the Rules.

Forgone Benefits Account

- 7.5
- (a) The Trustee must maintain a Forgone Benefits Account to which must be credited any balance remaining of any Member's Accumulated Credit after payment of the Member's Withdrawal Benefit, and any other amounts required by these Rules to be transferred to the Forgone Benefits Account.
 - (b) Subject to the Relevant Laws, the amount standing to the credit of the Forgone Benefits Account must be applied in lieu of those contributions otherwise payable by Employers unless the Trustee determines that all or any part of it is to be applied for any one or more of the following purposes:-
 - (i) in lieu of contributions otherwise payable by any Member;
 - (ii) the provision of the Benefits that other Members or their Dependants have rights to receive from the Plan;
 - (iii) the provision of additional Benefits for Members or their Dependants on a basis that is reasonable having regard to all the circumstances that would satisfy the Responsible Authority;
 - (iv) by way of payment to an Employer; or
 - (v) other purposes that the Relevant Laws permit.
 - (c) The Trustee must ensure that any amount transferred to or from the Forgone Benefits Account is applied within the time prescribed by the Relevant Laws.

Plan Earning Rate

7.6 The Trustee must, as at each Distribution Date which it determines but at least once in each Financial Year, after taking any advice which it thinks fit, declare a Plan Earning Rate for the Distribution Period ending on the Distribution Date concerned, being a rate, whether positive or negative, which the Trustee determines and in making the determination the Trustee must have regard to:-

- (a) the actual earnings of the Plan, including all income and realised and unrealised capital gains;
- (b) the realised and unrealised losses and expenses of the Plan, including any tax that is or may be incurred by the Trustee to the extent that it has not already been debited to an account under Rule 7.4;
- (c) the past and likely future earnings and losses of the Plan and the desirability or otherwise of avoiding large fluctuations of Plan Earning Rates from year to year;
- (d) the amount, if any, standing to the credit of the Investment Fluctuation Reserve; and
- (e) any other matters not inconsistent with the Relevant Laws which it thinks fit.

7.7 The Trustee must, on each Distribution Date, credit or debit as the case may be to each Contribution Account earnings or losses at the Plan Earning Rate on the balance in it from time to time since the preceding Distribution Date or, in the case of the first Distribution Period, since the Commencement Date.

7.8 **Investment Fluctuation Reserve**

Any difference between the actual earnings or losses of the Plan and the total amounts required to be credited or debited under Rules 7.7 and 7.9 forms an adjustment to a reserve account to be called the Investment Fluctuation Reserve, and notwithstanding Rule 7.6, the Trustee may not in respect of any Financial Year declare a Plan Earning Rate that would leave the Investment Fluctuation Reserve in debit.

7.9 **Interim Plan Earning Rate**

- (a) At the Commencement Date and at each Distribution Date the Trustee must declare an interim Plan Earning Rate which is to be applied to credit or debit to the Contribution Accounts of Members or deceased Members (in respect of whom, and at such time as, the last Benefits payable from the Plan in respect of them become payable before the next Distribution Date) earnings or losses as the case may be in respect of the period since the last Distribution Date.

- (b) The interim Plan Earning Rate is to be determined on a basis which the Trustee thinks fit having regard to the Relevant Laws and the Trustee may in its discretion alter an interim Plan Earning Rate during the period to which it applies.

8. ELIGIBILITY AND MEMBERSHIP

Eligibility

- 8.1 (a) Any Employee who is invited by the Employer to participate in the Plan in either Category A or B and who applies to the Trustee for admission within the time specified in the invitation is eligible for admission as a Member of the Plan in the Category specified.
- (b) Any Gainfully Employed Person (other than an Employee) who is invited by the Trustee to participate in the Plan and who applies to the Trustee for admission within the time specified in the invitation is eligible for admission as a Member of the Plan in Category C.

Membership

- 8.2 The Trustee may, before or after admitting a person as a Member, require him:-
 - (a) to be medically examined; and
 - (b) to provide any information which the Trustee considers relevant to that person's eligibility to become a Member or receive Benefits, or to the administration of the Plan, including membership of any other superannuation fund or interest under any Approved Deposit Fund or Roll-over Annuity.
- 8.3 A person becomes a Member in the Category specified under Rule 8.1 from the date when that person's application has been received and approved by the Trustee or with effect from an earlier date if the Employer, the Trustee and the Member (as applicable in the circumstances) agree.
- 8.4 Each Member is deemed by virtue of that Member's application to have consented to be bound by the provisions of the Deed and the Rules.
- 8.5 (a) The Trustee may alter the Category of any Member if:-
 - (i) the Member requests the alteration and consents to it in writing; and
 - (ii) the Employer consents.
- (b) Without limiting the generality of Rule 8.5(a) the Trustee may alter the Category of a Member who is an Employee but:-

- (i) no alteration of Category which would increase the Member's obligation to contribute to the Plan may be made unless the Member consents in writing; and
- (ii) the alteration may only take effect subject to the condition that it does not reduce the Member's Withdrawal Benefit below the amount that would have been payable if the Member has ceased to be in Service immediately prior to the alteration; and
- (iii) the Employer consents.

(c) The Trustee must advise the Member of the alteration in writing.

8.6 Each Member must, without being called upon by the Trustee to do so, give prompt notification to the Trustee in writing if the Member becomes a member of any fund or acquires an interest of a kind referred to in Rule 8.2(b) or, if any other circumstance occurs which may affect the Member's membership or eligibility to contribute to the Plan.

Transfer from Another Plan

8.7 The Trustee may make any arrangements which it thinks proper with:-

- (a) any member or any previous employer of the Member; or
- (b) the trustees of any superannuation fund of which the Member was or is a member,

or any of them for any transfer of assets to the Plan, and may make arrangements about any other matter not inconsistent with the Relevant Laws (including the provision of Benefits determined in a different manner from those specified in the Rules) which in the opinion of the Trustee are incidental to or consequent upon the admission of that Member to membership of the Plan.

Transfer to Another Plan

8.8 (a) Should a Member:-

- (i) cease to be in Service or cease to be a Gainfully Employed Person and become eligible to join another superannuation plan; or
- (ii) remain in Service or remain a Gainfully Employed Person and become eligible to join another superannuation plan,

if requested by the Member and if the Employer consents in the case of the Member remaining in Service, the Trustee may, in lieu of part or all of any other Benefit to which the Member may be or become entitled under these Rules, pay or transfer to the trustees of that superannuation

Laws, the Trustee must repay those contribution to the contributor, less any charge which the Trustee may make in respect of any insurance effected or other expenses incurred in relation to those contributions.

10. BENEFIT ENTITLEMENT

Payment of Retirement Benefits

10.1 If at the Member's Normal Retirement Date a Member:-

- (a) is in Service or Gainful Employment but not Part Time or Full Time; or
- (b) is not in Service or Gainful Employment;

THEN, subject to the Relevant Laws, the Member must be paid a Retirement Benefit equal to the Member's Accumulated Credit.

10.2 A Member who is in Service or Gainful Employment is entitled to receive a Retirement Benefit equal to the Member's Accumulated Credit if:-

- (a) the Member requests; and
- (b) the Member has attained the Normal Retirement Date;

PROVIDED ALWAYS THAT if the Member attains the Required Payment Date, a Retirement Benefit equal to the Member's Accumulated Credit must be paid to him.

Total and Permanent Disablement

10.3 A Member who ceases to be in Service or ceases to be a Gainfully Employed Person on the grounds of Total and Permanent Disablement is entitled to receive a Total and Permanent Disablement Benefit equal to the Member's Accumulated Credit.

Death

10.4 On the death of a Member at time prior to the Member ceasing to be in Service or to be a Gainfully Employed Person a Death Benefit is payable which is equal to the Member's Accumulated Credit.

Other Termination

10.5 (a) Subject to the Relevant Laws, a Member who is in either Category A or B and who ceases to be in Service in circumstances other than those described in Rules 10.1 to 10.4, is entitled to receive a Withdrawal Benefit equal to the total of the Member's Member Contribution Account and the Member's Award Contribution Account and such proportion of

- (b) suspended if the Benefits have not otherwise become payable and the person entitled becomes:-
 - (i) a bankrupt;
 - (ii) insolvent (including, without limitation, if the person signs an authority under section 188 of, or enters into any deed of assignment or deed of arrangement under Part X of the Bankruptcy Act 1966); or
 - (iii) in the opinion of the Trustee, of unsound mind or incapable of managing the person's own affairs, and
- (c) forfeited if the Benefits would otherwise be payable to a person and any other events stated in Rule 11.14(b) then occur in relation to the person.

11.15 On the forfeiture or suspension of a Member's Benefits contribution in respect of the Member must cease.

11.16 The Trustee must apply the whole of the Benefits forfeited by a person under Rule 11.14 or 11.18 as it thinks fit for the benefit of the Member and the Member's Dependants or any one or more of them PROVIDED THAT the Trustee must not make any payment to or for the benefit of the person or the Member's Dependants otherwise than in accordance with the Relevant Laws.

11.17 The whole of the Benefits to which a person would otherwise have been entitled but which have been suspended under Rule 11.14 must be dealt with under the following provisions:

- (a) on suspension the person ceases to have any right, title or interest to or in the Benefits;
- (b) if, prior to the date on which the Benefits would otherwise have become payable to the person, the person ceases to be one to whom Rule 11.14(b) applies, then the suspension of the Benefits ceases and the Trustee then holds the Benefits in respect of the person as if the suspension had not intervened;
- (c) if the person continues to be one to whom Rule 11.14(b) applies and events occur so that the Benefits would then otherwise have been payable the person, the Benefits are forfeited;
- (d) while the Benefits are suspended, the Trustee may (subject to the Relevant Laws) pay amounts out of the Benefits to or for the benefit of the relevant person or person's Dependants for, but only for personal maintenance and support in case of hardship and in any case not otherwise than in accordance with the Relevant Laws.

- 11.18 Subject to the Relevant Laws, the Trustee is entitled to treat as unclaimed and to forfeit and to transfer to the Forgone Benefits Account any money in the Plan standing to the credit of any person whose whereabouts are unknown to it and if, after making enquiries which it deems appropriate, it is unable positively to trace any person entitled to the benefit of that money.
- 11.19 Clause 11.14 to 11.18 inclusive of these Rules shall only apply to the extent that those provisions are not limited or inoperative under the Relevant Laws or the Bankruptcy Act 1966.

12. VARIATION OF DEED AND RULES

12.1 Subject to Rule 12.2 and the Relevant Laws, the Trustee may at any time by resolution or by instrument in writing amend (including add to, delete or replace) all or any of the provisions of the Deed or these Rules including this Rule 12 PROVIDED THAT:

- (a) if at any time the sole or primary purpose of the Plan is or becomes the provision of Old-Age Pensions, then these Rules shall not then be amended to provide for a different sole or primary purpose unless the Rules are amended to provide that the Trustee shall be, and shall continue to be, a Constitutional Corporation in which case the Trustee shall at that time be a Constitutional Corporation;
- (b) if at any time the sole or primary purpose of the Plan is not the provision of Old-Age Pensions, then these Rules shall not be amended to allow any person other than a Constitutional Corporation to be or to be appointed as Trustee of the Plan unless the Rules are also amended to provide that the sole or primary purpose of the Plan shall be, and shall continue to be, the provision of Old-Age Pensions;
- (c) the Rules shall not be varied in any way which will offend or jeopardise the Plan's status as a Complying Superannuation Fund.

12.2 No amendment may reduce:-

- (a) the amount of any Benefit that has accrued to a Member before the amendment; or
- (b) the amount of any Benefit that may become payable to a Member in relation to Service up to the date of the amendment, unless the amendment is permitted by the Relevant Laws; and-
 - (i) the reduction is introduced primarily for the purpose of receiving exemption or relief from any tax or duty in respect of the assets or income of any Benefit from or contribution to the Plan; or

- (ii) the reduction is required because of and does not exceed the value of, any tax payable on the income of the Plan; or
- (iii) the reduction is primarily for the purpose of enabling the Plan to comply with the Relevant Laws; or
- (iv) the Member approves of the reduction in writing; or
- (v) the Responsible Authority approves of the reduction in writing.

12.3 The Trustee must notify the Members and the Employer of the nature, purpose and effect of any amendments to the Rules in accordance with the Relevant Laws.

12.4 Subject to Rule 12.2 any amendment made under this Rule 12 may be given retrospective effect to the extent that the Trustee may determine at the time it is made.

13 WINDING UP

13.1 The Plan must be wound up under Rule 13 as soon as reasonably practicable after the happening of any of the following events:-

- (a) the Employer decides to permanently cease contributing to the Plan and communicates its decision to the Trustee and no other employer by written agreement with the Trustee takes its place as Employer within 90 days of the communication;
- (b) an order is made or an effective resolution is passed for the winding up of the Employer other than for the purpose of amalgamation or reconstruction and no other employer by written agreement with the Trustee takes its place as Employer within 90 days of that order or resolution; or
- (c) there are no Members in the Plan and the Trustee resolves to terminate the Plan.

13.2 (a) On the making of a decision to wind up the Plan under Rule 13.1 the Trustee must give notice in writing to each Employer and the Members, if any, that the Plan is to be wound up on a specified date.

(b) As from the Closure Date the following shall apply:-

- (i) no Employer or Member may make further contributions, other than arrears of contributions due to the Closure Date, and all liability to make further contributions ceases; and

- (ii) the Trustee must immediately call in arrears of contributions, if any.

Benefits on Winding Up

13.3 On a winding up of the Plan the Trustee, subject to Rule 13.7, must to the extent assets are available in the Plan make provision out of the Plan (after meeting expenses and liabilities for which the Trustee is or may become liable) for the payment of the following Benefits in the following order of priority:-

- (a) a Benefit in respect of each Member being the Benefit which has on or before the Closure Date become payable in respect of the Member or would (but for Rule 10.6) be payable on that date if the Member then ceased to be in Service or Gainful Employment; and
- (b) any increase in the Benefit of each Member out of the assets of the Plan then remaining which the Trustee considers equitable and which will satisfy the Relevant Laws.

13.4 Where a Member dies before receiving a Benefit to which the Member has become entitled under Rule 13.3 the Trustee must pay the Benefit to the Member's Designated Beneficiaries.

13.5 If after providing Benefits for Members and their Dependants under Rule 13.3 a surplus remains, the Trustee must pay the surplus (subject to Rule 13.7) to or for the benefit of:-

- (a) any Members;
- (b) any former Members;
- (c) any Dependants of any Members or former Members;
- (d) the legal personal representatives (in that capacity) of any Members, former Members or Dependants; or
- (e) any Employer,

as the Trustee determines and, if provided to or for two or more people, in proportions which the Trustee determines PROVIDED ALWAYS that such payments shall not offend the Relevant Laws.

13.6 The payments to be provided under Rules 13.3 and 13.5 must be in cash, life insurance policies, participation in any other superannuation fund or otherwise as determined by the Trustee but must not be payable to or for the benefit of a Member until the Member ceases to be in Service or a Gainfully Employed Person other than for personal maintenance and support in case of hardship

and in any event the Trustee must not make payments which are inconsistent with the Relevant Laws.

13.7 If any payment of Benefits provided under Rules 13.3 and 13.5 is otherwise required in accordance with the Relevant Laws to be deferred until the attainment of a particular age or the occurrence of a specified event, then the Member is not entitled to receive from the Plan any part of the Benefit which is required to be deferred and the Trustee must make one of the following arrangements with respect to the Benefits required to be deferred:-

- (a) transfer the Benefit to another superannuation fund nominated by the Member if that fund does not permit the payment of the Benefit prior to the attainment of the particular age or the specified event;
- (b) purchase a Roll-over Annuity nominated by the Member with benefits commencing no earlier than the particular age or the specified event; or
- (c) transfer the Benefit to an Approved Deposit Fund nominated by the Member if that fund does not permit the payment of the Benefit prior to attainment of the particular age or the specified event.

14. COMPLIANCE RULE

14.1 (a) The requirements of the standards applicable to a Complying Superannuation Fund which are prescribed by the Relevant Laws from time to time in force shall, to the extent that they are not otherwise included in the Deed or Rules, be included by this Rule.

(b) If all or part of a requirement of the standards applicable to Complying Superannuation Funds which are contained in the Relevant Laws cease to be in force, or if the Responsible Authority indicates that all or part of a requirement of those standards need not be complied with, then that requirement or that part of it as the case may be, shall cease to be included under Rule 14.1 (a).

14.2 If any requirement included by Rule 14.1 (a) is inconsistent with any other Rule or the Deed, the requirement included by Rule 14.1 (a) prevails.

15. PENSION ALTERNATIVE

Old-Age Pension Primary Purpose

15.1 The sole or primary purpose of the Plan shall be the provision of Old-Age Pensions where the Trustee of the Plan includes any natural person as a Trustee or where the Trustee being a Constitutional Corporation has elected in writing that this Rule shall apply.

of the Member or on the death of such reversionary beneficiary or shall only be transferred upon such other terms as shall be acceptable under the Relevant Laws;

- (e) the capital value of the Pension and the income from the Pension shall not be used by a person as security for any borrowing;
- (f) subject to these Rules and the Relevant Laws, the Pension shall not commence before the Normal Retirement Date and shall satisfy the Required Payment Date.

Pension Limitation

- 16.2 Where a Pension is payable to or in respect of a Member or where the Trustee purchases an annuity on behalf of a Member, the total instalments of such Pension or the total purchase price of such annuity (as the case may be) shall not exceed the amount standing to the credit of a Member's Accumulated Credit at the relevant time.

Pension Increase

- 16.3 Any Pension payable pursuant to the provisions of these Rules shall be increased in the course of payment from time to time by such amount as the Trustee in its absolute discretion considers appropriate to compensate the Member for cost of living increases PROVIDED HOWEVER that any increase shall be at least the minimum required by the Relevant Laws in respect of the type of Pension being paid.

17. COMMUTATION OF PENSION

Conditions of Commutation

- 17.1 On the written application of a Member or Designated Beneficiary (as the case may be), the Trustee may commute to a lump sum Benefit the whole or any part of a Pension payable from the Plan to such Member or Designated Beneficiary as applicable PROVIDED THAT the commutation of the Pension is permitted by the Relevant Laws.

Payment of Lump Sum Benefit

- 17.2 The Trustee shall pay the amount of the lump sum Benefit in respect of the Pension being commuted to the Member or the Designated Beneficiary who applied for the commutation but subject to any other applicable provisions of these Rules and the Relevant Laws.

Adjustment of Pension following Commutation

- 17.3 Following the commutation of a part of a Pension, the Trustee shall reduce the total amount of the instalments of any Pension payable to the Member by such amount as it considers appropriate having regard to the balance then standing to the credit of the Member's Accumulated Credit and the Relevant Laws.

SCHEDULE 1

Governing Law

Western Australia

SCHEDULE 2

**Withdrawal Benefits - Proportion of Employer
Contribution Account Payable**

Category A: 100%

Category B: Not Applicable

APPLICATION BY MEMBER

TO: The Trustee of the
 Superannuation Fund

Name of Member:

Address:

Date of Birth:

I apply to become a Category [] Member of the
SUPERANNUATION FUND ("Plan") and agree to be bound by the Deed and Rules
governing the Plan.

I approve of as the Trustee of the Plan.

I am not and have not been a member of any other superannuation arrangement nor
do I have an interest in any Approved Deposit Plan or Roll-over Annuity other than as
disclosed on the back of this application.

In the event of my death before retirement I nominate the following person(s) to be my
Designated Beneficiaries and to receive the benefit payable in respect of me in the
proportions indicated:

| Name | Address | Percentage of Benefit or Fixed Amount |
|-------------|----------------|--|
|-------------|----------------|--|

DATE:

MEMBER

APPROVAL OF APPLICATION

TO:

Your application for membership of the
Superannuation Fund has been approved.

DATE:

Signed for and on behalf of the trustee of the
Superannuation Fund

