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Jason Richard White
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J & K Investments Superannuation Fund

DATE

9/9/22



SUPERANNUATION FUND

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J & K INVESTMENTS SUPERANNUATION FUND

DEED dated 9TH SEPTEMBER 2022

BY JASON RICHARD WHITE and KARINA ANN ASHER both of ~~Unit 3/41 Military Road, Semaphore South SA 5019~~ 1/98 BOWER ROAD, SEMAPHORE PARK SA 5019
(together called the 'Trustee')
JRW KAP

RECITALS

- A. The Trustee wishes to establish a superannuation fund for the benefit of those people who become Members of the Fund and their Dependants, on the terms and conditions set out in this Deed.
- B. The Trustee has agreed to act as the trustee of the Fund.

AGREEMENT

1. INTERPRETATION

1.1 Definitions

In this Deed:

'Act' means, as the context requires, the SIS Act, the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Superannuation Guarantee (Administration) Act 1992*, the *Family Law Act 1975*, the *Bankruptcy Act 1966*, the *Taxation Administration Act 1953* and any regulations made pursuant to any of those Acts;

'Allot' has the same meaning as the term has under the SIS Regulations;

'Annuity' means an annuity within the meaning of the SIS Act and which the Trustee is permitted to pay under the Relevant Law;

'Binding Nomination Form' means a form completed by a Member expressing a direction to the Trustee as to whom and in what proportions the Member directs their benefit to be paid on the Member's death and is binding on the Trustee;

'Commissioner' means, as the context requires, the Commissioner of Taxation or the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission or any other regulatory body which has responsibility for the supervision of the conduct of the Fund or the Trustee;

'Commute' means, in relation to a Pension, substitute in whole or in part for a lump sum amount or for another Pension or Annuity;

'Deed' means this deed including any Schedule, as amended from time to time;

'Dependant' has the same meaning as in the SIS Act;

'Fund' means all of the assets from time to time held by the Trustee on the trusts of this Deed;



'Fund Earning Rate' means the Fund Earning Rate referred to in clause 18.1;

'Fund Reserve Account' means the Fund Reserve Account referred to in clause 7.1(a);

'Fund Year' means a period of 12 months ending on 30 June, or such other period ending on such other date as the Trustee from time to time determines;

'Government Co-contribution' has the same meaning as it has under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;

'Interdependency Relationship' has the same meaning as in the SIS Act, subject to the SIS Regulations, and includes, where permitted by the Relevant Law, two persons (whether or not related by family) if:

- (a) they have a close personal relationship; and
- (b) they live together; and
- (c) one or each of them provides the other with financial support; and
- (d) one or each of them proves the other with domestic support and personal care.

Further, if two persons (whether or not related by family) satisfy the requirement of paragraph (a) but do not satisfy the other requirements because either one or both of them suffers from a physical, intellectual or psychiatric disability, they have an Interdependency Relationship.

'Investment Fluctuation Account' means the Investment Fluctuation Account referred to in clause 7.4;

'Investment Income' means the Investment Income determined in accordance with clause 18.1;

'Member' means a person who has been accepted by the Trustee as a Member of the Fund and who has not ceased to be a Member and includes a person in receipt of a pension from the Fund;

'Member Account' means, in relation to a Member each account established pursuant to clause 7.1 or clause 7.6 which the Trustee decides is a Member Account;

'Non-binding Nomination Form' means a form completed by a Member expressing an indication of the Member's wishes as to whom and in what proportions the Member desires their benefit to be paid on the Member's death and is not binding on the Trustee;

'Pension' means a pension within the meaning of the SIS Act and which the Trustee is permitted to pay under the Relevant Law;

'Plan Credit' means, in respect of a Member, the total amounts standing to the credit of the Member's Member Accounts;



'Policy' means any policy of assurance including a policy on the life of a Member for endowment, term, disablement, accident or sickness insurance, effected either as an individual policy or as a group policy (in which case in relation to a Member or a former Member 'Policy' means the particular assurance on the life of the Member or former Member) and includes any policy covering any two or more of those risks;

'Relevant Law' means the requirements of the Act and any other law relevant to the administration and management of the Fund;

'Review Date' means a date on which the Trustee determines the Investment Income of the Fund pursuant to clause 18;

'Rollover Payment' means any payment made by the Trustee at the request of a Member or former Member or in other circumstances allowed under the Act or acceptable to the Commissioner to any one or more of the following:

- (a) the trustee of an approved deposit fund;
- (b) the trustee of a Superannuation Fund;
- (c) the trustee of an eligible rollover fund;
- (d) the issuer of an Annuity;
- (e) a financial institution to be credited to a retirement savings account;

'SIS Act' means the *Superannuation Industry (Supervision) Act 1993* (Cth);

'SIS Regulations' means the *Superannuation Industry (Supervision) Regulations 1994* (Cth);

'Splittable Contribution' has the same meaning as the term is given under division 6.7 of the SIS Regulations;

'Superannuation Fund' means a superannuation fund which, in the opinion of the Trustee, in the relevant year of income, will be a 'complying superannuation fund' for the purposes of the Relevant Law;

'Taxation' includes income tax (including capital gains tax, tax on eligible termination payments and tax on contributions) payroll tax, land tax, stamp duty, surcharge, levy, impost, other tax, advance instalment of tax, penalty or interest, including any tax, advance instalment of tax, penalty or interest imposed by or payable under the Relevant Law;

'Trustee' means the company or persons who for the time being, are the trustee of the Fund whether original additional or substituted.

1.2 Interpretation

Reference to:

- (a) one gender includes the other gender;



- (b) the singular includes the plural and vice versa;
- (c) a person includes a body corporate;
- (d) a statute, regulation or provision of a statute or regulation ('Statutory Provision') will be construed as a reference to that Statutory Provision as amended or re-enacted from time to time and includes any statute, regulation or provision enacted in replacement of that Statutory Provision;
- (e) a clause or schedule is a reference to a clause or schedule of this Deed (unless the context otherwise requires);

and headings are for convenience only and do not affect the interpretation of this Deed.

1.3 Severance

If:

- (a) any provision of this Deed is void or voidable or unenforceable in accordance with its terms, but would not be void, voidable, unenforceable or illegal if it were read down and is capable of being read down, the provision must be read down accordingly;
- (b) notwithstanding paragraph (a), a provision of this Deed would still be void, voidable, unenforceable or illegal:
 - (i) if the provision would not be void, voidable, unenforceable or illegal if a word or words were omitted, that word or those words must be severed; and
 - (ii) in any other case, the whole provision must be severed;

and the remainder of this Deed will be of full force or effect.

1.4 Words and Expressions Defined in Act

Unless the context indicates a contrary intention, words and expressions used in this Deed will have the meanings assigned to them in the Act.

2. THE FUND

2.1 Establishment

By this Deed, the Trustee establishes the **J & K INVESTMENTS SUPERANNUATION FUND**.

2.2 Fund Vested in Trustee

The Fund will be vested in the Trustee and will at all times be held controlled and managed by the Trustee subject to the trusts powers and provisions of this Deed.

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2.3 Purpose

While the Trustee is not a constitutional corporation, the sole or primary purpose of the Fund is the provision of old-age pensions.

3. MEMBERSHIP OF THE FUND

3.1 Application for Membership

Any person accepted by the Trustee who, if required by the Trustee, has lodged with the Trustee an application for membership in such form as the Trustee may determine, may be admitted to membership of the Fund by the Trustee.

3.2 Admission to Membership

When the Trustee admits a person to membership of the Fund, the person will become a Member and will be bound by this Deed.

3.3 Special Conditions of Membership

The terms and conditions applicable to a Member's membership of the Fund, including the contributions and benefits payable to or in respect of the Member, may be varied by written agreement between the Trustee and the Member.

3.4 Information to be Given to New Members

As soon as practicable after the admission of a person as a Member of the Fund the Trustee will give to that Member any information required by Relevant Law.

3.5 Provision of Information

Every Member and any person who may become entitled to be paid a benefit from the Fund when requested by the Trustee must furnish such information as the Trustee deems necessary for the purposes of any investigation or otherwise in connection with the Fund. Every Member must submit to medical examinations if required by the Trustee by a registered medical practitioner nominated by the Trustee.

3.6 Failure to Comply

If a Member or any other person who becomes entitled to be paid a benefit from the Fund fails to comply with the provisions of clause 3.5 the Trustee may suspend the payment of any contributions in respect of that Member or withhold any benefit in respect of that Member or person until the Member or other person does comply.

3.7 Incorrect or Misleading Information

Where a Member or any other person who becomes entitled to be paid a benefit from the Fund furnishes information required pursuant to this Deed which affects or is likely to affect the benefits payable to or in respect of the Member or person and the information supplied is incorrect or misleading or any relevant information is deliberately withheld, the Trustee may in its absolute discretion alter those benefits in such manner as the Trustee considers appropriate.



3.8 Deed

This Deed binds each Member.

4. CONTRIBUTIONS TO THE FUND

4.1 Contributions

- (a) Subject to the other provisions of this Deed and the Relevant Law, each Member may contribute any amount of money or property or vouchers under the Act to the Fund at any time.
- (b) Subject to the other provisions of this Deed, any other person may contribute any amount of money or property to the Fund on behalf of a Member at any time.
- (c) The Trustee may accept a Government Co-contribution in respect of a Member at any time.

4.2 Acceptance of Contributions

The Trustee:

- (a) may accept contributions from any person in respect of a Member to the extent permitted by Relevant Law;
- (b) must not accept any contribution if, in the opinion of the Trustee, the acceptance of the contribution would not be permitted by Relevant Law.

4.3 Form of Contributions

Subject to the requirements of Relevant Law, contributions may be made either in cash or by transfer to the Fund of an asset in kind. If a contribution is made by the transfer of an asset to the Trustee, the amount of the transfer will be the market value of that asset at the time of its transfer, and the transfer will be undertaken on such terms and conditions as are determined by the Trustee.

4.4 Refund

- (a) The Trustee must refund (or otherwise release in accordance with Relevant Law) any contribution not allowed by Relevant Law, after deducting taxes and expenses incurred by the Trustee on the contribution.
- (b) The Trustee may refund or release any contributions to the extent allowed by and in accordance with Relevant Law.

4.5 Splittable Contributions

- (a) Without limiting clause 6, at the request of a Member, the Trustee may roll-over or transfer out of the Fund or Allot an amount that is equal to some or all of the Splittable Contributions made by, or on behalf of the Member.



- (b) If the Trustee rolls-over or transfers out of the Fund, or Allots an amount in accordance with this clause 4.5, the Trustee must make a corresponding reduction in the entitlement of the Member who made the request under this clause.

5. TRANSFERS FROM OTHER FUNDS

- 5.1 At the request of a Member, the Trustee may accept assets from a Superannuation Fund, approved deposit fund, eligible rollover fund, retirement savings account or the superannuation holding accounts special account (under the *Small Superannuation Accounts Act 1995*), to provide benefits for that Member.
- 5.2 The Trustee may accept those assets on any terms.
- 5.3 The Trustee may refuse those assets without giving reasons.

6. TRANSFERS TO OTHER FUNDS

6.1 Transfers to Other Funds

Without in any way affecting any other provision of this Deed giving the Trustee power to transfer a Member's interest in the Fund to another superannuation arrangement or otherwise deal with the Member's interest in the Fund, but subject to any requirements of Relevant Law:

- (a) where a Member joins or is eligible to join a Superannuation Fund ('Other Fund'); and
- (b) the Member requests that the Member's interest in the Fund be transferred to the Other Fund ('Transferred Amount');

the Trustee may, subject to such conditions and indemnities as the Trustee may require, pay to the trustee of the Other Fund the Transferred Amount or transfer investments of the Fund of equivalent value to the Transferred Amount.

6.2 Benefits Reduction

The Trustee will debit such of the Member's Member Accounts as the Trustee determines with the Transferred Amount in such proportions as the Trustee considers appropriate and the receipt of the Transferred Amount by the trustee of the Other Fund will be a complete discharge to the Trustee of all liabilities in respect of, and the Trustee will have no responsibility to see to the application of, the Transferred Amount

7. FUND ACCOUNTS

7.1 Fund Accounts

The Trustee will keep the following accounts for the purpose of administering the Fund and in particular, for the purpose of calculating the benefits payable from the Fund:

- (a) a Fund Reserve Account;

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- (b) in respect of each Member, one or more Member Account to which contributions accepted pursuant to clause 4 and transfers accepted pursuant to clause 5 will be credited.

7.2 Crediting of Member Accounts

In addition to any amounts to be credited to the Member Account pursuant to clause 7.1, each of a Member's Member Accounts will, subject to Relevant Law, be credited with:

- (a) such portion of the Investment Income of the Fund (if positive) as the Trustee determines will be credited to the Member Account in accordance with clause 18; and
- (b) any other amounts which the Trustee with the consent of the Member determines will be credited to the Member Account.

7.3 Debiting of Member Accounts

Each of a Member's Member Accounts will, subject to any restrictions imposed by Relevant Law, be debited with:

- (a) such portion of the Investment Income of the Fund (if negative), as the Trustee determines will be debited to the Member Account in accordance with clause 18; and
- (b) such portion of the costs, charges and expenses and Taxation which the Trustee determines will be debited to the Member Account in accordance with clauses 19.1 and 19.2; and
- (c) any amount which is paid to the Member pursuant to clause 8.2 which the Trustee determines will be debited to the Member Account; and
- (d) any other amounts which the Trustee with the consent of the Member determines will be debited to the Member Account.

7.4 Investment Fluctuation Account

The Trustee may establish an Investment Fluctuation Account for the purposes described in clause 18.2. If at any time the Trustee considers that the amount standing to the credit of the Investment Fluctuation Account exceeds such amount as is likely to ever be required for the purposes described in clause 18.2, the Trustee may debit such excess amount from the Investment Fluctuation Account and credit the Member Accounts of all Members and the Fund Reserve Account with such proportions of the excess amount as the Trustee may decide.

7.5 Fund Reserve Account

The amount standing to the credit of the Fund Reserve Account at any time will be equal to the value of the Fund less the sum of the amounts credited to the Investment Fluctuation Account, the Member Accounts of all Members and any other accounts which may be established pursuant to clause 7.6. The Trustee will from time to time, in

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accordance with Relevant Law, apply the whole or any part of the amount standing to the credit of the Fund Reserve Account in such manner as the Trustee may determine and Relevant Law allows.

7.6 Additional Accounts

In addition to the accounts mentioned in clauses 7.1 to 7.4, the Trustee may establish and maintain such other accounts as the Trustee deems appropriate.

8. BENEFITS

8.1 Benefits

Subject to the provisions of this Deed, a benefit equal to the Member's Plan Credit will become payable in respect of a Member if:

- (a) the Member requests payment and Relevant Law allows that payment;
- (b) the Member dies; or
- (c) Relevant Law otherwise requires or permits the Member's benefit to be cashed.

8.2 Cashing Part of a Benefit

If Relevant Law requires or permits a Member to cash some but not all of the Member's benefit, the Trustee may cash that part of the Member's benefit, in which case the Trustee will, in accordance with clause 7.3(c), debit one or more of the Member's Member Accounts in such manner and proportions as the Trustee considers appropriate with an amount equal to that part of the benefit which has been cashed.

8.3 Benefits Payable in Other Circumstances

Notwithstanding the provisions of this Deed, the Trustee may, in its absolute discretion, pay part or all of a Member's Plan Credit to the Member in such circumstances and on such conditions as may be permitted by Relevant Law.

8.4 Form of Benefit

A benefit may be paid as any combination of a lump sum, Pension or Annuity subject to and in accordance with clause 10.

9. PAYMENT OF BENEFITS

9.1 Method of Payment

- (a) The Trustee may pay a benefit by forwarding a cheque to the postal address last notified of the person to whom the benefit is payable or paying the benefit directly to a bank or other account nominated by the person or in such other manner as the Trustee determines.
- (b) All benefits will be expressed and paid in Australian currency unless otherwise specifically agreed between the Member and the Trustee.



9.2 Receipt for Benefits

Any person to whom a benefit is payable must if requested furnish the Trustee with a receipt and release in the form from time to time required by the Trustee.

9.3 Tax on Benefits

The Trustee may deduct any Taxation from any benefit payable pursuant to this Deed.

9.4 Payment to Member

A benefit payable under sub-clause 8.1(a) or 8.1(c) must be paid by the Trustee to or for the Member or at the Member's direction.

9.5 Death benefits

(a) If a Member dies, subject to the remaining provisions of this clause and to clause 10.6 the Trustee must pay the benefit:

(i) if the Member has made a Binding Nomination Form under clause 12, in accordance with the Member's instructions on the Binding Nomination Form, provided it is valid at the time of the Member's death; or

(ii) in any other case, to any of the Dependants and legal personal representative of the Member as the Trustee decides, in any proportions the Trustee decides and in exercising its discretion the Trustee may consider any valid Non-binding Nomination Form made under clause 12, but will not be bound to effect payments in accordance with it.

(b) If, within three months after the death of the Member, the Trustee cannot find any Dependants of that Member living at the time of the Member's death and no legal personal representative of the Member has been appointed, then the Trustee may pay the balance of the relevant Member Account to any relatives of that Member the Trustee decides in any proportions the Trustee decides.

9.6 Payment to Others on Behalf of Beneficiaries

When any person to whom a benefit becomes payable is under the age of 18 years or when in the opinion of the Trustee it would be in the best interests of that person, the Trustee may retain the benefit in the Fund until the Trustee is satisfied that it should be paid to the person or pay all or part of any benefit to any other person for application on behalf of that person and the receipt of the person to whom the benefit is paid will be a complete discharge to the Trustee for the payment in respect of the person. The Trustee will not be bound or concerned to see to the application of the benefit so paid.

9.7 Benefit Payment Restrictions

Benefits payable to or in respect of a Member may only be paid to the Member in cash to the extent permitted by Relevant Law.



9.8 Preserved Benefits

Any benefits which have become payable to a Member but which are unable to be paid to the Member in cash may, at the discretion of the Trustee, be dealt with in accordance with clause 6.1 or clause 9.11 or retained in the Fund.

9.9 Retention of Benefit in the Fund

At the request of a Member or any other person who becomes entitled to be paid a benefit from the Fund, the Trustee may at its absolute discretion but subject to the requirements of Relevant Law, retain all or part of the benefit in the Fund until:

- (a) the Member or person entitled requests that it be paid to him;
- (b) the Member dies; or
- (c) the Trustee elects for whatever reason to pay the benefit to the Member or the person entitled thereto,

whichever first occurs.

9.10 Interest on Benefits

If any benefit, including any amount referred to in clause 22, is retained in the Fund, the Trustee may in its absolute discretion adjust the benefit by an amount reflecting investment returns calculated at the Fund Earning Rate in respect of the period from the date on which the benefit became payable until the date on which the benefit is paid.

9.11 Rollover Payments

Where a Member or former Member wishes to effect a Rollover Payment in respect of all or any part of any benefit payable to him from the Fund he must make a request to the Trustee in writing nominating the institution to which the payment is to be made and the amount to be applied as the Rollover Payment. The Member or former Member must in addition complete and execute such documents as are required to enable the Rollover Payment to be effected and for it to be recorded by the Commissioner, but in circumstances provided for in the Act or otherwise acceptable to the Commissioner the Trustee may effect a Rollover Payment in relation to a Member's benefit without the consent of the Member or former Member.

9.12 Transfer of Policy

Where a Member and/or any other person is entitled to be paid or the Trustee in its discretion determines to pay a benefit and where the Trustee holds a Policy of any kind in respect of the Member, the Trustee may in its absolute discretion and in lieu of surrendering the Policy assign it to the Member or other person or to such one or more of them to the exclusion of the other or others as the Trustee in its discretion may determine and the value of the Policy as at the date of assignment will be deducted from the benefit payable to the Member and/or other person and the Trustee will not be liable to pay any premiums becoming due and owing under the said Policy as from the date of the assignment.



9.13 Transfer of Investments

The Trustee may with the consent of a Member and/or any other person to whom a benefit is payable and to the extent permitted by Relevant Law transfer investments of the Fund of equivalent value to that Member and/or other person in lieu of paying the whole or part of the amount otherwise payable.

9.14 No Beneficial Interest

Notwithstanding any provision of this Deed, no Member or any other person entitled to be paid a benefit from the Fund will have or acquire any beneficial or other interest in a specific asset of the Fund or the assets of the Fund as a whole while such asset or assets remain subject to the provisions of this Deed.

9.15 Unclaimed Benefits

The Trustee may deal with any unclaimed money in the manner specified in Relevant Law.

10. PENSION BENEFITS

10.1 If:

- (a) the Trustee is not a constitutional corporation;
- (b) a Member is entitled to a benefit; and
- (c) that Member is at least 65 years (or any other age prescribed by Relevant Law);

the Trustee must (in any combination the Trustee decides):

- (i) pay the benefit by Pension; or
- (ii) purchase an Annuity with the benefit.

10.2 For any other Member or Dependant entitled to a benefit, the Trustee may, including at the request of the Member (in any combination the Trustee decides):

- (a) pay the benefit by lump sum;
- (b) pay the benefit by Pension; or
- (c) purchase an Annuity with the benefit,

provided that a Pension or Annuity may only be paid to a Dependant who is permitted to receive a Pension or Annuity under Relevant Law.

10.3 A Pension:

- (a) must meet the standard for pensions under the SIS Regulations ('**Pension Standards**');
- (b) is on any other terms the Trustee decides.



10.4 An Annuity:

- (a) must meet the standards for annuities under the SIS Regulations;
- (b) is on any other terms the Trustee decides.

10.5 The Trustee may:

- (a) set apart the assets of the Fund which will fund the Pension;
- (b) obtain any certificates the Trustee decides about the adequacy of those assets for current and non-current Pension liabilities;
- (c) invest those assets on the same basis that it invests any other assets of the Fund (including in investments authorised by the Member or Dependant).

10.6 After the death of a Member receiving a Pension and subject to clause 10.7:

- (a) if the terms of the Pension provide for a reversionary Pension and such reversionary Pension is permitted to be paid under the Relevant Law then the Trustee must pay the reversionary Pension;
- (b) in any other case the Trustee must pay the balance of the relevant Member Account as follows:
 - (i) if the Member has made a Binding Nomination Form under clause 12, the Trustee will make the payment in accordance with the Member's instructions on the Binding Nomination Form, provided it is valid at the time of the Member's death;
 - (ii) in any other case, the Trustee will make the payments to any of the Dependants and legal personal representative of the Member as the Trustee decides, in any proportions the Trustee decides and in exercising its discretion the Trustee may consider any valid Non-binding Nomination Form made under clause 12, but will not be bound to effect payments in accordance with it.

10.7 If, within three months after the death of the Member, the Trustee cannot find any Dependants of that Member living at the time of the Member's death and no legal personal representative of the Member has been appointed, then the Trustee may pay the balance of the relevant Member Account to any relatives of that Member the Trustee decides in any proportions the Trustee decides.

11. COMMUTATION OF PENSION

11.1 At the request of a Member entitled to a Pension, the Trustee may Commute all or part of a Pension, to the extent and as permitted by the Pension Standards.

11.2 The Trustee must then (in any combination the Trustee decides):

- (a) reduce the number of instalments of any remaining Pension;



- (b) reduce the amount of each instalment of any remaining Pension.

11.3 If the Trustee Commutes all or part of a Pension to a lump sum amount in accordance with this clause 11, the Trustee may, at the request of the Member and to the extent permitted by the Pension Standards (in any combination the Trustee decides):

- (a) pay that lump sum amount or any part of it to the Member;
- (b) retain that lump sum amount or any part of it in the Member's Member Account.

12. NOMINATED DEPENDANTS

12.1 A Member may nominate one or more of the Dependants and the legal personal representative of that Member, to receive that Member's entitlement when the Member dies, in any form (nomination form) the Trustee requires.

12.2 A nomination form may be a Non-binding Nomination Form or a Binding Nomination Form.

12.3 The Trustee may require a Member to complete a new nomination form at any time.

12.4 A nomination form is or becomes invalid if:

- (a) Relevant Law does not permit the Trustee to follow the nomination form;
- (b) all of the nominated Dependants die before the Member;
- (c) a nominated Dependant dies before the Member and the nomination form does not provide for an appropriate adjustment to the nominees and nominated proportions upon the death of a Dependant occurring before the death of the Member;
- (d) the Member later marries or divorces, or the nominated Dependant otherwise ceases to be a Dependant;
- (e) the nomination form does not specify the proportions of the benefit which each nominated Dependant receives;
- (f) the Member completes a later valid nomination form;
- (g) in the Trustee's opinion, the nomination form is incomplete or the Member's intention is unclear.

12.5 The Trustee need not inform the Member that a nomination form is invalid.

13. ASSIGNMENTS, CHARGES AND MONEYS OWING TO THE FUND

13.1 Assignments and Charges

The Trustee must not recognise, or in any way encourage or sanction, the assignment of or a charge over the whole or any part of a Member's Plan Credit or the Member's



interest in it, or a charge over the whole or any part of the Fund, except to the extent that it is permitted by Relevant Law.

13.2 Deduction from Benefit

Subject to the requirements of Relevant Law, the Trustee may deduct from any part of a Member's Plan Credit and retain any money owing by the Member to the Trustee and pay any balance to the Member or other person to whom the benefit would but for this clause have been payable.

14. FORFEITURE OF BENEFITS

14.1 Conditions of Forfeiture

Any Member:

- (a) who assigns or charges or attempts to assign or charge any benefit;
- (b) whose benefits whether by the Member's own act operation of law an order of any Court or otherwise become payable to or vested in any other person, company, government or other public authority;
- (c) in the opinion of the Trustee is incapable of managing the Member's affairs,

will if a benefit is not payable prior to the occurrence of any of the above events, to the extent permitted under Relevant Law and at law generally forfeit entitlement to the benefit whereupon the Member will cease to be a Member.

14.2 Member Account Residue

Subject to Relevant Law, any Member or former Member in respect of whom all benefits which the Trustee considers should be paid pursuant to the provisions of this Deed have been paid and who still has a residual amount standing to the credit of any of his Member Accounts will forfeit that amount forthwith and that amount will be dealt with as a forfeited benefit.

14.3 Application of Certain Forfeited Benefits

Subject to the requirements of Relevant Law, the Trustee may pay or apply the whole or any part of any benefits which have been forfeited to or for the benefit of the former Member or his Dependants or any one or more of them in such proportions between them and on such terms as the Trustee may from time to time in its absolute discretion determine or, if the Member has died, the benefits may be applied in accordance with clause 9.5.

14.4 Application of Remaining Forfeited Benefits

Any forfeited benefits not dealt with in accordance with clause 14.3 will be credited to the Fund Reserve Account.



15. THE TRUSTEE

15.1 Trustee

The Trustee must be at least two natural persons, or a constitutional corporation (within the meaning of section 10 of the SIS Act).

15.2 Retirement of Trustee

A trustee vacates office if:

- (a) the Members remove the Trustee;
- (b) the Trustee becomes a disqualified person for the purposes of Relevant Law;
- (c) the Trustee retires by giving 60 days' (or such shorter period to which the Members may agree) written notice to the Members;
- (d) the Trustee is a corporation and becomes an externally-administered body corporate (within the meaning of section 9 of the *Corporations Act (2001)*);
- (e) the Trustee is a natural person and dies or is found to be of unsound mind or becomes an insolvent under administration (within the meaning of section 9 of the *Corporations Act 2001*).

15.3 Appointment and Removal of Trustee

- (a) If a Trustee vacates office leaving only one natural person as Trustee or no Trustee, the Members must appoint a new Trustee.
- (b) The Members may at any time by deed appoint a substitute or additional Trustee .
- (c) The Members may at any time by deed remove a Trustee.

15.4 Constitution

If the Trustee is a corporation, the Trustee must at all times ensure that its constitution is consistent with any applicable requirements of Relevant Law.

15.5 Continuity of Office

A Trustee must, on ceasing to be a Trustee, do everything necessary to vest the Fund in the new or remaining Trustee and deliver all records and other books to the new or remaining Trustee.

16. TRUSTEE'S POWERS OF MANAGEMENT

16.1 Trustee's General Powers

The Trustee will have power:



- (a) to manage administer and deal with the Fund and all proceedings matters and things connected with the Fund; and
- (b) to enter into and execute all contracts deeds and documents and to do all such matters and things as it considers expedient for the purpose of carrying out the trusts authorities powers and discretions conferred upon the Trustee by this Deed with power, subject to the other provisions of this Deed, to give such undertakings and incur all such obligations relating to the Fund as the Trustee thinks fit,

and such further powers as may be necessary ancillary or incidental to this Deed.

16.2 Additional Specific Powers

In addition to the powers which it has by law and which are otherwise granted to it by this Deed the Trustee will have the following powers:

- (a) to settle compromise or submit to arbitration any claim matter or thing relating to this Deed or the Fund or to the rights of Members former Members or any other persons claiming to be entitled to be paid a benefit pursuant to this Deed;
- (b) to commence carry on or defend proceedings relating to the Fund or to the rights of Members former Members or other persons claiming to be entitled to be paid a benefit from the Fund;
- (c) subject to any restrictions contained in Relevant Law:
 - (i) to advance and lend money to and borrow and raise money from and to secure over the property of the Trust Fund or any part of it by mortgage, bill of sale, lien or charge, fixed or floating, legal, equitable or otherwise the payment of money to any person, firm, corporation, governmental or municipal body on such terms with or without security or interest as the Trustee thinks fit and to join with any corporation or natural person in executing any mortgage or other document for the purpose of securing the payment of money either jointly to the Trustee and that corporation or natural person or only to that corporation or natural person,
 - (ii) if the Trustee is a company, for any purpose including but not limited to the purpose set out in the preceding paragraph (c)(i), to give and to execute a registrable charge (whether fixed or floating or fixed and floating) over all the property (both present and future) of the company and the Trust Fund and to give and execute any other charge or security registrable under the *Corporations Act* or under the corresponding law of any other State or Territory of Australia;
 - (iii) to open any account or accounts with any financial institution and to operate such account or accounts and to draw make accept endorse discount issue or otherwise deal with any Promissory Note, Bill of Exchange, Bill of Lading, Cheque or other negotiable or transferable instrument;

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- (d) to insure or reinsure any risks contingencies or liabilities of the Fund;
- (e) to retain the services of and to appoint professional or other advisers or agents in relation to the management administration or investment of the Fund and to pay out of the Fund all expenses of and incidental to the management and administration of the Fund including the fees of any advisers or agents and the remuneration of persons appointed pursuant to this Deed and to revoke any such appointment; and
- (f) to indemnify or undertake to indemnify any person company government or institution in respect of any claim matter or thing relating to the Fund or to the rights of Members, former Members or other persons entitled in respect of the Fund.

16.3 Trustee's Discretion

In the exercise of the authorities powers and discretions vested in it pursuant to this Deed, the Trustee will have an absolute and unfettered discretion and may from time to time exercise or enforce all or any of such powers authorities and discretions and will have power generally to do all such things as the Trustee in its absolute discretion considers appropriate in the administration of the Fund and the performance of its obligations under this Deed.

16.4 Trustee may act on advice

The Trustee may act on the advice or opinion of any accountant actuary barrister solicitor medical practitioner professional adviser or expert whether or not such advice has been obtained by the Trustee.

16.5 Indemnity of Trustee and directors

- (a) The Trustee (and each director or other officer of a corporate trustee) will be indemnified out of the Fund for any liability incurred in that capacity to the extent allowed by law.
- (b) No Member is liable to indemnify the Trustee (or a director or other officer of a corporate trustee), even for a liability which the Member asked or authorised the Trustee to incur.
- (c) The Trustee may take out trustee liability insurance and pay the premiums from the Fund.
- (d) In this clause 16.5, "trustee", "director", "officer" and "Trustee" include a former trustee, director and officer and former Trustee (as the case may be).

16.6 Delegation by Trustee

The Trustee may delegate to any one or more persons firms or companies on such terms as the Trustee may think fit any of the authorities powers and discretions conferred upon the Trustee and execute any powers of attorney or other instruments necessary to effectuate such purpose. Without limiting the generality of the foregoing the Trustee may appoint from time to time such one or more persons firms or companies as the



Trustee may think fit to act either as custodian or investment manager or both subject to such conditions as the Trustee may from time to time determine and may delegate to and confer upon such a custodian or investment manager such authorities power or discretions, including the Trustee's power of delegation, as the Trustee may think fit. The Trustee will have power to pay out of the Fund to any such custodian investment manager or other delegate such remuneration for its services as the Trustee considers proper and to remove from time to time any such custodian or investment manager.

16.7 Trustee's Remuneration

The Trustee (and the directors and other officers of a corporate trustee) will not receive any salary or remuneration from the Fund in respect of its services as Trustee but nothing in this Deed will preclude any firm corporation or partnership of which the Trustee or any of its directors is a partner director shareholder related body corporate (within the meaning of the *Corporations Act 2001*) or employee from being paid out of the Fund any proper fees or remuneration for professional or other services rendered by such firm, corporation or partnership in connection with the Fund.

16.8 Confidentiality of Information

The Trustee will regard as strictly confidential so far as practicable all information disclosed to or gained by them in the course of administering the Fund or otherwise in connection with this Deed or anything relating or incidental to it.

16.9 Liability of Trustee

The Trustee will not be liable for any loss or breach of trust whatsoever other than:

- (a) loss attributable to the Trustee, in relation to a matter affecting the Fund, failing to act honestly or intentionally or recklessly failing to exercise the degree of care and diligence that the Trustee was required to exercise; or
- (b) liability for a monetary penalty under a civil penalty order made against the Trustee under the Act.

16.10 Liability of Directors of Trustee

A director of the Trustee will not be liable for any loss or breach of trust whatsoever other than:

- (a) loss attributable to the director, in relation to a matter affecting the Fund, failing to act honestly or intentionally or recklessly failing to exercise the degree of care and diligence that the director was required to exercise; or
- (b) liability for a monetary penalty under a civil penalty order made against the director under the Act.

16.11 Trustee May Act Despite Interest

- (a) A trustee (or a director of a corporate trustee) may act as a director of a corporation in which the Fund is invested and may retain remuneration for so acting.

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- (b) A trustee may exercise or concur in exercising a trust or power, even if the trustee (or a director of a corporate trustee) has a personal interest in the outcome, or is a Member or related to a Member.
- (c) A trustee (or a director of a corporate trustee) may retain a benefit from a dealing in which the trustee (or director) has a personal interest.
- (d) The Trustee may deal with any of the trustees (in the trustee's own capacity or as trustee of another fund).
- (e) Generally to exercise or concur in exercising all the foregoing powers and discretions contained in this Deed or otherwise by law conferred notwithstanding that any person being a Trustee or any person being a director or shareholder of a Trustee hereof (being a company) has or may have a direct or personal interest (whether as trustee of any other settlement or in his person capacity or a shareholder or director or member or partner of any company or partnership or as a unitholder in any Unit Trust or beneficiary of any Discretionary Trust or otherwise howsoever) in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.

16.12 The Trustee may enter into arrangements to:

- (a) borrow money;
- (b) maintain an existing borrowing of money;
- (c) secure the payment or repayment of any borrowing;

but in each case, subject to the extent permitted by Relevant Law.

17. INVESTMENTS

17.1 Authorised Investments

Subject to:

- (a) the restrictions imposed by Relevant Law on investing in in-house assets;
- (b) any prohibition on acquiring certain kinds of assets from Members or relatives of Members which is prescribed by Relevant Law;
- (c) any prohibition prescribed under Relevant Law against lending money or giving financial assistance to, Members or relatives of Members; and
- (d) any other restrictions imposed by Relevant Law,

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so much of the moneys forming part of the Fund from time to time as is not required immediately for the payment of benefits or other amounts authorised by this Deed may be invested by the Trustee in any investment whatsoever which the Trustee considers appropriate, including, but without in any way being limited to, the following investments:

- (i) any investment for the time being authorised or permitted by the laws of the Commonwealth of Australia or any State or Territory for the investment of trust funds;
- (ii) any mortgage on freehold property situated in Australia or elsewhere even though the amount of the loan may exceed two-thirds of the value of the property and whether or not a report or valuation has been obtained on the value of the property;
- (iii) on deposit with or on loan to any bank building society or other financial institution;
- (iv) on deposit with or on loan to any person or organisation whatsoever with or without security and at such rate of interest and upon such terms as the Trustee may deem reasonable notwithstanding that the Trustee may have a direct or indirect interest in the borrowing or may benefit directly or indirectly therefrom;
- (v) the purchase or acquisition in any way of shares of any class or description or of any type of bond mortgage debenture note option or other like security in or of any company or trust fund, society, unincorporated association or other entity in any part of the world whether or not carrying on business in Australia and whether the shares be fully or partly paid up and whether secured or unsecured, registered or unregistered;
- (vi) any Policy or annuity whether by proposal purchase or otherwise and any choses in action interest for life or any lesser term or in reversion or howsoever arising;
- (vii) the purchase or acquisition of any interest in real or personal property and the improvement or extension thereof;
- (viii) the purchase or acquisition of or subscription for any unit or sub-unit in any unit trust established or situated anywhere in the world whether individually or jointly and whether such units or sub-units are fully paid up or whether their issue involves any contingent or reserve liability;
- (ix) the discounting of loans mortgages contracts hire purchase agreements or leases; and
- (x) bills of exchange, promissory notes or other negotiable instruments;
- (xi) to undertake, contract, carry out or do anything including acquiring assets in a foreign currency and dealing in a foreign currency;

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- (xii) to undertake, contract, carry out or do anything including acquiring bullion, other precious metals and commodities and dealing in bullion, other precious metals and commodities.

17.2 Power to Sell and Vary Investments

The Trustee will have power as it sees fit to sell any investments and to vary and transpose any investments into other investments authorised by this Deed.

17.3 Investment Directions

The Trustee may from time to time, in its absolute discretion, allow a Member or Members to give directions to the Trustee in relation to the investment of a portion of the Fund's assets representing the Member's Member Accounts on the basis that the Trustee may comply with any such investment directions, but will not be obliged to do so. When an investment is made pursuant to any direction made by a Member in accordance with this clause:

- (a) the Trustee must note in the Fund's records that the investment was made in accordance with a Member's investment directions and the name of the Member;
- (b) any income or gains or losses of a revenue or capital nature arising from the investment will be credited or, in the case of a loss, debited, to the relevant Member's Member Accounts and such amounts will be excluded from the calculation of Investment Income pursuant to clause 18.1;
- (c) any costs, charges or expenses incurred or arising from the investment and any Taxation which is or may become payable in respect of the investment will be debited to the Member's Member Accounts and any such amounts will be excluded from the calculation of Investment Income pursuant to clause 18.1.

18. INVESTMENT INCOME AND INVESTMENT FLUCTUATION ACCOUNT

18.1 Investment Income

At the end of each Fund Year and on any other date which the Trustee considers appropriate ('Review Date') the Trustee must value all of the assets of the Fund and determine:

- (a) the Investment Income of the Fund in respect of the period since the previous Review Date which will comprise all net income and net capital gains (whether realised or unrealised) and other increments to the value of the Fund less any expenses, capital losses (whether realised or unrealised), other deductions in the value of the Fund and Taxation as the Trustee considers appropriate; and
- (b) the Fund Earning Rate to be credited (or debited) to Member's Accounts and the Fund Reserve Account in accordance with clause 18.6.



18.2 Investment Fluctuation Account

The Trustee may utilise the Investment Fluctuation Account in the manner described in this clause as a mechanism for smoothing any fluctuations in the value of investments and the level of Investment Income.

18.3 Credits to the Investment Fluctuation Account

The Trustee may, when determining the Fund Earning Rate in accordance with clause 18.1, decide that a portion of the Investment Income determined in accordance with clause 18.1 should be set aside for the purpose set out in clause 18.2, in which case the appropriate portion of the Investment Income will be credited to the Investment Fluctuation Account.

18.4 Debits to the Investment Fluctuation Account

The Trustee may, when determining the Fund Earning Rate, in accordance with clause 18.1, decide that the Investment Income should be supplemented as contemplated in clause 18.2, in which case, an appropriate amount will be debited to the Investment Fluctuation Account.

18.5 Relevant Considerations

For the purpose of making the decisions contemplated in clauses 18.1, 18.3 and 18.4, the Trustee must consider the following matters:

- (a) the amount standing to the credit of the Investment Fluctuation Account;
- (b) the amount of the Investment Income;
- (c) the amount of Investment Income which is expected to arise in respect of the subsequent Fund Year;
- (d) the Investment Income credited to the Members' Member Accounts in respect of the previous Fund Year; and
- (e) such other matters as the Trustee considers relevant.

18.6 Crediting Accounts

The Trustee will as soon as reasonably practicable after the Review Date credit (if the Fund Earning Rate is positive) or debit (if the Fund Earning Rate is negative) the Member Accounts in respect of all Members and the Fund Reserve Account with investment returns, at the Fund Earning Rate, on such basis as the Trustee considers equitable having regard to the balances of those accounts during the Fund Year and the requirements of Relevant Law.

18.7 Interim Fund Earning Rate

The Trustee may, from time to time, during each Fund Year, determine an interim Fund Earning Rate which will be used when determining the interest to be credited (or debited) to any account for the purpose of calculating benefits.

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19. COSTS AND EXPENSES AND TAXATION**19.1 Costs and Expenses**

Except as otherwise expressly provided in this Deed all costs charges and expenses incurred in connection with the preparation establishment maintenance administration operation or winding up of the Fund will be borne by the Fund and paid by the Trustee and the Trustee may debit the Members' Member Accounts, the Fund Reserve Account and the Investment Income of the Fund in such manner as it considers appropriate to reflect the payment of or the making of any provision for any such costs charges and expenses.

19.2 Taxation

The Trustee may make provision in such manner as it considers appropriate to allow for any anticipated or future liability for Taxation in respect of contributions to, earnings of, benefits payable from, or otherwise in respect of the Fund and will have power to pay any Taxation in respect of contributions to, earnings of, benefits payable from, or otherwise in respect of the Fund out of the Fund. The Trustee may debit the Members' Member Accounts, the Fund Reserve Account and the Investment Income of the Fund in such manner as it considers appropriate to reflect the payment of or the making of any provision for any Taxation. The Trustee will not be liable to account to any Member or any other person for any payments made by the Trustee in good faith to any duly empowered fiscal authority of the Commonwealth of Australia or any State or Territory of it or any other country or part of a country for Taxation or any other charges upon the Fund or for or on account of the retention of any moneys or assets in the Fund to meet any prospective liability on the part of the Trustee in relation to the Fund to such fiscal authority, notwithstanding that any such payment or provision need not have been made.

20. FUND RECORDS**20.1 Receipt and Payment of Moneys**

The Trustee will lodge all moneys of the Fund as soon as practicable to the credit of an account in the name of the Fund kept with a bank, building society or other financial institution or into a trust account of a solicitor accountant investment manager or administration manager appointed pursuant to this Deed.

20.2 Issue of Receipts

A receipt given on behalf of the Fund by the Trustee or by any other person who may from time to time be authorised by the Trustee in writing to receive any moneys of the Fund will be a sufficient discharge to the person by whom the moneys are paid.

20.3 Records and Accounts to be kept

The Trustee must:

- (a) keep account of all moneys received for and disbursed from the Fund and of all dealings in connection therewith;



- (b) collect and pay promptly into a bank or other account of the Fund all moneys from time to time due to the Fund;
- (c) keep appropriate records books and accounts having regard to the requirements of Relevant Law and make suitable arrangements for custody of documents relating to the investments of the Fund; and
- (d) prepare accounts and statements in relation to the Fund as at the end of the Fund Year in accordance with Relevant Law.

20.4 Availability of Deed

A copy of this Deed must be made available for inspection by any Member on the request of that Member.

20.5 Information for Trustee

The Trustee may request a Member or a Member's Employer to give to the Trustee all information in the Member's power or possession which may, in the opinion of the Trustee, be necessary or expedient for the management and administration of the Fund. The Trustee may act upon any information given to it by a Member pursuant to this Deed.

20.6 Disclosure and Reporting Requirements

The Trustee must provide to Members, former Members, the Commissioner and any other persons who ask the Trustee to provide them with information about the Fund such information in relation to the conduct of the Fund and benefits payable from the Fund in such form as required by Relevant Law.

21. APPOINTMENT OF AUDITOR

The Trustee must appoint an auditor who is authorised to audit the Fund under Relevant Law.

The Trustee may remove the auditor and appoint another auditor.

The auditor must audit the accounting records of the Fund.

22. TERMINATION OF THE FUND

22.1 Termination

If:

- (a) it appears to the Trustee that the Fund is insolvent and the Trustee resolves to terminate the Fund;
- (b) for any reason the Trustee thinks it is appropriate to and does resolve to terminate the Fund;

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(c) there are no Members in the Fund and the Trustee resolves to terminate the Fund; or

(d) the Members, by unanimous resolution, ask the Trustee to terminate the Fund, the Fund will be terminated from a date determined by the Trustee ('Termination Date').

22.2 Allocation of Assets

All moneys and assets of the Fund after payment or allowance for any liabilities or expenses of the Fund will be applied to the extent that such moneys and assets will permit to provide benefits in respect of each Member pro rata to each Member's Plan Credit in such form and provided by such arrangements as the Trustee determines and the Relevant law permits.

22.3 Provision of Benefits

Every Member or other person entitled to be paid a benefit will accept the benefits provided under clause 22.2 in full discharge of all claims in respect of the Fund provided that(a) the payment of any benefit pursuant to this clause will be subject to clauses 9, 13 and 14.

23. AMENDMENTS

23.1 Amendments to this Deed

The provisions of this Deed including this clause may be added to amended altered modified varied or deleted with immediate, prospective or, to such extent as the law allows, retrospective effect from time to time by the Trustee by deed or by resolution of the Trustee but no amendment alteration modification variation or deletion ('Amendment') may be made which is not permitted by Relevant Law.

23.2 Notice to Members

The Trustee must promptly give the Members written notice of any Amendment if required pursuant to Relevant Law to do so.

24. PROPER LAW

This Deed will be governed and construed and will take effect in accordance with the laws of South Australia. The Trustee, Members and former Members and their Dependents and Legal Personal Representatives must accept the jurisdiction of the Courts of that State.

25. RELEVANT LAW

25.1 Power to Comply with Relevant Law

Notwithstanding any other provision of this Deed and in addition to the powers and discretions conferred upon the Trustee by this Deed, the Trustee will be empowered but not, except as provided in this Deed, required to do or procure to be done or refrain



Superannuation Fund Deed

from doing such acts matters and things as in the opinion of the Trustee may be necessary or desirable:

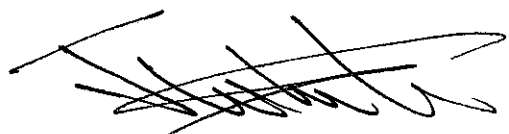
- (a) to enable the Fund to become, and continue to be, a 'regulated superannuation fund' for the purposes of the Act; and
- (b) in order to comply with or satisfy any provision or requirement of Relevant Law or of the Commissioner.

25.2 Relevant Law Requirements

- (a) Notwithstanding any other provision of this Deed, all provisions of Relevant Law (if any) that must be included in this Deed from time to time in order for the Fund to be a 'complying superannuation fund' for the purposes of Relevant Law in any year of income are deemed to be included in this Deed, but only for so long as that deemed inclusion is necessary for the Fund to be a complying superannuation fund. If there is any inconsistency between any provision deemed to be included in this Deed pursuant to this clause 25.2 ('deemed provision') and any other provision of this Deed, the deemed provision must prevail and that other provision of this Deed will be deemed to be modified to the extent of the inconsistency.
- (b) The Relevant Law prevails over any provision of this Deed to the extent of any inconsistency.

EXECUTED as a deed.

SIGNED, SEALED AND DELIVERED AS A DEED by
JASON RICHARD WHITE in the presence of:

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)


 Jason Richard White




 Signature of Witness

Teresa Vannetiello
 Name of Witness

SIGNED, SEALED AND DELIVERED AS A DEED by
KARINA ANN ASHER in the presence of:

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 Karina Ann Asher



 Signature of Witness

Teresa Vannetiello
 Name of Witness

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