

This **TRUST DEED** is made the 6 May, 2005

BETWEEN

John Wilfred Kingston of 79 Knockroe Road, Cordalba and
Sharyn Irene Kingston of 79 Knockroe Road, Cordalba in the State of Queensland

(hereinafter called "the Members") **OF THE ONE PART** and

John Wilfred Kingston of 79 Knockroe Road, Cordalba, and
Sharyn Irene Kingston of 79 Knockroe Road, Cordalba in the State of Queensland

(hereinafter called "the Trustees") **OF THE OTHER PART**

W H E R E A S:

1. The Members have decided to establish an indefinitely continuing Fund to be known as:- **John Kingston Family Superannuation Fund** (hereinafter called "the Fund") for the purpose of providing individual personal benefits, pensions or retiring allowances for such persons as shall become members of the Fund or, in the event of their death, for the dependants of such persons.
2. The Trustees have agreed to act as the first Trustees of the Fund.

NOW THIS DEED WITNESSETH

- A. The Fund shall come into operation on the 6 May, 2005 ("the Commencement Date").
- B. The Rules mean the Rules attached hereto as amended from time to time as therein provided.
- C. The Rules and the provisions and conditions contained therein shall have the same force and effect as if set out in the body of this Deed.
- D. The Trustees shall administer the Fund according to the Rules.
- E. This Deed may from time to time be amended by the Trustees in accordance with the Rules.
- F. The provisions of this Deed shall be interpreted according to the laws of the State of Queensland.

THE PROVISIONS HEREINBEFORE REFERRED TO

1. **DATE OF THIS TRUST DEED** 6 May, 2005

2. **MEMBERS:** **John Wilfred Kingston**
 OF: 79 Knockroe Road
 CORDALBA QLD 4660

 AND: **Sharyn Irene Kingston**

 OF: 79 Knockroe Road
 CORDALBA QLD 4660

3. **TRUSTEE OR TRUSTEES** (Referred to in this Trust Deed and the Rules and Schedules as "the Trustees")

 John Wilfred Kingston

 OF: 79 Knockroe Road
 CORDALBA QLD 4660

 AND: **Sharyn Irene Kingston**

 OF: 79 Knockroe Road
 CORDALBA QLD 4660

4. **NAME OF FUND:** **John Kingston Family Superannuation Fund**

5. **COMMENCEMENT DATE:** 6 May, 2005

AS WITNESS the execution by the parties hereto on the day and year first hereinbefore written.

SIGNED SEALED AND DELIVERED

by the said

John Wilfred Kingston
(as Member)

in the presence of:

)
)
)
) x J. W. Kingston
)
)
) x [Signature]
)

SIGNED SEALED AND DELIVERED

by the said

Sharyn Irene Kingston
(as Member)

in the presence of:

)
)
)
) x SK [Signature]
)
)
) x [Signature]
)

SIGNED SEALED AND DELIVERED

by the said

John Wilfred Kingston
(as Trustee)

in the presence of:

)
)
)
) x J. W. Kingston
)
)
) x [Signature]
)

SIGNED SEALED AND DELIVERED

by the said

Sharyn Irene Kingston
(as Trustee)

in the presence of:

)
)
)
) x SK [Signature]
)
)
) x [Signature]
)

TABLE OF CONTENTS

CLAUSE 1.	DEFINITIONS AND INTERPRETATION	1
CLAUSE 2.	PURPOSE OF FUND	5
CLAUSE 3.	MEMBERSHIP AND CLASSES OF MEMBERSHIP	5
CLAUSE 4.	MEMBER INFORMATION AND COMPLAINTS	6
CLAUSE 5.	MEETINGS OF MEMBERS OF THE FUND	7
CLAUSE 6.	CONTRIBUTIONS	7
CLAUSE 7.	THE FUND	9
CLAUSE 8.	TRUSTEE'S COVENANTS	9
CLAUSE 9.	INVESTMENTS	9
CLAUSE 10.	TRANSFER, PRESERVATION AND PORTABILITY OF BENEFITS	13
CLAUSE 11.	ASSIGNMENTS AND CHARGES	14
CLAUSE 12.	TRUSTEE'S EQUAL REPRESENTATION RULES	14
CLAUSE 13.	TRUSTEE'S REMOVAL AND APPOINTMENT	14
CLAUSE 14.	INFORMATION	14
CLAUSE 15.	POWERS OF TRUSTEE	15
CLAUSE 16.	INDEMNITY OF TRUSTEE	17
CLAUSE 17.	TRUSTEE'S COMPENSATION	17
CLAUSE 18.	TRUSTEE'S ACCOUNTS AND RECORDS	18
CLAUSE 19.	MEMBER ACCOUNTS	18
CLAUSE 20.	PAYMENTS TO EMPLOYER-SPONSORS	20
CLAUSE 21.	TRANSFER OF EMPLOYER'S BUSINESS	20
CLAUSE 22.	EMPLOYER'S RIGHT TO TERMINATE EMPLOYMENT	20
CLAUSE 23.	MEMBER BENEFITS	20
CLAUSE 24.	DETERMINATION OF PENSION	20
CLAUSE 25.	PAYMENT OF BENEFITS	21
CLAUSE 26.	COMMUTATION	21
CLAUSE 27.	ALTERATION OF PENSION	22

CLAUSE 28. PAYMENT OF TAXATION AND LEVIES	22
CLAUSE 29. PAYMENT OF BENEFITS ON DEATH	23
CLAUSE 30. MISCELLANEOUS	23
CLAUSE 31. AMENDMENT OF DEED AND RULES	23
CLAUSE 32. TERMINATION OF FUND	24
SCHEDULE 1	26
Death Benefits	26
Retirement Benefits	26
Late Retirement Benefits	27
Early Retirement Benefits	27
Disablement Benefits	27
Withdrawal Benefits	28
Form of Benefits	29
SCHEDULE 2	30
Death Benefits	30
Retirement Benefits	30
Disablement Benefits	30
Withdrawal Benefits	31
Form of Benefits	31
SCHEDULE 3	32
Benefits	32

CLAUSE 1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed, unless the contrary intention appears:

"A Class Member" means a Member admitted to Membership of the Fund in the circumstances set out in paragraph 3.1(a).

"Actuary" means a fellow or an accredited member of the Institute of Actuaries of Australia who from time to time is appointed by the Trustee.

"Approved Benefit Arrangement" means a fund or benefit arrangement other than the Fund including without limitation another Complying Superannuation Fund, an Approved Deposit Fund and an Annuity arrangement into which or from which assets of the Fund can be transferred without causing the Fund to be in breach of or to fail to comply with the Relevant Law and includes an Eligible Rollover Fund.

"Approved Deposit Fund" in relation to a year of income means a fund which is a complying approved deposit fund pursuant to the Tax Act.

"Annuity" means an annuity as defined for the purposes of the Relevant Law.

"Auditor" has the same meaning as that assigned to the term "Approved Auditor" by the SIS Act.

"B Class Members" means a member admitted to membership of the Fund in the circumstances set out in paragraph 3.1(b).

"Beneficiary" means a person who has a beneficial interest in a Fund constituted by this Deed.

"Benefit" means any amount paid or payable by the Trustee out of the Fund pursuant to the Deed to or in respect of a Beneficiary.

"C Class Members" means a Member admitted to Membership of the Fund in the circumstances set out in paragraph 3.1(c).

"Commissioner" means such person or authority as is for the time being responsible for the supervision of regulated superannuation funds under the SIS Act.

"Complying Superannuation Fund" in relation to a year of income means a fund which is a complying superannuation fund in accordance with the Relevant Law.

"Contributions" means gross payments to the Fund by or on behalf of Members and Employers, and such other amounts permitted by the Relevant Law, pursuant to the Deed prior to the withdrawal of any Taxation payable in respect of those Contributions.

"D Class Members" means a Member admitted to the Membership of the Fund in circumstances set out in paragraph 3.1(d).

"Death Benefit Notice" means a notice given by the Member to the Trustee which in the opinion of the Trustee meets the requirements of the Relevant Law and requires the Trustee to provide any Benefits in respect of the Member and after the Member's death to a person or persons specified in the notice, being either the legal personal representative or a Dependant or Dependents of the Member PROVIDED THAT any such notice can be given under the Relevant Law.

"Deed" or "Trust Deed" means these presents including the Schedules and any alterations, additions, amendments and modifications to them.

"Dependant" has the meaning assigned to that term by the SIS Act.

"Directors" means the directors or board of management for the time being of the Trustee or any Employer, as the case requires, and "Director" has a corresponding meaning.

"E Class Member" means a Member admitted to Membership of the Fund in the circumstances set out in paragraph 3.1(e).

"Eligible Person" means any person who is eligible to become a Member of the Fund in accordance with the Relevant Law.

"Eligible Rollover Fund" has the same meaning as contained in Part 24 of the SIS Act.

"Employee" has the meaning assigned to that term by the SIS Act.

"Employer" means a person defined as an Employer by the SIS Act who has applied in writing to the Trustee and has been accepted as an Employer under the Deed. In relation to any Member the word "Employer" means the person (if any) in relation to that Member who is for that time being a source of that Member's income either in whole or in part.

"Employer's Contribution Account" means the account so defined in sub-clause 19.3.

"Executive Member" means an A Class Member who is nominated by his Employer as an Executive Member.

"Financial Assistance" means financial assistance granted to the Fund under Part 23 of the SIS Act;

"Fund" means the indefinitely continuing superannuation trust fund constituted by this Deed.

"Fund Earning Rate" means the net earning rate of the Fund referred to in paragraph 19.2(c).

"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 may determine.

"Guarantee Act" means the *Superannuation Guarantee (Administration) Act 1992* and any regulations made under that Act;

"Industrial Award" means:

- (a) an industrial award or determination made under a law of the Commonwealth, a State or a Territory of Australia; or
- (b) an industrial agreement approved or registered under such a law.

"Insurer" means any insurer with whom the Trustee effects a policy or policies of insurance.

"Levy" includes a levy payable by the Fund to the Commissioner in accordance with the Superannuation Supervisory Levy Act 1991, the Superannuation (Financial Assistance Levy) Act 1993 and any other legislation or regulations which impose a levy or levies on the Fund.

"Member" means any person who has been admitted to membership of the Fund in accordance with this Deed and who has not ceased to be a Member pursuant to clause 3.10 and "Membership" shall mean Membership of the Fund.

"Member's Accumulation Account" means the account so defined in sub-clause 19.2.

"Nominated Dependant" means a person nominated by a Member as the nominated Dependant but does not include any person who has been specified in a Death Benefit Notice given by the Member to the Trustee which in the opinion of the Trustee meets the requirements under the Relevant Law.

"Non-Executive Member" means an A Class Member who at the relevant time is not an Executive Member.

"Non-Preserved Amount" means an amount, including an amount paid or credited pursuant to sub-clause 10.5, payable to or in respect of a Member which is not subject to any cashing restrictions at the time of payment under the Relevant Law.

"Normal Retirement Date" means a Member's sixty-fifth birthday or such other age as the Trustee determines in accordance with the requirements of the Relevant Law.

"Pension" has the meaning assigned to that term by the SIS Act.

"Plan Membership" means all periods of Service concurrent with completed Membership of the Fund, plus, in the case of a Member who has transferred a Benefit from another superannuation fund and is entitled to Benefits under Schedule 1, a period of notional past Service determined by the Actuary and agreed to by the Trustee as being equitable in respect of the amount so transferred to the Fund.

"Relevant Law" means any requirements under the SIS Act, the SIS Regulations, the Superannuation Entities (Taxation) Act 1987, the Superannuation (Resolution of Complaints) Act 1993, the Tax Act and any other present or future legislation which the Trustee must comply with in order for the Fund:

(a) to qualify for concessional Taxation treatment as a Complying Superannuation Fund; or

(b) to meet any other requirements of the Commissioner,

and includes any proposed requirements, rulings, announcements or obligations which the Trustee believes will have effect retrospectively.

"Rules" means the clauses and rules set out in this Deed and Schedules.

"Salary" in relation to a Member for a financial year means:

(a) if the Member is entitled to Benefits under Schedule 1, the amount that is taken to be the Member's annual salary for that year following agreement to such effect between the Employer, Member and Trustee; or

(b) if paragraph (a) does not apply, the amount that is the Member's annual salary for that year.

"Schedules" means the schedules annexed to this Deed.

"Self-Employed" means the engagement by a person in a business, trade, profession, vocation, calling or occupation otherwise than as an Employee.

"Service" means the period or periods measured in years to the nearest 1/12th of a year during which a person has been an Employee of an Employer.

"Service Whilst a Member" means all periods of Service concurrent with membership of the Fund up to a Member's Normal Retirement Date and includes any additional period measured in years to the nearest 1/12th of a year which is deemed to be Service Whilst a Member following agreement to such effect between the Employer, Member and Trustee.

"Shortfall Component" has the same meaning as contained in section 64 of the Guarantee Act;

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

"SIS Regulations" means the Superannuation Industry (Supervision) Regulations.

"Tax Act" means the Income Tax Assessment Act 1936 or the Income Tax Assessment Act 1997 (as the context requires or permits) and any regulations issued under those Acts.

"Taxation" includes income tax, any surcharge or other amount of whatever description levied on the Fund, the Trustee, any Member, former Member or Beneficiary pursuant to the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* and related legislation (including provisional or advance payments required under that legislation), capital gains tax, tax on eligible termination payments, payroll tax, land tax, stamp duty and any other taxes or duties paid or payable by the Trustee on behalf of the Fund or, where applicable, by any Member, former Member, Dependant or Beneficiary.

"Total and Permanent Disablement" shall be deemed to have occurred when the Trustee is satisfied that due to ill health (whether physical or mental) a Member is unlikely ever to engage again in gainful employment for which the Member is reasonably qualified by education training or experience and "Totally and Permanently Disabled" shall have a corresponding meaning.

"Temporary Disablement" means ill health (whether physical or mental) which has caused the Member to cease to be gainfully employed but which does not constitute Total and Permanent Disablement and "Temporarily Disabled" shall have a corresponding meaning and the Trustee shall in its absolute discretion determine when such incapacity has occurred and may in reaching such a decision have regard to such medical advice as it sees fit.

"Trustee" means the trustee or trustees for the time being of the Fund whether original, substituted or additional.

"Unclaimed Benefits" means those Benefits described as '**unclaimed money**' under Part 22 of the SIS Act.

- 1.2 The headings used in this Deed are for convenience only and shall not affect the interpretation thereof.
- 1.3 Words importing the singular number include the plural and vice versa and words importing the masculine or feminine gender include all genders as the case may require.
- 1.4 The meaning of any word or phrase used in the Deed shall to the extent that it is not defined by the other provisions of this clause have the same meaning as that word or phrase has for the purposes of the SIS Act and SIS Regulations.
- 1.5 For convenience, the first letters of words and expressions defined in this Deed are indicated by capital letters, but the absence of a capital letter shall not alone imply that the word or phrase is used with a meaning different from that given by its definition.
- 1.6 References to any statutory enactment shall be construed as references to that enactment as amended, modified or re-enacted from time to time and shall include any enactment in substitution or replacement for such statutory enactment. Any reference in this Deed to a provision of an enactment shall include the relevant provision of the enactment as amended, modified or re-enacted or of any enactment in substitution for that provision.
- 1.7 This Deed shall be read and construed on the basis that the Relevant Law is deemed to be incorporated into the Deed to the extent that it imposes covenants or obligations on the Trustee in order for the Fund to qualify for concessional Taxation treatment or to satisfy any other requirements of the Commissioner and this Deed shall be further read and construed on the basis that:
 - (a) where there is any inconsistency between a provision in this Deed and a provision under the Relevant Law the latter shall prevail to the extent of the inconsistency;
 - (b) in the event of any doubt arising as to the effect of the Relevant Law or if there is an inconsistency between the Relevant Law and a provision of this Deed, the decision of the Trustee shall be final,

PROVIDED THAT this Deed shall not be so read or construed and no such provision of the Relevant Law shall be so incorporated if to do so would constitute a breach of the power granted by clause 31 to add to, amend, alter, modify, rescind or vary the provisions of this Deed.

- 1.8 Any references to any requirements, consents or approvals being required to be given by the Commissioner or for the purposes of satisfying the Relevant Law shall mean requirements, consents or approvals of the Commissioner or under the Relevant Law.

- 1.9 The Trustee shall administer the Fund in order to facilitate the acceptance of Contributions in accordance with the Guarantee Act and shall provide all such certificates, reports and other information as shall be required by the Guarantee Act.

CLAUSE 2. PURPOSE OF FUND

- 2.1 The purpose of this Fund is the provision of superannuation benefits in accordance with the Relevant Law and subject to the requirement at all times that:
- (a) The Trustee is a constitutional corporation; or
 - (b) The sole or primary purpose of the Fund is the provision of old-age pensions.

CLAUSE 3. MEMBERSHIP AND CLASSES OF MEMBERSHIP

- 3.1 The Members of the Fund shall comprise and be categorised as follows:
- (a) A Class Members – Eligible Persons who are Employees invited by their Employer to participate in the Fund, other than D Class Members;
 - (b) B Class Members – Eligible Persons who are Self-Employed persons and who apply in writing to the Trustee;
 - (c) C Class Members – Eligible Persons who at the time of making written application to the Trustee for admittance are employed by a person who is not an Employer pursuant to this Deed;
 - (d) D Class Members – Eligible Persons who are Employees who are invited by their Employer to participate in the Fund pursuant to the provisions of an Industrial Award applying to those Employees; and
 - (e) E Class Members – Eligible Persons other than those referred to in paragraphs 3.1(a)-3.1(d) who apply in writing to the Trustee.

provided that the Trustee shall have power to create such other classes of membership of the Fund with such rights and entitlements as the Trustee shall decide.

- 3.2 An Eligible Person who wishes to become a Member of the Fund must complete an application in a form approved by the Trustee for admission to membership of the Fund.
- 3.3 Notwithstanding the provisions of sub-clause 3.2, where a completed application for Membership is not provided by an Eligible Person who is an Employee, the payment of a Contribution by an Employer in respect of that Employee or the acceptance of a Shortfall Component in respect of an Employee may be deemed by the Trustee to constitute an application for Membership of the Fund in respect of that Employee.
- 3.4 Upon actual or deemed receipt of an application for Membership the Trustee may determine to admit the applicant to Membership of the Fund.
- 3.5 The Member shall be deemed to have joined the Fund on a date determined by the Trustee or, where the Trustee makes no such determination, on the date the completed application for Membership is received or is deemed to have been received.
- 3.6 Subject to any other conditions which may be applied pursuant to the provisions of this Deed, the Trustee may impose such conditions on an applicant's admission and the rights and duties of the applicant as a Member as it shall determine and may limit and impose such conditions upon Benefits as it sees fit and the Trustee may remove or vary all or any of the aforesaid conditions at any time.
- 3.7 Upon admission to Membership of the Fund the Member shall be bound by this Deed in all respects as if the Member were an original party to the Deed.
- 3.8 Nothing in this clause shall be construed so as to prevent a person being a Member of more than one class at any one time.

- 3.9 Subject to this Deed, the Employer of an A Class Member may, with the Trustee's consent, at any time alter the Member's classification as Executive or Non-Executive or the application of Schedules 1 or 2 to their membership, in which case the relevant Member shall for the purpose of this clause and Schedules 1 and 2 be deemed to have been admitted to the Fund pursuant to an application for membership at the time the relevant alteration took place.
- 3.10 A person shall cease to be a Member of the Fund upon the earliest to occur of the following:
- (a) the date upon which payment of all the Member's Benefits is made to the Member or to an Approved Benefit Arrangement on behalf of the Member;
 - (b) the death of the Member;
 - (c) the date on which Unclaimed Benefits in respect of a Member are paid to the Commissioner;
 - (d) the date when Benefits payable to or on behalf of a Member cease to be payable; and
 - (e) such date as the Trustee shall reasonably determine,
- provided that where a policy of insurance providing disablement benefits has been effected in respect of the Member, that Member shall remain a Member for such period following resignation, dismissal or retirement from employment as the Trustee shall determine.

CLAUSE 4. MEMBER INFORMATION AND COMPLAINTS

- 4.1 Each applicant for Membership and any Beneficiary shall when requested by the Trustee furnish such information as the Trustee deems necessary for the purposes of any investigation or otherwise in connection with the Fund, and shall submit to medical examinations as required by the Trustee by a registered medical practitioner who is acceptable to the Trustee.
- 4.2 Where a Member or Beneficiary fails to comply with the provisions of this clause the Trustee may suspend the collection of any Contributions in respect of that Member or withhold any Benefits in respect of that Member or Beneficiary or impose such other conditions on the continued Membership of that Member or on the Beneficiary as the Trustee shall deem appropriate.
- 4.3 Where a Member or Beneficiary furnishes information required by the Trustee which affects or is likely to affect the Benefits payable to or in respect of a Member or Beneficiary and the information supplied is incorrect or misleading or any relevant information is deliberately withheld, the Trustee may in its absolute discretion alter or amend the Benefits to amounts that would have applied had full and accurate information been supplied.
- 4.4 As soon as practicable before the admission of a person as a Member of the Fund, the Trustee shall arrange for such Member to be given a written statement containing information and details relating to the Fund as is required to be provided by the Relevant Law.
- 4.5 The Trustee shall arrange for Members, former Members and Beneficiaries to be provided with information in writing or copies of accounts, records or documents of the Fund as required by the Relevant Law on an annual basis and on other occasions and in such manner as shall be required by the Relevant Law.
- 4.6 As soon as practicable after a person ceases to be a Member of the Fund, the Trustee shall arrange for such former Member or the legal personal representative of the former Member to be given a written statement containing such information and details relating to the Benefits of the former Member as is required to be provided by the Relevant Law.

- 4.7 No Member or Dependant of a Member shall be entitled to obtain information in respect of any details of the operation of the Fund or on any matter which may relate to the conduct of the Fund which in the opinion of the Trustee would be inappropriate to disclose other than as is provided for by this clause.
- 4.8 A copy of this Deed and any other documents as required by the Relevant Law shall be made available for inspection by any Member or Beneficiary on the request of that Member or Beneficiary and unless otherwise required by the Relevant Law, it shall be sufficient for the purposes of this clause to make a copy of this Deed or such documents available to the Member or Beneficiary for inspection at the office of the Trustee or at the place of business of an individual appointed as Trustee during hours when that office or business is open.
- 4.9 The Trustee will if required by the Relevant Law, place in force arrangements under which Beneficiaries have the right to make inquiries into or complaints about the operation or management of the Fund in relation to the Beneficiary making the inquiry or complaint.

CLAUSE 5. MEETINGS OF MEMBERS OF THE FUND

- 5.1 To call a meeting of Members requires a notice requesting a meeting of Members to be served on the Trustee signed by at least one half of the number of Members in the Fund.
- 5.2 The Trustee may convene a meeting of Members within 14 days of receiving the request and shall send a notice of meeting to each Member specifying that a meeting will be held within 14 days of that notice being issued.
- 5.3 The Trustee must at any time convene a meeting of Members by notice in writing.
- 5.4 Every notice of meeting shall:
- (a) be posted or given at least 10 days before the meeting;
 - (b) advise the place and time of the meeting;
 - (c) advise the Member that a proxy may be appointed to vote on behalf of the Member at the meeting PROVIDED THAT the Member lodges the form of proxy with the Trustee not later than 24 hours before the meeting;
 - (d) be accompanied by a form of proxy approved by the Trustee; and
 - (e) set out the matters including any resolutions to be considered at the meeting.
- 5.5 Every notice served shall be deemed to have been validly given if it is given personally to the Member or if posted by prepaid ordinary mail addressed to the Member at the last known address of the Member and when so posted the notice shall be deemed to have been given 3 days after the date of posting.
- 5.6 The Trustee shall appoint a chairperson of the meeting and shall make such regulations concerning the conduct of the meeting as it may decide.
- 5.7 A quorum for the meeting shall be at least 60% of the Members of the Fund PROVIDED THAT if a quorum is not present within 30 minutes of the time appointed for the meeting the chairperson of the meeting shall adjourn the meeting to the same time and place in the following week and a quorum shall be the Members present in person or by proxy at the adjourned meeting.
- 5.8 Each Member shall be entitled to one vote with the chairperson being given a casting vote in the event of an equality of votes.

CLAUSE 6. CONTRIBUTIONS

- 6.1 Contributions to the Fund shall:
- (a) for an A Class Member, be such amount:

- (i) as the Employer in relation to his own Contributions from time to time determines provided that the amount determined by the Employer is at least equal to the amount determined by the Actuary as the minimum contribution required by the Employer; and/or
 - (ii) as the Member with the agreement of the Employer or Trustee in relation to his own Contributions from time to time determines;
- (b) for a B, C or E Class Member, be such amount as the Member and Trustee agree; or
- (c) for a D Class Member, be such amount as is provided for under the Award.
- 6.2 Contributions made by an Employer pursuant to sub-paragraph 6.1(a)(i) may be made either under an arrangement between:
- (a) the Employer and the Trustee; or
 - (b) the Employer and the relevant Member.
- 6.3 Contributions made by a Member pursuant to sub-paragraph 6.1(a)(ii) may be deducted by the Employer from the Member's Salary, wages, fees or other emoluments either by weekly, monthly or other periodical deductions as may be agreed upon between the Employer and the Member. All such Contributions shall be credited to the Member's Accumulation Account.
- 6.4 Contributions shall be paid into the Fund in such manner and at such times as is agreed upon between the relevant parties provided that any payments made with the agreement of the Trustee direct to any investment manager, life insurance company or other like body shall be deemed to be both payment to the Trustee and payment by the Trustee to such body.
- 6.5 Should the Minister grant financial assistance to the Fund under the Act the Trustee shall subject to any conditions attaching to such assistance pursuant to the Relevant Law treat such sums as Contributions made pursuant to this clause and account for such Contributions in a manner which is fair and equitable as between the Employers and Beneficiaries under the Deed.
- 6.6 The Trustee may only accept Contributions to the Fund by or in respect of a Member that are permitted by the Relevant Law.
- 6.7 The Trustee shall not accept any Contribution or any Shortfall Component if the:
- (a) acceptance of the Contribution or Shortfall Component would prevent the Fund from qualifying as a Complying Superannuation Fund; or
 - (b) Commissioner directs the Trustee not to accept any Contributions by an Employer or any Shortfall Component in accordance with the Relevant Law.
- 6.8 If the Trustee shall at any time ascertain that any Contribution or Shortfall Component has been accepted in breach of the provisions of this clause, the Trustee shall refund such Contribution or Shortfall Component within any time period which may be required by the Relevant Law, less any:
- (a) charge which an Insurer may have made in respect of any extra cover which it has provided in relation to those Contribution or Shortfall Component; and
 - (b) reasonable administration charges,
- and reduce the Benefits held for the Member in the Fund to those which would have been held if such Contribution or Shortfall Component had not been received.
- 6.9 Any person may make a Contribution to the Fund in respect of a Member provided that Contribution is permitted under the Relevant Law.

CLAUSE 7. THE FUND

- 7.1 The Fund shall be vested in the Trustee and managed by the Trustee upon the terms and conditions and subject to the trusts, powers, authorities and discretions contained in this Deed.
- 7.2 The Fund shall consist of all the cash investments and other property including real and personal for the time being held by or on account of the Trustee upon the trust of the Deed and includes:
- (a) Contributions made in accordance with clause 6;
 - (b) Interest, dividends and distributions of income arising from any investments and the accumulation of that income;
 - (c) profits and other benefits arising from any investments and the accumulation of those profits;
 - (d) moneys, investments and other property transferred from any other entity to the Fund in accordance with this Deed;
 - (e) any Shortfall Component received by the Fund; and
 - (f) any Financial Assistance received by the Fund.
- 7.3 In applying the provisions of this Deed reference to the Fund shall be deemed to be reference to separate Funds comprising those amounts referred to in sub-clause 7.2 which relate to:
- (a) B, C and E Class Members;
 - (b) A Class Members whose Employer elects that this paragraph applies to those of his Employees admitted to A Class Membership;
 - (c) D Class Members whose Employer elects that this paragraph applies to those of his Employees admitted to D Class Membership;
 - (d) A Class Members other than those referred to in paragraph 7.3(b); and
 - (e) D Class Members other than those referred to in paragraph 7.3(c).
- 7.4 The elections referred to in sub-clause 7.3 shall be made in writing and shall be delivered to the Trustee on or before the time at which the Employer is accepted under the Deed.

CLAUSE 8. TRUSTEE'S COVENANTS

- 8.1 The Trustee for itself, its successors and assigns, covenants to perform and observe the covenants, trusts and conditions of this Deed and the covenants and obligations imposed under the Relevant Law so far as the same are or ought to be observed by the Trustee.

CLAUSE 9. INVESTMENTS

- 9.1 The Trustee shall formulate and give effect to one or more investment strategies that have regard to the whole of the circumstances of the Fund which strategies may be reviewed from time to time and shall be formulated and effected in accordance with the Relevant Law.
- 9.2 If there are any reserves of the Fund, the Trustee will formulate and give effect to a strategy for their prudential management, consistent with the Fund's investment strategy, its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due and any other requirements of the Relevant Law.
- 9.3 Moneys belonging to the Fund and not required immediately for the payment of Benefits or other amounts authorised by the Deed may be invested by the Trustee in accordance with the investment strategies of the Fund in any of the following investments:

- (a) in shares or stock (whether fully or partly paid) and in debentures, bonds, options, unsecured notes or other securities of any company, corporation or financial institution (including an Employer) carrying on business within the Commonwealth of Australia or elsewhere in the world or of any foreign government and whether the shares or stock are fully or partly paid up and whether secured or unsecured, registered or unregistered;
- (b) in any investment in which, by the laws of any State or Territory of the Commonwealth of Australia, trustees are authorised to invest (whether on a contributory basis or otherwise);
- (c) on deposit with any bank, building society, credit co-operative, trustee company or other registered financial institution in any type of account, whether secured or unsecured and on such terms as the Trustee shall determine;
- (d) on deposit with or on loan to any Employer or any other 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 from it;
- (e) 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;
- (f) the purchase or acquisition of any real or personal property and the improvement or extension of that property;
- (g) the acquisition of any futures, options or other synthetic investment and participation in any hedging, swapping or other like arrangement irrespective of whether such dealing is related to any other property forming part of the Fund;
- (h) in the assets held by the trustee of any superannuation fund or funds established or managed by any company in Australia or elsewhere;
- (i) in any futures contract approved by the Trustee at the Sydney Futures Exchange Limited or such other futures market or exchange as may be approved by the Trustee;
- (j) in any form of investments determined and considered appropriate by the Trustee with full power to vary, replace, encumber and otherwise deal with such investments as fully and effectively and with the same unrestricted powers in all respects as a person absolutely and beneficially entitled dealing with his own property may do,

and the Trustee shall have all the powers and authorities necessary to enable it to make each such investment provided that the Trustee shall ensure that all investments are in accordance with the Relevant Law.

9.4 The Trustee shall have power to:

- (a) acquire from any person or company or to effect with any life insurance company a policy of life, endowment, term, accident, sickness or disability insurance of such kind as the Trustee in its absolute discretion may determine, and the Trustee shall have the power to pay the premiums and duty on any such policy and also to surrender or deal in any way with such policy;
- (b) sell the whole or any part of the investments representing the Fund at any time or times for such price or prices and on such terms as the Trustee may think fit and the Trustee shall have the power to invest the proceeds of any sale or sales in any manner hereby authorised;

- (c) set aside out of the Fund from time to time such sum or sums of money as may in the Trustee's opinion be sufficient to meet any debt or obligation due or accruing;
- (d) pay calls on shares or stock forming part of the Fund and to accept transfers of shares or securities;
- (e) assent to and concur in any arrangement, sale, transfer or exchange of any shares, stock, debentures or other securities modifying any rights privileges or interest in relation to the Fund and to agree to and concur in any scheme or arrangement for the increase or reduction of the value or amount of the same or of the capital of any company in which any such shares, stock or debentures forming the whole or any part of the Fund for the time being may be invested or agree to or concur in any re-arrangement of its capital or its re-construction or any arrangements made or proposed to be made by it for any purpose whatsoever with any other company or person whereby any such shares, stocks, debentures or other securities are substituted or given for other shares, stocks, debentures whether in or of the same company, or otherwise AND for any such purpose to deposit, surrender, apply for or exchange all relevant documents of title and at the cost of the Fund to pay any contributions or incur any necessary expense in connection with any such scheme or arrangement and generally to manage or deal with the property forming the Fund as fully as if the Trustee beneficially owned the same;
- (f) enter into any contract or transaction or arrangement in respect of acceptance, endorsement or discounting of bills of exchange or otherwise deal in any way with the Fund or part thereof;
- (g) vary or transpose any investments into or for any other investments of any nature and kind hereby authorised and to vary the terms of any document or security;
- (h) apply any part of the Fund in improving or developing any property forming part of the Fund or in erecting, extending, improving or re-building any buildings upon any land forming part of the Fund and to make all such repairs and maintenance as the Trustee in its absolute discretion may think fit;
- (i) purchase, take on hire purchase, or on hire or in exchange or by any means whatsoever, acquire or become possessed of any real property whatsoever or any personal property whatsoever or any estate, right, title and/or interest in respect of the same and to improve, develop, sell, alienate, mortgage, charge, transfer, lease, sub-lease, let, hire or in any other manner dispose or deal or turn to account such property or rights or any of them or any part thereof whether by public or private treaty.

- 9.5 Subject to the Relevant Law, any investments may be held in such names including the name of a nominee (whether an individual or a body corporate) as the Trustee shall from time to time determine.
- 9.6 The Trustee may value the whole or any part of the assets of the Fund in such a manner as it shall determine whenever in its opinion it is necessary or desirable to do so.
- 9.7 Subject to sub-clause 9.8, the Trustee and any Director shall have the power and are authorised to make or vary any of the investments authorised under this Deed notwithstanding that the Trustee or Director may have a direct or indirect interest in the investment or may benefit directly or indirectly from it.
- 9.8 The Trustee and any Director shall disclose details of any interest in an investment to which sub-clause 9.7 applies in the manner prescribed under the Corporations Act and the Relevant Law.
- 9.9 The Trustee shall not be obliged to provide investment choice to Members or Beneficiaries of the Fund. The Trustee may however in its absolute discretion determine to provide investment choice either generally or only in respect of certain Members or Beneficiaries or

certain classes of Members or Beneficiaries of the Fund in which case the following clauses apply:

- (a) Where the Trustee determines to provide investment choice, it shall establish an investment strategy for each of the investment choices available to Members and Beneficiaries under the Fund and where appropriate shall allocate or designate particular assets of the Fund to be held within that strategy and shall advise Members and Beneficiaries of the investment objectives of each of those strategies and provide any other information required for this purpose by the Relevant Law to enable Members and Beneficiaries to make an informed decision regarding the effect of, and risks associated with, each of those investment strategies. The advice provided shall include the various directions that a Member or a Beneficiary can give to the Trustee under paragraph 9.9(e) and the circumstances in which any such directions can be given or altered.
- (b) The Trustee shall regularly review each of the investment strategies established under paragraph 9.9(a) and the assets held within each strategy in order to ensure that each of those investment strategies is appropriate at all times in respect of Members or Beneficiaries or classes of Members or Beneficiaries to whom each of those strategies is available.
- (c) The Trustee shall establish a sub-account in respect of each strategy and shall debit and credit to each sub-account any amounts including costs, charges and any Taxation attributable to the relevant strategies as the Trustee shall determine.
- (d) The Trustee shall determine a Fund Earning Rate in respect of the sub-accounts established under paragraph 9.9(c) and shall allocate the earnings of the Fund to each Account in accordance with the investment strategy applicable to the Member or Beneficiary:
 - (i) in proportion to the amount standing to the credit of the Member's or Beneficiary's Account at the beginning of the Fund Year in respect of which the allocation is being made, an appropriate adjustment being made for amounts (if any) credited or, debited to the Member's or Beneficiary's Account during that Fund Year; or
 - (ii) subject to the Relevant Law, in such other manner as the Trustee determines.
- (e) Upon admission of a person to Membership of the Fund or at any time whilst a person remains a Member or Beneficiary of the Fund, that person may, where the Trustee has determined to offer investment choice in accordance with paragraph 9.9(a), select one or, where the Trustee has determined to permit Members to select multiple strategies, more than one of the investment strategies formulated by the Trustee under paragraph 9.9(a) and direct the Trustee to invest part or the whole of the monies held in respect of that person under the Fund in accordance with the investment strategy or strategies selected by that person under this paragraph provided that any such directions by the Member or Beneficiary shall only be given in the circumstances permitted by, and in accordance with, the Relevant Law and without limiting any of the foregoing the Trustee shall ensure that the Member or Beneficiary is provided with such information as shall be required by the Relevant Law in order to enable the Member or Beneficiary to make an informed decision.
- (f) A Member or Beneficiary who wishes to select one or more investment strategies pursuant to paragraph 9.9(e) shall complete a request or any other documentation provided by the Trustee for this purpose which must clearly set out details of the investment strategy or strategies selected by the Member or Beneficiary. The Trustee shall not be bound to act on the request or other documentation unless that request or other documentation is completed in accordance with any instructions

issued by or on behalf of the Trustee and does not breach any of the requirements of the Relevant Law.

- (g) Except to the extent permitted by the Relevant Law, a Member or Beneficiary or any other person shall not direct the Trustee to make a particular investment in respect of a Member or Beneficiary of the Fund. Where a Member or Beneficiary wishes to select particular investments, (whether those investments comprise one or more assets), a request to the Trustee shall be made for an additional investment strategy or strategies for those particular investments ('asset specific investment strategy') to be formulated by the Trustee and for that strategy or those strategies to be made available to that Member or Beneficiary in accordance with paragraph 9.9(b). The Trustee may in its absolute discretion approve or reject any requests made under this paragraph. If the Trustee approves a request made under this paragraph, the Member or Beneficiary who made the request shall be informed accordingly by the Trustee and the provisions of paragraphs 9.9(b), (c), (d), (e) and (f) shall, with any necessary modifications thereof, apply to any request approved by the Trustee under this paragraph.
- (h) The Trustee shall advise Members and Beneficiaries of the investment strategy or strategies which will be adopted by the Trustee in respect of those Members or Beneficiaries or classes of Members or Beneficiaries who decline, or otherwise are unable to select an investment strategy under paragraphs 9.9(e) or 9.9(f).
- (i) Where an Employer contributes to the Fund in respect of a Member or Beneficiary or classes of Members or Beneficiaries, that Employer may, to the extent and in the circumstances permitted under the Relevant Law, give directions to the Trustee regarding the investment strategy or strategies that may be pursued in relation to the Member or Beneficiary or classes of Members or Beneficiaries in respect of whom that Employer contributes.

CLAUSE 10. TRANSFER, PRESERVATION AND PORTABILITY OF BENEFITS

- 10.1 Benefits not subject to preservation within the Fund in accordance with this clause may, at the discretion of the Trustee, be paid to any person or entity on behalf of the relevant Beneficiary and without limiting the generality of this power such person or entities shall include any Approved Benefit Arrangement.
- 10.2 In sub-clause 10.1 the term Benefits shall include beneficial interests in the Fund whether presently payable or not and in the case of Benefits which are not presently payable shall be such amount as the Trustee considers to be fair and equitable in the relevant circumstances.
- 10.3 Prior to making a payment referred to in sub-clause 10.1 the Trustee must seek and obtain the written consent of the Member to the proposed transfer or may undertake the steps necessary so that any Fund to which such payments are made is a successor fund.
- 10.4 The Trustee may in accordance with the Relevant Law and, where required by the Relevant Law the Trustee shall, transfer a Member's Benefit to an Eligible Rollover Fund and shall provide any information to the trustee of the Eligible Rollover Fund at such time and in such manner as required by the Relevant Law.
- 10.5 Subject to the provisions of this Deed, the Trustee shall have the power to accept any amounts paid or otherwise credited to the Fund for or by a Member in respect of that Member's interest in an Approved Benefit Arrangement with the intention of preserving the rights, entitlements and interests of the member of such Approved Benefit Arrangement at the time of transfer. Where such amounts are accepted by the Trustee, the relevant Member shall be provided with additional or accrued Benefits in such a manner as the Trustee determines.

CLAUSE 11. ASSIGNMENTS AND CHARGES

- 11.1 The Trustee has power, subject to the Relevant Law, in its absolute discretion to recognise, encourage or sanction:
- (a) an assignment of a superannuation interest of a Member or Beneficiary;
 - (b) a charge over or in relation to a minimum Benefit or preserved Benefit of a Member or Beneficiary, or a non-commutable income stream.

CLAUSE 12. TRUSTEE'S EQUAL REPRESENTATION RULES

- 12.1 In the event that the Relevant Law requires the Fund to meet any requirements for representation of Employers and Members as Trustees of the Fund at any time, the Trustee and the Members shall forthwith take such steps as shall be necessary to ensure that the Trustee meets the representation requirements of the Relevant Law.

CLAUSE 13. TRUSTEE'S REMOVAL AND APPOINTMENT

- 13.1 The position of Trustee shall become vacant if:
- (a) in the case of a company:
 - (i) a winding up order is issued pursuant to the Corporations Law; or
 - (ii) pursuant to a resolution of its board of directors it resigns from office;
 - (b) in the case of a natural person, not being a member representative or additional independent Trustee where clause 12 is applicable, he:
 - (i) becomes bankrupt;
 - (ii) enters into a deed of arrangement or assignment under the Bankruptcy Act 1966; or
 - (iii) resigns from his office by notice in writing; or
 - (iv) dies;
 - (c) subject to any requirements of the Relevant Law, if the person or body is removed from office by notice in writing given by a majority of Members.
- 13.2 Any person who acts as a Trustee shall on ceasing to be a Trustee under this clause do everything necessary to vest the Fund in the remaining or new Trustee and shall deliver all records and other books to the remaining or new Trustee.
- 13.3 The office of Trustee shall be filled at all times and in the event of a vacancy occurring other than in the case of an Independent Trustee who is not the sole Trustee of the Fund, a new Trustee shall be appointed within 90 days of such vacancy occurring in accordance with the provisions of this Deed.
- 13.4 Where the Trustee consists of individual Trustees, then subject to the Relevant Law, there shall be such number of persons as shall be agreed between the Employers (if any) and the Members but in the absence of any such agreement the number of Trustees shall not be less than 2.
- 13.5 No individual Trustee, Director of a corporate Trustee or officer or employee of an Employer shall by virtue of their office or the powers delegated to them by the Trustee be disqualified from being a Member of the Fund or from exercising rights or deriving any Benefits as a Member of the Fund.

CLAUSE 14. INFORMATION

- 14.1 When requested by the Trustee, an Employer shall give to the Trustee all information in its 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 an Employer pursuant to this Deed and shall not be required to verify that information.

14.2 The Trustee shall arrange to provide to:

- (a) Employers;
- (b) the Commissioner;
- (c) the Actuary;
- (d) the Auditor; and
- (e) any other persons specified in the Relevant Law,

such information or documentation, at such time and in such manner as shall be required by the Relevant Law.

14.3 The Trustee shall make suitable arrangements for the production of any books or information in relation to the Fund and the access to premises where any such books or information are kept for the purpose of inspection and the taking of copies in accordance with the Relevant Law.

CLAUSE 15. POWERS OF TRUSTEE

15.1 In addition to the powers which it may by law have and which are otherwise granted to it by this Deed, the Trustee shall have full powers that an individual would possess including, but not being limited to, the right:

- (a) to commence, carry on, defend or abandon any legal proceedings related to the Fund or to the rights of the Members;
- (b) to insure or re-insure any risks, contingencies or liabilities of the Fund (including trustee indemnity insurance) with any insurer, mortgage insurance company, reinsurance company or superannuation fund;
- (c) to retain the services of professional advisers (whether persons, firms or companies) including without limitation an Actuary, administration manager, investment manager and custodian, or employ or delegate powers to persons in relation to the management, administration, conduct or investment of the Fund, to delegate to such professional advisers or employ such persons as they see fit from time to time and to determine, to act on the advice of any person so retained and pay out of the Fund remuneration, fees or salaries payable to such professional advisers or employees;
- (d) to make and give receipts, releases and other discharges for money payable to the Fund and for the claims and demands of the Fund;
- (e) to determine who shall be entitled to sign on the Fund's behalf, receipts, acceptances, endorsements, releases, contracts and documents and to open accounts with financial institutions and retain with such institutions such money as they deem advisable;
- (f) to determine, authorise and arrange payments of Benefits out of the Fund to persons so entitled;
- (g) to acquire or dispose of property which is an investment permissible under clause 9 on such terms and conditions as it shall think fit;
- (h) to settle, compromise or submit to arbitration any claims, matters or things relating to this Deed or to the rights of Members, former Members or Beneficiaries;

- (i) to borrow money and to secure the repayment of it in any manner and upon any terms (including with or without security) which the Trustee may deem advisable PROVIDED THAT such borrowing shall not breach the Relevant Law;
- (j) to purchase an Annuity from an Insurer in order to provide all or a part of the Pension payable in respect of a Member and any such Annuity shall be in the name of the Trustee or, if the Trustee shall so determine, in the name of the former Member;
- (k) to pay and advance out of the Fund all costs, expenses and outgoings (including Taxation) of and incidental to the management and administration of the Fund and to pay and advance out of the Fund the professional fees (if any) in respect of the provision of its services as Trustee of the Fund;
- (l) to indemnify or undertake to indemnify any person, company, government or institution in respect of any claims, matters or things relating to the Fund or to the rights of Members, former Members or Beneficiaries in respect of the Fund PROVIDED THAT an indemnity shall only be provided to the extent that it is not limited by or would be inappropriate under the Relevant Law;
- (m) to provide a full or partial release to any person, company, government or institution in respect of any matters which have arisen or may arise as a result of an association, involvement or Membership of the Fund by that person;
- (n) to appoint a person who shall be responsible for the chairing of meetings of the Trustee and any other obligations which the Trustee vests in the person and, if required, to pay a fee or remuneration to such person in respect of such position;
- (o) to insure and keep insured as it sees fit any liability of the Trustee or any Directors or officers of the Trustee or the liability of the Fund to indemnify or reimburse the Trustee or its Directors or officers pursuant to clause 16;
- (p) to enter into any agreement or provide any notice or make any election or undertake any other action whether revocable or irrevocable which would or may have the effect of committing the Trustee to conduct the Fund at all times as a Complying Superannuation Fund;
- (q) to seek modifications of or exemptions from the application of the Relevant Law to the Fund PROVIDED THAT the Trustee shall be relieved from complying with any provision of the Relevant Law in respect of which an exemption or a modification has been granted; and
- (r) generally to do all acts and things as it may consider necessary or expedient for the administration maintenance and preservation of the Fund and in performance of its obligations as Trustee of the Fund.

15.2 All the powers and discretions conferred upon the Trustee or any Director by this Deed or by law may be exercised notwithstanding that the Trustee or any Director may have a direct, indirect or personal interest (whether as a shareholder, director, member or partner of any company, organisation or partnership) in the manner or result of exercising such power or discretion or may benefit 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 of the Fund.

15.3 The Trustee in the exercise of the trusts, authorities, powers and discretions conferred on it by this Deed shall have an absolute and uncontrolled discretion as to their exercise in relation to the manner, mode and timing of exercise, the exercise of which shall be final and binding PROVIDED THAT the Trustee shall not discriminate against any person in such a manner as to infringe any law of the Commonwealth or a State or Territory in respect of discrimination PROVIDED FURTHER THAT the exercise of the trusts, authorities, powers and discretions conferred on the Trustee by this Deed shall be subject to the Relevant Law.

- 15.4 The Trustee may delegate to any person any of the powers, duties and discretions conferred on the Trustee under this Deed upon such terms and conditions as the Trustee shall determine and the Trustee may vary, limit or revoke any such delegation PROVIDED THAT any such delegation shall only be undertaken in accordance with the Relevant Law.
- 15.5 The Trustee may delegate to any person or corporation such of the Trustee's powers, duties and discretions conferred on the Trustee under this Deed or otherwise vested in the Trustee as the Trustee may in its absolute discretion determine, including, but without limiting the generality of the foregoing, the appointment of a delegate or delegates as the Trustee's attorney or attorneys either in a general or limited capacity PROVIDED THAT any such delegation shall only be undertaken in accordance with the Relevant Law.
- 15.6 Except in those circumstances which are acceptable within the Relevant Law the Trustee shall not be subject to direction from any person in the exercise of any of its powers.

CLAUSE 16. INDEMNITY OF TRUSTEE

- 16.1 The Trustee and where applicable its Directors and officers shall be indemnified from the assets of the Fund against all liabilities incurred by it in connection with any act done or omitted to be done in the administration or investment of the Fund, and the exercise or purported exercise or attempted exercise of the trust's powers, authorities and discretions vested in it or them under this Deed or at law except if that person:
- (a) fails to act honestly in a matter concerning the Fund;
 - (b) intentionally or recklessly fails to exercise in relation to a matter affecting the Fund the degree of care and diligence that was required; or
 - (c) incurs a monetary penalty under the Relevant Law,
- 16.2 and the Trustee shall have a lien on and may use the moneys representing the assets of the Fund for the purposes of this indemnity.

CLAUSE 17. TRUSTEE'S COMPENSATION

- 17.1 The Trustee shall be entitled to charge professional fees and to recover costs and disbursements incurred in respect of the provision of its services as Trustee of the Fund which fees, costs and disbursements will be debited to such of the accounts set out in clause 19 as determined by the Trustee and which fees, costs and disbursements may reduce the Member's Withdrawal Benefit PROVIDED THAT the Trustee shall not be entitled to receive any remuneration from the Fund or any person in relation to the performance of the Trustee's duties, or the provision of any other services, in relation to the Fund if the receipt of such remuneration would result in the Fund being treated as a Public Offer Fund where the Fund would not otherwise be so treated or where the receipt of such remuneration is otherwise not permitted under the Relevant Law.
- 17.2 The Trustee shall be entitled to be reimbursed from the Fund for and in respect of the following expenses:
- (a) all costs, charges and expenses incurred or to be incurred in connection with the acquisition, registration, custody, disposal of or other dealings with investments of the Fund (including commissions, brokerage, bank charges, financial institutions and stamp duties and bank accounts debits tax but excluding any incidental expenses which are not out-of-pocket expenses or disbursements incurred by deduction or otherwise) by or on behalf of the Trustee;
 - (b) such fees and expenses of the auditor as the Trustee shall consider reasonable;
 - (c) any Taxation and any Levy paid or payable by the Trustee in connection with the Fund on any account whatsoever;

- (d) all fees, wages and expenses of any barrister, solicitor, accountant, Actuary, fund manager, administration manager, investment manager, agent, consultant, expert or investigator from time to time employed by the Trustee in the discharge of its duties under this Deed;
- (e) all costs, charges and expenses incurred or to be incurred in relation to the preparation and distribution of any periodic or other report or document in relation to the Fund or the making available of any books or documents of the Fund;
- (f) all and any administrative costs in respect of postage, telephone and like disbursements charged or to be charged in relation to the Fund;
- (g) all and any costs incurred in relation to an investigation of the Fund, the resolution of disputes or the preparation of information and submissions and the attendance of the Trustee before the Tribunal;
- (h) all and any expenses in connection with the maintenance of accounting records and the preparation of any accounting, taxation or other returns or advices;
- (i) all and any costs incurred in relation to the procuring and renewal of any Trustee indemnity insurance policy for the benefit of the Fund; and
- (j) all reasonable costs incurred in relation to the attendance at, and participation in, any Trustee training program by the Trustee or any Director of the Trustee.

CLAUSE 18. TRUSTEE'S ACCOUNTS AND RECORDS

18.1 All moneys of the Fund shall be lodged as soon as practicable to the credit of an account in the name of the Fund kept with a bank, friendly society, building society or similar body as determined from time to time by the Trustee or to the credit of an Insurer for the payment of premiums or into the trust account of a solicitor, accountant or investment manager appointed in accordance with this Deed.

18.2 The Trustee shall arrange for:

- (a) the keeping of accounts of all moneys received into and disbursed from the Fund and of all dealings in connection with such moneys;
- (b) the collection, and prompt payment into an authorised account of the Fund or the otherwise appropriate dealing with all moneys due to the Fund;
- (c) the keeping and safe-custody of all records, books, accounts, minutes, reports and other documentation as may be required by the Relevant Law or otherwise in proper order, and the retention of such records, books, accounts, minutes, reports and documents for such period as is required by the Relevant Law;
- (d) the preparation of an annual balance sheet of the Fund, a statement of financial position, an operating statement or such accounts and statements in respect of each Fund Year as are required by the Relevant Law; and
- (e) the preparation and lodgement of an annual return to the Commissioner and of such other certificates, statements, forms, documents and information in such manner and within such time as is required by the Relevant Law.

18.3 The Trustee may make such arrangements as are necessary to enable the audit of its records as required under the Relevant Law.

CLAUSE 19. MEMBER ACCOUNTS

19.1 In respect of a Member receiving or eligible for the provision of Benefits under Schedules 2 or 3 the Trustee shall keep the following accounts:

- (a) a Member's Accumulation Account; and

- (b) if appropriate, an Employer's Contribution Account.
- 19.2 A Member's Accumulation Account shall record:
- (a) amounts credited to a Member in consequence of a change in the Schedule applicable to the provision of his Benefits and determined by the Trustee and if appropriate in its opinion as advised by the Actuary;
 - (b) Contributions made by or for the Member pursuant to sub-clause 6.1;
 - (c) subject to paragraph 9.9(d) interest on the balance of the Account at such rate as the Trustees may periodically determine being a rate which is appropriate to the net earning rate of the Fund from time to time after taking into account possible or actual fluctuations in earnings and the requirements of the Relevant Law;
 - (d) life insurance premiums paid in respect of the Member and which the Trustee determines should be debited to the Member's Accumulation Account;
 - (e) the payment of Benefits referable to such Account;
 - (f) such other matters as the Trustee may from time to time deem appropriate.
- 19.3 An Employer's Contribution Account shall record:
- (a) Contributions made by an Employer for a Member pursuant to an agreement of the type referred to in sub-clause 6.1;
 - (b) interest determined as in paragraph 19.2(c) above calculated by reference to the balance of the Employer's Contribution Account;
 - (c) the payment of Benefits referable to such Account;
 - (d) life insurance premiums paid in respect of the Member or his Dependants and which the Employer and Member have agreed should be debited to the Employer's Contribution Account;
 - (e) such other matters as the Trustee from time to time deems appropriate.
- 19.4 The Trustee of the Fund may maintain reserves and without limiting the generality of this power the Trustee may:
- (a) credit to such reserves the proceeds of any policy of life insurance acquired or effected by the Trustee pursuant to paragraph 9.4(a) in respect of a Member; and
 - (b) take account of the level of any reserves for the purposes of paragraphs 19.2(c) and 19.2(f) and paragraphs 19.3(b) and 19.3(e).
- 19.5 Further in maintaining any reserves the Trustee may debit to such reserves such costs incurred in operating the Fund as they think fit and without limiting the generality of the foregoing these costs may include life insurance premiums paid in respect of any Member.
- 19.6 If a Member becomes entitled to a Benefit after the end of the latest period in respect of which interest has been allocated pursuant to paragraphs 19.2(c) and 19.3(b) the Benefit must include a reasonable share of the estimated net earnings of the Fund for the period from that latest period to the time at which the Benefit payment is made or commences to be paid.
- 19.7 In applying sub-clause 19.6 the Trustee must have regard to the following factors in estimating net earnings for a period:
- (a) the factors taken into account in the latest calculation of the net earnings of the Fund for the purpose of allotting those net earnings to the Members;
 - (b) the likely returns on the investments of the Fund for the period subsequent to that referred to in paragraph (a);
 - (c) any other factors likely to influence the net earnings of the Fund during the period referred to in paragraph (b); and

(d) any other requirements of the Relevant Law.

19.8 An estimate made by the Trustee pursuant to sub-clause 19.6 remains in force unless the Trustee makes another estimate in relation to the period or any part of it in accordance with the provisions of this clause and while in force applies to Members of the Fund who become entitled to Benefits in the period.

CLAUSE 20. PAYMENTS TO EMPLOYER-SPONSORS

20.1 Subject to the requirements of the Relevant Law the Trustee may if it considers such action to be fair and equitable as between an Employer and Beneficiaries of the Fund make a payment not constituting an in-house asset from the assets of the Fund to an Employer or former Employer of the Fund.

CLAUSE 21. TRANSFER OF EMPLOYER'S BUSINESS

21.1 In the case of a Fund specified in paragraph 7.3(b) or (d), where the whole or substantially the whole of the assets of the Employer's business ("Former Employer") are acquired by another entity ('New Employer') then the Trustee may elect to accept the performance by the New Employer of the obligations of the Former Employer under this Deed. Such acceptance by the Trustee shall discharge the Employer from any further obligations under this Deed to the extent that from the date of acceptance by the Trustee, this Deed shall be read and construed as if the New Employer were mentioned as the Employer hereunder.

21.2 In the case of a Fund specified in paragraph 7.3(c) or (e) the provisions of sub-clause 21.1 shall apply subject to any inconsistency with the terms of the Industrial Award governing Contributions to such Fund.

CLAUSE 22. EMPLOYER'S RIGHT TO TERMINATE EMPLOYMENT

22.1 Nothing in this Deed affects the right of an Employer with regard to the remuneration, terms of employment or dismissal of an Employee or may be used to increase damages in any action brought against the Employer in respect of such dismissal, remuneration or terms of employment or affect the rights of a Member or his legal personal representative or other persons to claim damages or compensation at common law or under a worker's compensation act or any other statute in force governing compensation to a Member injured or dying from an accident arising out of or in the course of his employment with the Employer.

CLAUSE 23. MEMBER BENEFITS

23.1 Persons becoming Members of the Fund in the various circumstances set out in sub-clause 3.1 shall be eligible for the provision of Benefits under the following Schedules to this Deed:

- (a) A Class Members - under Schedule 1 or Schedule 2 as nominated by their Employer;
- (b) B Class Members, C Class Members and E Class Members - under Schedule 2;
- (c) D Class Members - under Schedule 3.

CLAUSE 24. DETERMINATION OF PENSION

24.1 Notwithstanding any other provision of the Deed but subject to sub-clause 25.5, a Pension may be paid on such terms and in such amounts as are agreed between the Member and Trustee.

CLAUSE 25. PAYMENT OF BENEFITS

- 25.1 Notwithstanding any provision to the contrary contained in this Deed but subject to the Relevant Law where a Member becomes entitled to the payment of a Benefit he may request that Benefit be preserved for him in the Fund to such later date as he may from time to time specify.
- 25.2 Should a Benefit be preserved in accordance with sub-clause 25.1 where the Member was:
- (a) subject to Schedule 1; and
 - (b) entitled to the payment of the Benefit in the form of a Pension
- then the Trustee shall obtain advice from the Actuary on the lump sum value of the Benefit preserved and that lump sum value shall be credited to a Member's Accumulation Account for that Member and be subject from that time to payment in accordance with Schedule 2 hereof.
- 25.3 In dealing with a Member's Benefits the Trustee must comply with any requirements of the Relevant Law that apply to the preservation and payment of such Benefits.
- 25.4 The payment of any Benefit pursuant to this Deed shall be subject to the requirements of the Relevant Law relating to Unclaimed Benefits.
- 25.5 Notwithstanding anything to the contrary in this Deed the Trustee has the power to pay any Benefit which is required or permitted to be paid under the Relevant Law. The form that such a Benefit takes must be consistent with any requirements of the Relevant Law.
- 25.6 Notwithstanding any other provision of this Deed the Trustee shall not pay out any Benefits to Members, Dependents or Beneficiaries where such payment would cause the Fund to breach the Relevant Law.
- 25.7 Any obligation of the Trustee to pay a Pension pursuant to the Rules may be fully and finally satisfied by the Trustee purchasing an annuity of a value certified by the Actuary to be equivalent to the relevant Pension from an organisation which conducts a business that consists in whole or part of providing annuities.
- 25.8 The Trustee may with the agreement of the Member or Beneficiary to whom a Benefit is payable transfer assets (including an interest in a policy of insurance) of the Fund of equivalent value to such Member or Beneficiary in lieu of paying the whole or part of the amount otherwise payable under the provisions of this Deed.
- 25.9 Notwithstanding any other provision of this Deed and subject to the Relevant Law:
- (a) a Member may elect at any time to withdraw the whole or any part of the Non-Preserved Amount of that Member by giving notice to the Trustee in such form and manner as may be determined by the Trustee from time to time;
 - (b) the minimum Non-Preserved Amount which may be withdrawn by a Member pursuant to paragraph 25.9(a) shall be determined by the Trustee and notified to Members of the Fund; and
 - (c) the Trustee has power to make such adjustments to the Benefits that are ultimately payable to a Member who has made an election pursuant to paragraph 25.9(a) as it in its absolute discretion determines, including making any adjustments to any accounts established under clause 19.

CLAUSE 26. COMMUTATION

- 26.1 Subject to the Relevant Law, the Trustee may at the request of any person entitled to a Benefit commute to a lump sum any Pension to which that person would otherwise be entitled pursuant to this Deed in which case the commuted value of the Pension shall be determined by the Trustee who may seek advice from the Actuary.

- 26.2 Any person entitled to a lump sum Benefit may with the agreement of the Trustee substitute for the lump sum entitlement a Pension determined by the Trustee after receiving advice from the Actuary to be of equivalent value, provided that should the entitlement to the lump sum Benefit arise on the termination of gainful employment with an Employer who had or any of whose associates had at any time contributed to the Fund (being a regulated superannuation fund) then a Pension may only be paid by the Trustee in accordance with the Relevant Law.

CLAUSE 27. ALTERATION OF PENSION

- 27.1 Subject to the Relevant Law and any contrary agreement reached pursuant to clause 24, the Trustee may at any time vary the level of Pension being provided to Members or other persons to account for changes in the cost of living since the relevant Pension commenced to be paid provided that:
- (a) in the case of Benefits provided pursuant to Schedule 1 such variations are made after receiving advice from the Actuary and do not in the opinion of the Trustee endanger the ability of the Fund to provide Benefits in the future to Members contingently entitled to those Benefits;
 - (b) in the case of Benefits provided pursuant to Schedule 2 such variations are made having regard to the Relevant Law and the amounts standing to the credit of the Member's Accumulation Account and if appropriate the Employer's Contribution Account for that Member;
 - (c) in the case of Benefits provided pursuant to Schedule 3 such variations are made after receiving advice from the Actuary and are consistent with the provisions of the relevant Industrial Award governing the provisions of such Benefits.

CLAUSE 28. PAYMENT OF TAXATION AND LEVIES

- 28.1 The Trustee or, with the agreement of the Trustee, an Insurer or other appropriate organisation, shall deduct from any Benefit payable to any Member or Beneficiary pursuant to this Deed any Taxation required to be deducted (or such Taxation as the Trustee shall consider is required to be deducted) from it.
- 28.2 The Trustee or, with the agreement of the Trustee, an Insurer or other appropriate organisation, may deduct any Taxation payable in relation to a Contribution or Shortfall Component prior to the Contribution or Shortfall Component being credited to any of the accounts or reserves set out in clause 19. Where such Taxation has been deducted from a Contribution or Shortfall Component a reference to the crediting of the Contribution or Shortfall Component to an account shall mean the crediting of the net Contribution or Shortfall Component after the deduction of such Taxation.
- 28.3 The Trustee may make provision for and shall deduct any Taxation payable in relation to the taxable income of the Fund not otherwise deducted under this clause from any of the accounts or reserves referred to in clause 19.
- 28.4 The Trustee may make provision and shall deduct any surcharge or other amount of whatever description levied on the Fund, pursuant to the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* and related legislation (including provisional or advance payments required under that legislation).
- 28.5 The Trustee shall pay all Taxation which is not being transferred with the agreement of the Trustee to an Insurer or otherwise transferred as provided under the Tax Act, and any Levy which is due and payable by the Fund, to the relevant authorities within the required time for payment.

CLAUSE 29. PAYMENT OF BENEFITS ON DEATH

- 29.1 Subject to the Relevant Law, upon the death of a Member or Beneficiary who had Dependants, the Trustee shall:
- (a) if it has resolved to allow Members to provide the Trustee with Death Benefit Notices and a Death Benefit Notice has been given by the Member to the Trustee under the Relevant Law, pay or apply the Benefit in accordance with that Death Benefit Notice; or
 - (b) otherwise, pay or apply the Benefit to or for the benefit of one or more of the Member's or Beneficiary's Dependants (including any Nominated Dependants) and legal personal representative in such proportions, form, manner and at such times as the Trustee shall in its discretion determine PROVIDED THAT the payment of the Benefit shall comply with the Relevant Law.
- 29.2 Upon the death of a Member or Beneficiary who had no Dependants, the Trustee shall pay the Benefit to the legal personal representative of the Member or Beneficiary, or if there is no legal personal representative may pay or apply the Benefit for the benefit of such person or persons (being individuals) as shall appear to the Trustee to be entitled to share in the estate of the Member or Beneficiary in such proportions, form, manner and at such times as the Trustee shall in its discretion determine PROVIDED THAT the payment of the Benefit to such other persons shall in all cases comply with the Relevant Law.
- 29.3 The receipt by a Dependant, the legal personal representative, or other person of a Benefit paid under this clause shall be a complete discharge to the Trustee in respect of any amount paid to that person and the Trustee shall not be bound to see to the application thereof.

CLAUSE 30. MISCELLANEOUS

- 30.1 This Deed shall be governed and construed and shall take effect in accordance with the laws of Queensland and the Trustee, Members, Beneficiaries and Members shall accept the jurisdiction of the Courts of Queensland.
- 30.2 Where the laws applicable to this Deed are the laws of the State of South Australia, the provisions of Section 35B of the Trustee Act 1936 of that State are hereby expressly excluded from application to this Deed.
- 30.3 The rights of the Members and their Dependants to receive Benefits payable under this Deed shall be fully secured within the meaning of the Relevant Law.

CLAUSE 31. AMENDMENT OF DEED AND RULES

- 31.1 The Trustee may at any time by supplemental Deed ("Variation"), minute, resolution or oral resolution, repeal and replace or amend, alter, modify or add to any or all of the provisions of this Trust Deed or these Rules, which Variation may be prospective or retrospective.
- 31.2 Sub-clause 31.1 does not authorise amendments in the case of a regulated Superannuation fund constituted by this Deed if those amendments would have either of the following effects:
- (a) that an individual would be eligible to be appointed as Trustee unless the Deed or Rules provide after the amendment that the Fund has as its sole or primary purpose the provision of old-age pensions; or
 - (b) that the sole or primary purpose is not the provision of old-age pensions unless the Deed or Rules provide after the amendment that the Trustee must be a constitutional corporation.
- 31.3 The Variation shall be:

- (a) by oral declaration or written resolution of the Trustee and a certified copy of minutes of a meeting of the Trustee confirming any such oral declaration or a certified copy of any such written resolution shall be furnished to the Commissioner if required by the Relevant Law; or
- (b) by Deed executed by the Trustee and a copy of such Deed shall be forwarded to the Commissioner if required by the Relevant Law.

31.4 On any Variation being effected, the Trustee shall if so required by the Relevant Law advise the Members and Beneficiaries in writing of the nature and purpose of the Variation and the effect on their entitlements or rights in accordance with and in the manner and time required under the Relevant Law.

31.5 No Variation shall have the effect of:

- (a) reducing or adversely affecting the rights or claims of a Member to accrued entitlements under the Fund which has arisen prior to the Variation being effected; or
- (b) reducing the amount of an entitlement other than an entitlement referred to in paragraph 31.5(a) that is or may become payable in relation to a period before the date of the Variation,

unless:

- (c) the reduction is required to enable the Fund to comply with the Relevant Law;
- (d) the Member so affected consents in writing to the reduction; or
- (e) the Commissioner consents in writing to the reduction,

provided that each Variation shall comply with the Relevant Law.

CLAUSE 32. TERMINATION OF FUND

32.1 The Funds as specified in paragraph 7.3(b) may be wound up on the happening of any of the following events:

- (a) the expiry of one month's notice to the Trustee and each Member by the Employer that it has decided to cease permanently contributing to the Fund;
- (b) where the Employer is a Company—if an order is made and effective resolution is passed for the winding up of the Employer other than for the purpose of amalgamation or re-construction or if the Employer for any reason ceases to carry on business;
- (c) if the Employer is a partnership or sole trader—if the partnership is dissolved or the business of the Employer in any way ceases to exist, other than for the purpose of succession or re-construction; or
- (d) if the Trustee is of the opinion that it would be in the best interests of the Members to do so.

32.2 In the case of Members subject to Schedule 1 and subject to paragraph 32.1(a) the Trustee may, if it considers it would be in the interests of Members, instead of closing the Fund make arrangements for the continuation of the Fund and the reduction of Benefits to which Members would otherwise be entitled, in an equitable manner as determined by the Trustee following advice from the Actuary and having regard to the provisions of the Relevant Law.

32.3 The Funds specified in paragraph 7.3(a) shall be wound up if:

- (a) a majority of Members make such request in writing and the Trustee resolves to proceed with a winding up; or

- (b) the Trustee is of the opinion that it would be in the best interests of the Members to do so.

32.4 The Funds specified in paragraphs 7.3(c) and 7.3(e) may be wound up if:

- (a) provisions of the Industrial Award governing that Fund so provide; or
- (b) subject to any inconsistency under paragraph 32.4(a) (in which case the provisions of paragraph 32.4(a) shall prevail to the extent of any inconsistency), in the case of Funds specified in paragraph 7.3(e), any of the events specified in paragraphs 32.1(a) to 32.1(d) occur, or in the case of Funds specified in paragraph 7.3(e) the Trustee is of the opinion that it would be in the best interests of Members to do so.

32.5 The Funds specified in paragraph 7.3(d) may be wound up if the Trustee is of the opinion that it would be in the best interests of the Members to do so.

32.6 If the provisions of sub-clause 32.1 are applicable, the distribution of the relevant Fund's assets shall occur in the following priority:

- (a) in the payment of the Fund's expenses;
- (b) in the payment of Benefits to which Members or their Dependants become entitled before the commencement of the winding up;
- (c) in the provision of Benefits to Members employed by the Employer as at the commencement of the winding up of the Fund, and not otherwise entitled to a Benefit, of an amount equal to the Benefit the Member would have received had he left the Service of the Employer immediately prior to the commencement of the winding up of the Fund; and
- (d) subject to the restrictions in this Deed on payments to Employers, in the payment of such amounts if any determined by the Trustee as fair and equitable to the Employers in such proportions as determined by the Trustee.

Subject to the Relevant Law, any assets not applied pursuant to this paragraph may at the discretion of the Trustee be applied for the benefit of such persons then living who before the commencement of the winding up of the Fund were or had been employed by the Employer.

32.7 If the provisions of sub-clause 32.3 are applicable the Fund assets shall be distributed in accordance with Schedule 2 or pursuant to clause 10 and for those purposes the relevant Members shall be deemed to be entitled to the Benefits to be distributed.

32.8 If the provisions of sub-clause 32.4 are applicable the Fund assets shall be distributed amongst the Members in accordance with Schedule 3 or pursuant to clause 10 and for those purposes the relevant Members shall be deemed to be entitled to the Benefits to be distributed.

SCHEDULE 1

Benefits provided to Members under Schedule 1 shall be provided in the following circumstances:

Death Benefits

- 1.1 On the death of a Member while still in the Service of an Employer and before their Normal Retirement Date the Trustee shall pay or apply the greater of the Member's equitable share of the Fund as determined by the Actuary and the proceeds of any policy of life insurance taken out by the Trustee on the life of the Member to or for the benefit of any one or more persons as the Trustee determines in accordance with Rule 1.2 PROVIDED THAT the Employer may request that an additional amount be provided and the Trustee may accede to such a request subject to the Trustee forming an opinion that the provision of such additional Benefit does not thereby endanger the Benefit accrued to any other Member by the terms of the Deed.
- 1.2 The Trustee shall pay or apply a death Benefit in respect of a Member determined under Rule 1.1 in accordance with clause 25 and clause 29.
- 1.3 On the death of a Member after his Normal Retirement Date and before payment of a late retirement Benefit the then present value as determined by the Actuary of the late retirement Benefit which would have been payable had the Member retired on the date of his death shall be paid or applied by the Trustee under the provisions of clause 25 and clause 29.
- 1.4 Where a Member is not acceptable at standard rates under an insurance policy that the Trustee may effect for the purpose of re-insuring any part of his death Benefit or Total and Permanent Disablement Benefit, the amount of a Member's death Benefit or Total and Permanent Disablement Benefit may be reduced by such an amount as the Trustee considers appropriate after reference to the Actuary.

Retirement Benefits

- 2.1 On the retirement of a Member from the employment of an Employer on his Normal Retirement Date, the Member shall be entitled to a Pension calculated according to such formula as is stipulated by the Employer at the time of his admission under the Deed, provided that if no such stipulation is made, the following shall apply:
 - (a) in the case of Non-Executive Members—
 $0.875 \text{ per cent} \times \text{Salary} \times \text{Service Whilst a Member}$; and
 - (b) in the case of Executive Members—a Pension which is not regarded as producing an excessive Benefit under the Tax Act on the assumption that it is the only Benefit that the particular Member has received.
- 2.2 If a Member dies whilst in receipt of a Pension under Rule 2.1, the commuted value of the unexpired Pension shall be dealt with as if it constituted a death Benefit subject to the provisions of Rule 1.2.

Late Retirement Benefits

- 3.1 On the cessation of employment of a Member with an Employer after his Normal Retirement Date and for reasons other than the Member's death a Pension determined by the Actuary shall be payable which, having regard to the retirement Benefit provided for, the earning experience of the Fund, Contributions made by or on behalf of the Member since his Normal Retirement Date and such other factors as are considered relevant by him is considered by him to be equitable in the circumstances.
- 3.2 If a Member dies whilst in receipt of a Pension under Rule 3.1, the commuted value of the unexpired Pension shall be dealt with as if it constituted a death Benefit subject to the provisions of Rule 1.2.

Early Retirement Benefits

- 4.1 On the cessation of employment with an Employer of a Member within ten (10) years of his Normal Retirement Date and with the consent of the Employer and the Trustee an early retirement Benefit of a Pension determined by the Actuary to be equitable in the circumstances shall be payable to the Member PROVIDED THAT such a Pension shall not exceed an amount determined according to one of the following formulae:
- (a) in the case of an Executive Member—the Pension which would be payable pursuant to Rule 2.1 if the cessation of employment were deemed to have occurred as a result of the retirement of the Employee after his Normal Retirement Date; or
 - (b) in the case of a Non-Executive Member—such formula as is stipulated by the Employer at the time of his admission under the Deed PROVIDED THAT if no such stipulation is made the following shall apply:

$$0.875 \text{ per cent} \times \text{Salary} \times \text{Plan Membership} \times [1 - (0.025 \times \text{prospective future Service to Normal Retirement Date at the date of early retirement})].$$

- 4.2 If a Member dies whilst in receipt of a Pension under Rule 4.1, the commuted value of the unexpired Pension shall be dealt with as if it constituted a death Benefit subject to the provisions of Rule 1.2.

Disablement Benefits

- 5.1 On a Member becoming Totally and Permanently Disabled before receiving a Benefit on early, late or normal retirement a Benefit shall be provided to the Member equivalent to that which would have been paid had that Member died on the day on which he became Totally and Permanently Disabled PROVIDED THAT in determining the amount of Benefit payable the deemed proceeds of any policy of life insurance shall be excluded in calculating a Member's entitlement save and except to the extent that such policy provides for the payment of a Benefit on Total and Permanent Disablement.
- 5.2 On a Member becoming Temporarily Disabled a Pension shall at the absolute discretion of the Trustee be payable. The said Pension may be terminated at any time by the Trustee.
- 5.3 The Pension payable pursuant to Rule 5.2 shall be such amount if any as determined by the Trustee and shall be determined having regard to the terms of any insurance policy which the Trustee holds relating to the said Temporary Disablement.

Withdrawal Benefits

6.1 On the cessation of employment with an Employer of any Member in circumstances where no other Benefit is provided from the Fund to that Member or his Dependants and/or legal personal representative one of the following Benefits shall be payable from the Fund:

- (a) in the case of an Executive Member—a lump sum amount agreed to by the Trustee equal to the amount certified as fair and equitable by the Actuary having regard to that Member's period of Service with the Employer, Salary as at the date of termination of employment and such other factors as are considered relevant by the Actuary; or
- (b) in the case of a Non-Executive Member—a Benefit payable by reference to such factors as may be stipulated by the Employer at the time of his admission under the Deed PROVIDED THAT if no such stipulation is made the following shall apply:
 - (i) where not more than five years of Service Whilst a Member has been completed—a lump sum payable on the cessation of employment with the Employer of an amount not less than the Member's own Contributions together with interest at a rate appropriate to the net earnings of the Fund over the relevant period of membership, PROVIDED THAT the Benefit payable to a Non-Executive Member may in the Trustee's discretion be increased at the request of the Employer to an amount not exceeding the fair and equitable interest of the Member in the assets of the Fund as determined by the Actuary at the date of cessation of employment with the Employer; or
 - (ii) where more than five years of Service Whilst a Member has been completed—a lump sum payable to the Member on reaching his Normal Retirement Date calculated according to the following formula:

$$0.875 \text{ per cent} \times \text{Salary} \times \text{Plan Membership}$$

$$\frac{\text{x Plan Membership} \times (0.05 \times \text{Plan Membership})}{B}$$

Where B = Plan Membership plus prospective Service to the Member's Normal Retirement Date as at the date of cessation of employment with the Employer;

PROVIDED THAT the Benefit payable to a Non-Executive Member shall be increased at the discretion of the Trustee on the request of the Employer to an amount not exceeding the fair and equitable interest of the Member in the assets of the Fund as at the date of cessation of employment with the Employer as certified by the Actuary and PROVIDED FURTHER THAT if the Member should die before reaching his Normal Retirement Date, the Benefit shall be payable as soon as possible to such of the Member's Dependants and legal personal representative and in such proportions as the Trustee determines and shall equal the then current value of the withdrawal Benefit which would have been payable on the Member reaching his Normal Retirement Date as certified by the Actuary and PROVIDED FURTHER THAT subject to the provisions of the Deed at any time at the Trustee's absolute discretion the present value of a Non-Executive Member's withdrawal Benefit as determined by the Actuary, may be paid in lieu of the

above Benefit. In the event of such a payment, being made to or on behalf of the Member, the Trustee shall be released and discharged accordingly from any further liability in respect of such Member.

Form of Benefits

- 7.1 Any Pension Benefit presently payable to a person pursuant to this Schedule 1 may be commuted to a lump sum Benefit by the Trustee in accordance with clause 26 if and only if that person has requested the Trustee to do so.

- 7.2 Any lump sum Benefit presently payable to a person pursuant to this Schedule 1 may be commuted to a Pension Benefit by the Trustee in accordance with clause 26 if and only if that person has requested the Trustee to do so.

SCHEDULE 2

Benefits provided to Members under Schedule 2 shall be provided in the following circumstances:

Death Benefits

8.1 On the death of a Member prior to any other Benefit becoming payable under the Deed the Trustee shall subject to the other provisions of the Deed and Rules pay or apply the greater of:

- (a) the amount standing to the credit of the deceased Member's Employer's Contribution Account and Member's Accumulation Account as at the date of payment of the death Benefit; and
- (b) the proceeds of any policy of life insurance acquired or effected by the Trustee on the life of the Member

to or for the benefit of any one or more persons as the Trustee determines pursuant to Rule 8.2 PROVIDED THAT the total Benefit payable hereunder may be increased by the Trustee at the request of the Employer (if any) to an amount not exceeding the sum of the amounts determined pursuant to paragraphs (a) and (b) of this Rule and subject to the Trustee forming the opinion that the provision of such an increased Benefit does not thereby endanger the Benefit accrued to any other Member by the terms of the Deed.

8.2 The Trustee shall pay or apply a death Benefit in respect of a Member determined under Rule 8.1 in accordance with clause 25 and clause 29.

Retirement Benefits

9.1 On:

- (a) in the case of an A Class Member the termination of that Member's employment with an Employer on or after his Normal Retirement Date; or
- (b) in the case of a B, C or E Class Member the cessation of that Member's employment on or after his Normal Retirement Date or his ceasing to be Self-Employed on or after his Normal Retirement Date;

the Member shall be entitled to a Benefit equal to the sum of his Employer's Contribution Account and Member's Accumulation Account payable in the form of a Pension of such amount and on such terms as the Trustee shall subject to clause 24 determine.

9.2 If a Member dies whilst in receipt of a Pension under Rule 9.1, the commuted value of the unexpired Pension shall be dealt with as if it constituted a death Benefit subject to the provisions of Rule 8.2.

Disablement Benefits

10.1 On a Member becoming Totally and Permanently Disabled before receiving a Benefit on retirement a Benefit shall be provided to the Member equivalent to that which would have been paid had that Member died on the day on which the Trustee determined him to be Totally and Permanently Disabled PROVIDED THAT in determining the amount of Benefit payable the deemed proceeds of any policy of life insurance shall be excluded in

calculating a Member's entitlement save and except to the extent that such policy provides for the payment of a Benefit on Total and Permanent Disablement.

- 10.2 On a Member becoming Temporarily Disabled a Pension shall at the absolute discretion of the Trustee be payable. The said Pension may be terminated at any time by the Trustee.
- 10.3 The Pension payable pursuant to Rule 10.2 shall be such amount if any as determined by the Trustee and shall be determined having regard to the terms of any insurance policy which the Trustee holds relating to the said Temporary Disablement.

Withdrawal Benefits

- 11.1 Subject to the provisions of the Deed in circumstances where no other Benefit is payable to a Member or his Dependants and/or legal personal representative:
- (a) in the case of an A Class Member, on the cessation of his employment with an Employer; or
 - (b) in the case of a B or C Class Member, the cessation of that Member's employment or his ceasing to be Self-Employed;
 - (c) in the case of an E Class Member, on satisfying such conditions as are set out in the Relevant Law for payment of Benefits

then a lump sum equal to the sum of the Employer's Contribution Account and Member's Accumulation Account shall be payable.

Form of Benefits

- 12.1 Any Pension Benefit presently payable to a person pursuant to this Schedule 2 may be commuted to a lump sum Benefit by the Trustee in accordance with clause 26 if and only if that person has requested the Trustee to do so.
- 12.2 Any lump sum Benefit presently payable to a person pursuant to this Schedule 2 may be commuted to a Pension Benefit by the Trustee in accordance with clause 26 if and only if that person has requested the Trustee to do so.

SCHEDULE 3

Benefits

Subject to the Rules of this Schedule Benefits provided to Members under Schedule 3 shall be provided in circumstances identical to those set out in Schedule 2.

- 13.1 Notwithstanding any Rule to the contrary contained in this Schedule Benefits shall not be provided in a manner inconsistent with the provisions of the Industrial Award covering the relevant Member.

To the extent of any inconsistency the provisions of the Industrial Award shall be deemed to be incorporated in this Schedule and Benefits payable under this Schedule shall be made in accordance with the provisions of that Award.

- 13.2 For the purposes of applying the provisions of Schedule 2 to this Schedule a Member receiving Benefits under this Schedule shall receive Benefits identical to those which would have been received by a Member admitted pursuant to paragraph 3.1(c).