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**THE NELSON FAMILY
PENSION FUND**

Prepared for:

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Self Managed Superannuation Trust Deed

This Trust Deed is made by:

Jaymoss Nominees Pty Ltd (ACN 073 690 276) of 155 Penguin Road, Safety Bay, Western Australia.

referred to as the "Trustee".

RECITALS:

- ABN 66 012 878 629
WESTERN AUSTRALIA STAMP DUTY
DEC 11/12/01 07:59 001923492-001
FEE \$ *****0
SD \$ *****20.00 PEN *****.00
- A. The Trustee and the Members desire to establish a "self managed superannuation fund", as defined in the SIS Legislation, to:
- (1) provide superannuation benefits to Members;
 - (2) while the Trustee(s) of the Fund are natural persons, to provide these superannuation benefits by way of old-age pensions; and
 - (3) to act for any other purposes as permitted from time to time by the SIS Legislation.
- B. The Trustee desires to maintain the Fund as a complying superannuation fund under the *Tax Act*.
- C. The Trustee desires that the fund have the capacity to become another type of superannuation fund under the SIS Legislation.
- D. The Principal Deed established **The Nelson Family Pension Fund** and by the provisions of the Principal Deed the power to amend the Principal Deed is vested in the Trustee, who has held that office continuously up to and including the date of this Deed.

OPERATIVE PART:

1. Definitions and Interpretation

In this deed unless a contrary intention appears:

- 1.1 "Actuary" means a practising member of the Institute of Actuaries of Australia or any other actuaries approved by the Relevant Requirements;
- 1.2 "Allocation Date" means the date the Trustee may from time to time determine for the purposes of this Deed;
- 1.3 "Allocation Period" means a period ending on an Allocation Date and starting the day after the previous Allocation Date. The first Allocation Period is such period as the Trustee determines;

- 1.4 **"Approved Fund"** means a superannuation fund, approved deposit fund, eligible roll-over fund, retirement savings account, small accounts holding reserve or other approved funds including a pension fund or annuity arrangement which can accept a transfer from the Fund of a Member's Benefit or is authorised to transfer a Member's Benefit to the Fund in compliance with the Relevant Requirements;
- 1.5 **"Asset-test Exempt Pension"** means a Benefit that is paid as a Pension that is exempt or excluded from the assets test under relevant provisions of the *Social Security Act 1991 (Cth)* or the *Veterans Entitlement Act 1986 (Cth)* (and any applicable regulations);
- 1.6 **"Associate"** means a related person or entity as defined in the SIS Legislation or, at the Trustee's determination, such other meaning given in the Relevant Requirements;
- 1.7 **"Benefit"** means any amount paid or payable by the Fund to or in respect of a member as a lump sum Benefit or Pension Benefit under this Deed;
- 1.8 **"Child"** includes a step child, ex nuptial child, a legally adopted child, a person recognised by the Trustee as an adopted child and a child of a Member born within 10 months after the death of the Member, provided that such child shall be regarded for the purposes of the SIS Legislation as a dependent of the Member;
- 1.9 **"Complying Pension"** means, unless the Trustee determines otherwise, a Pension permitted by the Relevant Requirements provided that where the relevant Pension is an Asset-test Exempt Pension, the relevant provisions of the *Social Security Act 1991 (Cth)* or the *Veterans Entitlement Act 1986 (Cth)* (and any applicable regulations) apply to the extent of any inconsistency in preference to the Relevant Requirements relating to the provision of that Pension to ensure that the Pension qualifies as an Asset Test Exempt Pension;
- 1.10 **"Complying Superannuation Fund"** means a complying superannuation fund for the purposes of Part IX of the *Income Tax Assessment Act* and the SIS Legislation;
- 1.11 **"Corporate Trustee"** is a trading or financial corporation formed within the limits of the Commonwealth under the jurisdiction of the Commonwealth under section 51(xx) of the *Commonwealth Constitution* eligible to act as a trustee of a regulated superannuation fund according to the Relevant Requirements;
- 1.12 **"Date of Disablement"** means the date a Member is accepted (as the case requires) as being Totally and Permanently Disabled or Totally and Temporarily Disabled under any Insurance providing benefits on disablement under which the Trustee may have insured the Member or if there is no such Insurance or if no such date can be ascertained, such date as the Trustee in its discretion may determine;
- 1.13 **"Deed"** means the Trust Deed by which the Fund has been established as amended from time to time;
- 1.14 **"Dependant"** of a Member means:
- (a) the spouse of the Member;
 - (b) any Child of the Member at any age; and
 - (c) any other person who, in the opinion of the Trustee, is wholly or partly financially dependent upon the Member;
- 1.15 **"Disbursements"** means, unless the Trustee determines otherwise:

- (a) the direct costs of establishing, administering, managing, operating and terminating the Fund; and
 - (b) any administrative or insurance costs or Taxes which are or which relate to those direct costs;
- 1.16 **"Eligible Fund"** means a superannuation fund, an approved deposit fund, an eligible roll-over fund, a roll-over annuity or any like fund or annuity or any other entity that the Trustee determines as an Eligible Fund for which the acceptance of monies or assets from, or the payment or transfer of monies or assets to, would not in the opinion of the Trustee, be in breach of the Relevant Requirements;
- 1.17 **"Eligible Person"** means a person who can contribute to and participate in a superannuation fund under the Relevant Requirements;
- 1.18 **"Employer"** means the person by which a Member is for the time being employed;
- 1.19 **"Financial Year"** means:
- (a) a year ending on 30 June or any part of such a year occurring at the commencement or termination of the Fund; and
 - (b) any other period determined by the Trustee;
- 1.20 **"Forgone Benefit"** means that part of any account established for a Member that is not payable to or for a Member by virtue of this Deed, excluding any amount which is not payable to or for a Member by virtue of being preserved under the Relevant Requirements;
- 1.21 **"Insurance"** means any policy of insurance effected by the Trustee:
- (a) to provide the whole or part of a death or Total and Permanent Disablement Benefit payable to or for a Member; and
 - (b) to provide the whole or part of a Total and Temporary Disablement Benefit payable to or for a Member;
- 1.22 **"Insurer"** means a person authorised to carry on life insurance business under the *Life Insurance Act* 1945 or any other person authorised to carry on life insurance business or to issue an annuity in any State or Territory of Australia;
- 1.23 **"Member"** means a person admitted as a member under the terms of this Deed and recorded in the Schedule of Members and has not ceased to be a Member under this Deed and includes such a person's executor or legal personal representative, where the context permits;
- 1.24 **"Normal Retirement Date"** means a Member's 65th birthday or such other date as the Member and the Trustee may agree;
- 1.25 **"Permitted Contributor"** means:
- (a) a Member;
 - (b) an Employer;
 - (c) an Associate of a Member or Employer; and

- (d) other persons permitted to make contributions to the Fund under the Relevant Requirements;
- 1.26 "Pension" means a pension or annuity permitted by the Relevant Requirements;
- 1.27 "Principal Deed" means the deed establishing **The Nelson Family Pension Fund** executed by **Jaymoss Nominees Pty Ltd (ACN 073 690 276)** as Trustee dated **11 November 1996**;
- 1.28 "Fund" means the superannuation fund established by the Principal Deed known as **The Nelson Family Pension Fund**;
- 1.29 "Reference Schedule" means the reference schedule attached to this Deed;
- 1.30 "Relevant Requirements" means the SIS Legislation and any other laws or legislation, or the requirements of the Responsible Authority or any other competent authority which must be satisfied so that:
 - (a) the Fund obtains concessional tax treatment;
 - (b) the Fund remains a regulated superannuation fund;
 - (c) the Employer or Member retains any entitlement to a tax deduction unless they choose not to claim a tax deduction;
 - (d) no dealing with or concerning the Fund gives rise to a fringe benefit which is taxable to an Employer unless the Employer chooses to incur a fringe benefits tax liability;
 - (e) a Pension Benefit is an Asset-Test Exempt Pension; and
 - (f) no penalty is imposed on the Trustee or directors of the Trustee under or by virtue of the Relevant Requirements;
- 1.31 "Responsible Authority" means the Australian Prudential Regulation Authority (and prior to 1 July 1998 includes a reference to the Insurance and Superannuation Commission) or the Australian Taxation Office, as the case may be, including the authorised officers of these bodies, or such other persons or bodies empowered to administer the Relevant Requirements;
- 1.32 "Review Date" means:
 - (a) such date as the Trustee may from time to time nominate for either the Fund or a particular Member; and
 - (b) for a Member who first joins the Fund between Review Dates, the date the Member joined the Fund and then the Review Date described in paragraph (i) above;
- 1.33 "Review Period" means a period commencing on a Review Date and ceasing immediately prior to the next Review Date;
- 1.34 "SIS Legislation" means the following Acts:
 - (a) *the Superannuation Industry (Supervision) Act 1993*;
 - (b) *the Superannuation (Financial Assistance Funding) Levy Act 1993*;
 - (c) *the Superannuation (Resolution of Complaints) Act 1993*;

- (d) *the Superannuation (Rolled-Over Benefits) Levy Act 1993;*
- (e) *the Superannuation Industry (Supervision) Consequential Amendments Act 1993;*
- (f) *the Superannuation Supervisory Levy Amendment Act 1993;*
- (g) *the Occupational Superannuation Standards Amendment Act 1993;*
- (h) and any regulations made under the above Acts;
- (i) and all other requirements whether legislative or administrative including:
 - (A) any administrative guidelines issued by the Responsible Authority; or
 - (B) statements by government advising changes and any proposed changes to the SIS Legislation;

with which the Fund must comply or in the opinion of the Trustee ought to comply in order to be a Complying Superannuation Fund or not to be in contravention or breach of the SIS Legislation;

- 1.35 **"Superannuation Guarantee Charge"** means a charge or tax imposed on employers for not making certain superannuation contributions;
- 1.36 **"Tax Act"** means *the Income Tax Assessment Act 1936 and Income Tax Assessment Act 1997* as amended from time to time, as is applicable;
- 1.37 **"Taxes"** means income tax (including any tax on the disposal of assets), withholding tax, stamp, financial institutions and other duties, and any other tax for this Deed or the Fund;
- 1.38 **"Total and Permanent Disablement"** of a Member has:
 - (a) the meaning given to it (or any corresponding term) in any Insurance providing benefits on disablement under which the Trustee has insured the Member; or
 - (b) if no meaning can be ascertained under paragraph (i), the meaning for the time being adopted by the Trustee in its discretion,
 and **"Totally and Permanently Disabled"** has a corresponding meaning;
- 1.39 **"Total and Temporary Disablement"** of a Member has:
 - (a) the meaning given to it (or any corresponding term) in any Insurance providing benefits for such disablement under which the Trustee has insured the Member; or
 - (b) if no meaning can be ascertained under paragraph (i), the meaning for the time being adopted by the Trustee in its discretion,
 and **"Totally and Temporarily Disabled"** has a corresponding meaning;
- 1.40 **"Trustee"** or **"Trustees"** means the trustee or trustees for the time being of the Fund;
- 1.41 **"Trustee Investments"** means any investments in which trustees for the time being are authorised by the law of any State or Territory of the Commonwealth of Australia to invest moneys held on trust;

1.42 Unless a contrary intention appears the following terms have the same meanings they have from time to time in the SIS Legislation:

allocated pension" "actuary", "annuity", "approved auditor", "approved deposit fund", "basic equal representation rules", "beneficiary", "civil penalty order", "constitutional corporation", "eligible roll-over fund", "independent trustee", "eligible spouse contributions", "legal personal representative", "mandated employer contributions", "old age pension", "pension", "regulated superannuation fund", "spouse", "superannuation fund";

1.43 if any part of the Deed is invalid, that does not affect the validity of the remainder of the Deed;

1.44 a reference to the Deed or any other document includes any variation or replacement of them;

1.45 a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

1.46 headings do not interpret the Deed;

1.47 singular includes the plural; and

1.48 "person" includes a firm, a body corporate, an unincorporated association or an authority.

2. PURPOSE OF FUND

2.1 While the Trustee is not a Corporate Trustee, the sole or primary purpose of the Fund is the provision of old-age pensions to Members as required under the Relevant Requirements.

2.2 While the Trustee is a Corporate Trustee, the sole or primary purpose of the Fund is the provision of Benefits to Members as required under the Relevant Requirements.

3. COMMENCEMENT OF FUND

3.1 Unless the Trustee declares otherwise, the Fund is deemed to start on the date of the Deed.

4. ELIGIBILITY TO BE A MEMBER

Eligibility and Acceptance

4.1 Only an Eligible Person may apply to become a Member of the Fund. An Eligible Person becomes a Member upon the Trustee's acceptance of the Eligible Person's application in a format substantially similar to the application set out in Appendix "A" or in such other format or manner as the Trustee may from time to time prescribe or accept.

Pre-conditions to Acceptance

- 4.2 Before accepting an Eligible Person as a Member, the Trustee may require the Eligible Person to provide any information or documents they consider relevant.

Absolute Discretion to Reject Application

- 4.3 The Trustee may reject any application for membership at its absolute discretion.

Cessation of Membership

- 4.4 A person ceases to be a Member when:

- (a) all benefits which are or may be payable for the Member have been paid; or
- (b) a transfer is made to an Eligible Fund in satisfaction of all the Member's entitlement to benefits; or
- (c) the Member's entitlement to benefits is terminated.

5. FUND CONTRIBUTIONS

Contributions Held on Trust

- 5.1 All amounts forming part of the Fund are held in trust by the Trustee subject to the terms of this Deed.

Permitted Contributions

- 5.2 A Permitted Contributor may make contributions to the Fund, on behalf of one or more Members, of any property, PROVIDED THAT:

- (a) all contributions are subject to the consent of the Trustee; and
- (b) the Trustee must consent only to contributions that comply with the Relevant Requirements.

Trustee Obligations

- 5.3. The Trustees:

- (a) may accept eligible spouse contributions;
- (b) only accept contributions that comply with the Relevant Requirements;
- (c) may refuse such contributions as they consider appropriate.

Repayment of Proscribed Contributions

- 5.4 If the Trustee becomes aware of the acceptance of any contribution to the Fund contrary to the Relevant Requirements, the Trustee must as soon as is practicable in the circumstances:

- (a) repay such contribution (less any amounts paid out for expenses or Taxes for those contributions); and
- (b) in so repaying any contributions, are entitled but not in any way obliged, to pay any earnings or interest attributable to such contributions.

Taxes and Costs of Contributions

5.5 The Trustee may deduct from any contribution or other payment made to the Fund.

- (a) any Taxes that are payable in respect of it;
- (b) any expense of the Fund that is attributable to a Member, for whom such contribution or payment is being made.

6. MEMBER BENEFITS

When Benefits are Payable

6.1 Benefits are payable to or for a Member:

- (a) on or after the Member's Normal Retirement Date;
- (b) on death before the Member's Normal Retirement Date; or
- (c) in such other circumstances as are permitted or required by the Relevant Requirements.

Payment of Benefits

6.2 A Member shall, after producing to the Trustee such evidence and doing such acts and executing such documents as the Trustee reasonably requires, be entitled to the payment of a Benefit and:

- (a) the Trustee in paying a Benefit may act on any proofs or presumptions they consider satisfactory, even if they are of no legal effect;
- (b) the Trustee may postpone the payment of any Benefit until it is satisfied that the requirements of this clause have been adequately met; and
- (c) a Benefit, the payment of which is postponed pursuant to this clause, does not (unless the Trustee determines otherwise) accrue any interest or earnings for the period that the payment is postponed.

Methods of Paying Benefits

6.3 The Trustee may, subject to the Relevant Requirements, provide the following Benefits to or for a Member:

- (a) a lump sum Benefit;

- (b) an allocated pension;
- (c) a Complying Pension;
- (d) an annuity from an Approved Fund;
- (e) other pensions and Benefits as permitted by the Relevant Requirements; or
- (f) a combination of the above Benefits which may include more than one of each.

Maximum Value of Benefit

- 6.4 Subject to clause 6.10, the maximum value of a Benefit payable to or for the benefit of a Member shall be calculated in accordance with the Member's interest in the Fund as at the date or dates of the occurrence of the event or events that gave rise to the Benefit. In the event that the payment of a Benefit has been delayed, the Trustee may in its absolute discretion pay such interest, as they consider just and reasonable, in addition to that Benefit.

Minimum Value of Benefit

- 6.5 Notwithstanding any other provision in this Deed, a Member's minimum benefits are as required by the SIS Legislation from time to time.

Form of Benefits

- 6.6 Subject to the Relevant Requirements Benefits may be paid to Members either in money or, at the request of the Member, in any other form of property.

Compulsory Preservation of benefits

- 6.7 If the Trustee considers that all or any part of a Benefit must be preserved in order to comply with the Relevant Requirements, the Trustee must:
- (a) pay that part of the Benefit to an Eligible Fund whose governing rules require the preservation of such Benefit under the Relevant Requirements; or
 - (b) retain that part of the Benefit, including earnings of the Fund, until the Relevant Requirements permit it to be paid., or
 - (c) otherwise deal with such Benefit according to the Relevant Requirements.

Retention of Benefit on Request of Member

- 6.8 The Trustee may, on the request of a Member who is presently entitled to a Benefit, defer payment, of all or part of that Benefit for as long as the Trustee shall determine, subject to the Relevant Requirements and to the revocation of such request by the Member.

Insurance of Benefits

- 6.9 If the Trustee takes out or increases Insurance, or seeks to do so, for a Member's benefits, and:

(a) the Insurer does not accept the Member on its standard terms or on terms acceptable to the Trustees; or

(b) the Insurer restricts the level or scope of Insurance;

the Trustee may modify the Member's benefits as it considers appropriate.

Payment of Insured Benefits

6.10 The Trustee is not required to pay to or for a Member that part of a Benefit which is insured or intended to be derived from insurance, except to the extent that the Trustee has received the proceeds of any Insurance attributable to the Benefit.

Member Under Legal Disability

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

(a) to any Dependant of the Member or other person;

(b) for or towards the maintenance, education, advancement or otherwise for the Benefit of the Member or other person in such form and manner and subject to such terms and conditions as the Trustee thinks fit; and

(c) without limiting the generality of paragraph (b) of this clause, to a person who appears to the Trustee to be a trustee or, or a parent or guardian of, or to have for the time being the care or custody of the Member or other person or to have the financial expenses of the care or custody of the Member or other person.

Unrestricted Non-Preserved Benefits

6.12 A Member's "unrestricted non-preserved benefits", (as that term is defined in the SIS Legislation) are only payable to the Member according to the other provisions of the Deed applicable to payment of benefits unless the Trustee in its sole discretion determine otherwise.

Binding Nominations

6.13 Subject to the Relevant Requirements, a Member may serve in writing upon the Trustee, a binding nomination, directing the payment of Benefits that may arise as a result of the Member's death, to one or more Dependants of the Member, and:

(a) if the Trustee consents, such a binding nomination may relate to the type, amount and proportions of different components of the Benefits to be paid upon the Member's death; and

(b) the Member may, subject to the Relevant Requirements, vary any such binding nomination at any time in writing prior to the Member's death.

Non-Binding Nominations

6.14 Subject to the Relevant Requirements, a Member may serve in writing upon the Trustee, a non-binding nomination, directing the payment of Benefits that may arise as a result of the Member's death, to one or more Dependants of the Member or to the Member's legal personal representative ("**Non-Binding Nominated Beneficiaries**") and:

- (a) Where the Member has not made a binding nomination under the Relevant Requirements, the Trustee may make any determination relating to the type, amount and proportions of different components in any Benefit and pay a Member's Benefit on the Member's death to:
 - (i) a Dependant of the Member;
 - (ii) the Member's legal personal representative (even though there are living Dependants of the Member);
 - (iii) the Non-Binding Nominated Beneficiaries; or
 - (iv) any combination of the persons set out in items (i) to (iii) above, in the proportions that the Trustee, in its absolute discretion, determine.
- (b) FOR THE ABSENCE OF DOUBT, a Trustee is not bound to pay Benefits on a Member's death to the Non-Binding Nominated Beneficiaries.

Benefits Following Death of Member

6.15 Upon being notified of the death of a Member, the Trustee must make reasonable inquiry to ascertain the surviving Dependants and the legal personal representative of the Member, if no Dependant is located and no legal personal representative appointed within 12 months of the notification of the Member's death:

- (a) the amount otherwise payable as a death Benefit is forfeited; and
- (b) if subsequently a legal personal representative is appointed or a Member's Dependant is found the Trustee may pay the whole or part of the forfeited amount to the legal personal representative or a Member's Dependant.

Total and Permanent Disablement Benefits

6.16 The Trustee may, subject to this Deed, pay a Benefit to the Member or any one or more of the Member's Dependants, following the Total and Permanent Disablement of the Member.

Total and Temporary Disablement Benefits

6.17 A Total and Temporary Disablement Benefit as insured is paid on the terms and conditions of the Insurance or as the Insurer may agree with the Trustee.

Tax on Benefits

6.18 The Trustee may deduct from any Benefit payable any Taxes that are payable in respect of it.

Discharge of Trustee

- 6.19 The Trustee is discharged from all liability in respect of a Benefit where it pays the Benefit in good faith to or on behalf of the person they believe is entitled to it, or in accordance with this Deed.

7. PENSIONS

Pensions (other than Old Age Pensions)

- 7.1 Any Lump Sum Benefit, may at the request of the Member, be applied to provide any form of Pension or combination of Pensions to the Member, provided that it is permitted by the Relevant Requirements.

Terms of Old Age Pensions

- 7.2 A Benefit required to be paid as an old age pension shall be paid in the fashion and instalments of such amount as shall be agreed between the Trustee and the Member, subject to the Relevant Requirements and provided that the Fund is and will remain eligible to be a Complying Superannuation Fund.

Reconstitution of Old Age Pension into Lump Sum

- 7.3 A Member or beneficiary may, subject to the provisions of the Relevant Requirements, reconstitute an old age pension into a capital sum upon the following conditions:
- (a) if the pension is reconstituted before or on the date of the first payment of the pension, it is to be reconstituted to a capital sum equal to a lump sum Benefit; and
 - (b) if the pension is reconstituted after the date the first instalment of the pension has fallen due for payment, the pension is reconstituted to a lump sum of such an amount as the Trustee may determine.

8. ANNUITIES

Trustee Empowered to Purchase Annuity

- 8.1 Trustee is may provide any pensions by way of an annuity purchased by the Trustee in the name of the relevant Member or in the name of the Member and one or more of the Member's Dependants and subject to the Relevant Requirements, upon such terms as the Trustee may determine.

9. FORFEITURE

Circumstances in which Benefits Forfeited

- 9.1 A Member forfeits, to the extent the Relevant Requirements permit, a contingent or prospective or current entitlement to a benefit if:
- (a) the Member attempts to assign, alienate or charge all or part of that benefit; or

- (b) the Member is declared mentally ill or the Member's affairs are liable to be dealt with under the laws relating to mental health.

Treatment of Forfeited Benefits

- 9.2 The Trustee may at its discretion but subject to the Relevant Requirements, apply a forfeited Benefit for one or more of the Members and Dependants.

Forfeited Benefits Account

- 9.3 The Trustee must establish a Forfeited Benefits Account, to which it must:

- (a) credit any Forgone Benefit which is not dealt with under this Deed; and
- (b) debit any Forgone Benefit applied under this Deed;

and the Trustee may subject to the Relevant Requirements apply amounts in the Forfeited Benefits Account:

- (c) to supplement benefits that all or some of the Members or their Dependants have rights to receive from the Fund; or
- (d) to provide additional benefits for all or some of the Members or their Dependants; or
- (e) for any other purpose the Trustee determines.

10. TRANSFERS

Transfers To Another Fund

- 10.1 If a Member or a beneficiary makes a written direction to the Trustee, the Trustees must pay or transfer all or part of the Member's or beneficiary's interest and entitlement in the Fund, as the direction may require, to an Eligible Fund, PROVIDED THAT:

- (a) the payment or transfer must be consistent with the Relevant Requirements;
- (b) the Trustees may not pay or transfer more than the amount requested by the Member or the beneficiary, but may to the extent necessary, pay less than the amount requested in circumstances where:
 - (i) to make the transfer as directed the Fund would be required to sell an asset or assets or borrow money; and
 - (ii) in the reasonable opinion of the Trustee, the sale of the relevant asset or assets at the present time would be significantly financially deleterious to the current or future interests of other Members or beneficiaries; and
 - (iii) the Fund is reasonably unable or the Trustee is reasonably unwilling to borrow money or sufficient money, in light of the impact such borrowing would cause to the current or future financial interests of other Members or beneficiaries;

the payment or transfer will discharge the Member or beneficiary's entitlement to any benefit to the extent of the amount so paid or transferred.

Transfers From Another Fund

10.2 If a Member makes a written direction to the Trustee, the Trustee subject to the Relevant Requirements:

- (a) may accept the transfer of assets from another Eligible Fund; and
- (b) where the transfer is made for the Member's interest or entitlement in the Eligible Fund, provide benefits to the Member pursuant to such transfer in the manner set forth in this Deed; and
- (c) where the transfer is not attributable to a Member's interest or entitlement in the Eligible Fund,

the Trustee may treat the amount of such transfer in such manner as it considers equitable. This includes deeming the assets being so transferred as a Forgone Benefit under this Deed and applying them under this Deed.

11. RECORDS AND AUDIT

Records

11.1 The Trustees must keep records for the Fund of Members, assets and liabilities, income and expenditure, and all other matters required by the Relevant Requirements and retain them for the period required by the Relevant Requirements.

Auditor

11.2 The Trustees must appoint an auditor, for each Financial Year or as otherwise required by the Relevant Requirements to:

- (a) audit the accounts and records of the Fund; and
- (b) report in writing to the Trustee, within the time specified by the Relevant Requirements.

12. ACCOUNTS

Annual Accounts

12.1 The Trustees must, for each Financial Year, prepare an income and expenditure account and a statement of net assets of the Fund ("the annual accounts").

Nature of accounts

12.2 In addition to the requirement to prepare annual accounts, the Trustees for the convenient and efficient operation and administration of the Fund may establish such accounts in the records of the Fund as they consider necessary or desirable, including:

- (a) an accumulation reserve account;
- (b) an accumulation retirement account;
- (c) a pension reserve account;
- (d) such reserve accounts or liability accounts as may assist the Trustee to identify the value of assets that may have been exchanged or segregated as either current pension assets, non-current pension assets or that are dealt with as a different sub-fund, segment or partition; and
- (e) such other accounts and reserves as the Trustee considers appropriate from time to time including, one or more contribution, miscellaneous and investment reserve accounts.

Provision and Adjustments to Accounts

12.3 The Trustee may:

- (a) make provision or adjustments in the accounts for any and all Disbursements; and
- (b) alter, exchange and segregate current pension assets from non-current pension assets and deal with the Fund as different sub-funds, segments or partitions and account for them separately.

Method of Accounting

12.4 The Trustee must record in the Fund's books of account in respect of each Member:

- (a) as a credit, contributions paid to the Fund;
- (b) as a debit, any losses to the Fund;
- (c) as a credit, any profits and earnings of the Fund;
- (d) as a credit, proceeds of Insurance, except proceeds of Insurance that are otherwise payable to or for a Member on death, Total and Permanent Disablement, or Temporary Total Disablement.¹
- (e) as a debit, amounts to pay Taxes and other expenses, or amounts to provide for them,
- (f) as a credit, amounts no longer required to meet Taxes or expense liabilities;
- (g) as a debit, amounts to pay premiums for Insurance or the consideration for an annuity.¹
- (h) as a credit, amounts received from the Forfeited Benefits Account;
- (i) as a debit, amounts transferred to the Forfeited Benefits Account as a debit, amounts paid as benefits or transferred to other Eligible Funds;
- (j) as a debit or a credit any other amounts for such matters or things as they consider appropriate;

subject to the Relevant Requirements, in such proportions they determine to be appropriate.

Allocation Date

12.5 The Trustees must ensure that there is an Allocation Date in each Financial Year.

Fund Earning Rate

12.6 As soon as practicable after an Allocation Date, the Trustees must declare a Fund Earning Rate for the Allocation Period ending on that Allocation Date and apply it to accounts as at the Allocation Date.

Interim Fund Earning Rate

12.7 The Trustees, as they consider appropriate, may set an Interim Fund Earning Rate to be applied to the accounts of a Member as at the date when an amount becomes payable from the Fund, for the period since the last Allocation Date.

Determination of Fund Earning Rate

12.8 The Fund Earning Rate must be determined in accordance with the Relevant Requirements and in consideration of:

- (a) the earnings of the Fund, including all income and realised and unrealised capital gains;
- (b) the realised and unrealised losses and expenses of the Fund, including Taxes that are or may be incurred by the Trustee which is not debited to an account;
- (c) any provisions established by the Trustees for Taxes and expenses;
- (d) the appropriateness of averaging profits, earnings, losses and expenses over two or more Allocation Periods; and
- (e) such other matters the Trustee considers appropriate.

Application of Fund Earning Rate to Accounts

12.9 The Trustees must decide whether a Fund Earning Rate or Interim Fund Earning Rate is to be applied to accounts on daily balances, on average balances, or on some other basis; and must allocate the losses, profits, expenses and earnings of the Fund in the accounts at the applicable Fund Earning Rate or Interim Fund Earning Rate.

Averaging Fund Losses, Profits, Expenses and Earnings

12.10 If the Trustees in determining a Fund Earning Rate decide to average the losses, profits, expenses and earnings of the Fund over two or more Allocation Periods, the Trustees may establish an Earnings Averaging Account to or against which the Trustees may:

- (a) credit such amount as the Trustees may retain from the Fund's earnings; or
- (b) debit such amount as the Trustees may use to supplement the Fund's earnings.

13. INVESTMENTS AND BORROWINGS

Broad Power to Invest

- 13.1 (a) The Trustees may invest all or part of the money and other assets of the Fund in any manner in which they could if they were personally entitled as beneficial owners of those assets including investments:
- (i) in Insurance;
 - (ii) in Trustee Investments;
 - (iii) in the purchase, improvement or mortgage of real property;
 - (iv) on deposit with any bank or building society or any other company partnership or person with or without security;
 - (v) in shares, stocks, options, debentures, bonds, unsecured notes or other securities;
 - (vi) in units or sub-units of any unit trust including units in a pooled superannuation trust;
 - (vii) in common funds;
 - (viii) in bills of exchange or other negotiable instruments; or
 - (ix) in options, hedging contracts, futures contracts and other financial instruments;
- (b) The Trustees may dispose of, vary, transpose, replace or encumber investments or mix investments with investments of other people or trustees as if they were personally entitled to them as beneficial owners
- (c) The Trustees must invest in a manner which is consistent with the Relevant Requirements;
- (d) The Trustees may borrow money in a manner consistent with the Relevant Requirements; and
- (e) The Trustees may only lend money to Members if it is consistent with the Relevant Requirements.

14. POWERS OF TRUSTEE

General

- 14.1 The Trustees may do anything they consider necessary to manage the Fund in an efficient and economical manner according to this Deed and to administer the Fund so as to comply with the Relevant Requirements, including:
- (a) paying any costs, charges and Taxes relating to the Fund;
 - (b) appointing persons to:

- (i) perform administrative functions;
- (ii) audit the Fund's accounts; and
- (iii) prepare tax and any returns for the Responsible Authority, and to pay any expenses incurred for this;
- (c) conducting and settling legal proceedings;
- (d) entering contracts and executing deeds;
- (e) obtaining and acting on the advice of a barrister, solicitor, adviser, financial adviser, accountant, actuary or superannuation consultant and paying their fees;
- (f) giving receipts and discharges;
- (g) giving any guarantee or indemnity;
- (h) insuring any risks;
- (i) acting as an underwriter;
- (j) making rules for rounding off contributions and benefits;
- (k) providing for and transferring liability for any Taxes;
- (l) establish such reserves, reserve accounts, reserve accounts pursuant to section 1 1 5 of the Superannuation Industry (Supervision) Act; and
- (m) irrevocably electing that the Fund become a regulated superannuation fund.

Fund Administrator

14.2 The Trustees may appoint a person to act as administrator of the Fund, to administer the Fund and maintain Fund records including the right and power to receive contributions and pay benefits and terminate a delegation in such manner and terms as they see fit.

Trustee Can Delegate

14.3 The Trustees, subject to the SIS Legislation, may delegate any of their powers, duties and discretions to any person and terminate a delegation in such manner and terms as they see fit.

Trustee may Act on Authorisations

14.4 The Trustees may treat an authorisation purported to be given by a Member as given by the Member.

The Trustees interpret the rules

14.5 The Trustee in its absolute discretion may exercise or enforce any powers at any time. Similarly they may refrain from exercising any powers. Their interpretations of this Deed are final.

Discretion only to be exercised by Trustee

- 14.6 No provision of this Deed, except to the extent that the SIS Legislation may provide, may permit a discretion under this Deed to be exercised by a person other than the Trustees and any such provision is to be read down construed and interpreted in such a manner so as to be consistent with the provisions of the SIS Legislation.

15. TRUSTEE

Regulation of Trustees Proceedings

- 15.1 The Trustees may subject to the provisions and requirements of the SIS Legislation:
- (a) regulate their meetings as they see fit;
 - (b) determine a quorum of Trustees; and
 - (c) act by way of resolution passed by two thirds of all the Trustees;
 - (d) appoint one of them to act as chairman of Trustees and replace the chairman whenever they think fit.

Written Resolutions

- 15.2 A resolution in writing signed by all the Trustees has the same effect and validity as a resolution of the Trustees passed at a meeting of the Trustees at which a quorum is present.

Telephone Meetings

- 15.3 A meeting of Trustees may be held by telephone or other similar means if:
- (a) all Trustee has been given written or oral notice of the meeting; and
 - (b) such number of the Trustees as represents a quorum of Trustees take part in the meeting.

Minutes

- 15.4 (a) The Trustees must keep minutes of their resolutions and proceedings in a book kept for that purpose and otherwise keep such records of their proceedings in such manner as provided for in the Relevant Requirements; and
- (b) Minutes are evidence of the matters recorded in them if they are confirmed at the next Trustee meeting and signed by the chairman.

Trustee ceasing to be Trustee

- 15.5 A Trustee holds office until:
- (a) retirement or resignation from office by giving notice in writing to other Trustees of the Fund; or

- (b) disqualification by law from holding office or becomes a disqualified person within the meaning of the SIS Legislation; or
- (c) the Trustee:
 - (i) dies;
 - (ii) becomes, in the opinion of the other Trustees, mentally or physically incapable of fulfilling the office of Trustee of the Fund;
 - (iii) is removed by the Responsible Authority pursuant to the provisions of the SIS Legislation, or
 - (iv) is precluded from being a Trustee in other circumstances prescribed by the SIS Legislation.

16. LIABILITY AND INDEMNITY

Trustee not under Personal Liability

16.1 The Trustee is only liable for:

- (a) failing to act honestly in a matter concerning the Fund; or
- (b) wilfully or recklessly failing to exercise, for a matter affecting the Fund, the degree of care and diligence that the Trustees were required to exercise, or
- (c) a monetary penalty under a civil penalty order.

Trustee Indemnity

16.2 Subject to the SIS Legislation excluding or limiting any right to an indemnity against liabilities incurred by the Trustees, the Trustees and past Trustee or any of them are indemnified out of the assets of the Fund for any liability incurred while acting as trustees of the Fund.

Trustee right to seek advice

16.3 The Trustees may seek advice from any person for any matter relating to the performance of the duties or the exercise of the powers of the Trustees. The Trustee is entitled to indemnify themselves out of the assets of the Fund for the cost of obtaining such advice.

17. AMENDMENT OF DEED

17.1 The Trustees may by Deed or by resolution amend the Deed provided that no amendment reduces a Member's accrued benefits or impose any increase in liability on a Member without the Member's consent.

17.2 Any addition, repeal, amendment or alteration is effective from the date (if any) specified for that purpose in such deed or resolution or (in the absence of a specified effective date) the date on which the resolution was made or the deed is executed.

17.3 The Trustees must promptly notify each Member of the nature and purpose of any such addition or alteration and of the effect (if any) which such addition or alteration has on the Member's entitlements under the Fund.

18. EXPENSES OF THE FUND

18.1 Fund expenses are payable from the Fund and may to the extent the Trustee considers it equitable be debited to the account established for a Member according to the provisions of this Deed.

19. GENERAL ADMINISTRATION

19.1 A Member must give the Trustees any information or documents the Trustees request to assist them in administering the Fund.

19.2 The Fund and the Deed are governed by the law of Western Australia.

Provision of Information

19.3 The Trustees must provide any information required by the Relevant Requirements to a Member or any other relevant person.

Notices

19.4 Any notice or other written communication in connection with the Fund is given to a person if it is:

- (a) handed to the person;
- (b) delivered to the person's last known address; or
- (c) posted by ordinary post from within Australia to the person's last known address, in which case it is taken to be received on the third business day after posting.

20. TERMINATION

When Fund Terminates

20.1 The Fund is to terminate if:

- (a) the Trustees give written notice to a Member requiring the termination of the Fund; or
- (b) the Relevant Requirements require the Fund to be terminated; and

as soon as practicable thereafter the Trustees must subject to the Relevant Requirements:

- (c) determine a termination date;
- (d) notify the Member that the Fund has terminated from the termination date;
- (e) take reasonable steps to get in any contributions owing by the Member at the termination date; and
- (f) must not accept any other contributions.

Termination Date is Allocation Date

20.2 The Trustees, to the extent the Trustee considers it equitable, must allocate earnings or losses to accounts as at the termination date and such other date or dates as the Trustee considers appropriate.

How Assets are to be Applied

20.3 The Trustees must, subject to the Relevant Requirements, apply assets in the following priority:

- (a) in paying the costs of administering and winding up the Fund;
- (b) in paying or transferring Members' benefits according to this Deed; and
- (c) in paying any balance to Members, Dependants, former Members, deceased Members' Dependants or legal personal representative in proportions the Trustee in its discretion determine is appropriate.

21. COMPLYING WITH SIS

SIS Legislation to Prevail over Deed Provisions

21.1 If there is a conflict or inconsistency between the provisions of this Deed and the SIS Legislation, the SIS Legislation prevails. Further, any such provision in this Deed is read down, construed and interpreted by the Trustees in such a manner so as to give effect to the SIS Legislation and to enable the Fund to be operated in a manner that is consistent with the SIS Legislation.

Power to Act according to SIS Legislation

- 21.2 (a) The Trustee has the power to do all acts and things or omit to do such acts and things as they consider necessary, desirable or expedient for the Fund to be operated and administered according to the SIS Legislation and to be a Complying Superannuation Fund and for the Trustees, Members, and beneficiaries not to be in contravention or, in the opinion of the Trustees, any possible or potential contravention of the SIS Legislation.
- (b) The powers conferred upon the Trustees under this Deed, without limiting the generality of such powers, include the right to administer and operate the Fund so that:

- (i) the Fund is operated solely for one or more of the core and ancillary purposes specified in the SIS Legislation;
- (ii) the Fund is operated to comply with any standards prescribed under the SIS Legislation which are applicable to the Fund;
- (iii) the Trustee is entitled to provide the Responsible Authority with such returns and information as the SIS Legislation or the Responsible Authority, may require;
- (iv) the Trustees may follow, comply with, implement and obey any directions, instructions, orders or guidelines which may be issued or given by the Responsible Authority,
- (v) the Trustees may disclose to, the Responsible Authority such event, omission or thing that the SIS Legislation may require to be disclosed to the Responsible Authority and seek the advice, ruling or direction of the Responsible Authority as they consider necessary;
- (vi) the Trustees pay from the Fund any levy or charge imposed upon the Fund under the SIS Legislation;
- (vii) the Trustees seek from the Responsible Authority any exemption or modification of the provisions of the SIS Legislation for their application to the Fund; and
- (viii) the Trustees may pay a Member's or a beneficiary's benefits or interest in the Fund, in the circumstances prescribed by the SIS Legislation, to the Responsible Authority or an eligible roll-over fund even if no claim for such a benefit has been made by or for the Member or beneficiary.

Trustee not to be in breach of Trust

21.3 (a) The Trustee is not contravening the Deed or in breach of trust if in giving effect the Deed it:

- (i) construes or interprets this Deed; or
- (ii) does such acts or things; or
- (iii) omits to do such acts or things;

which might otherwise contravene this Deed or in breach of trust but which the Trustee considers necessary, desirable or expedient to avoid a contravention of the SIS Legislation.

(b) The Trustee is not taken to contravene this Deed or be in breach of trust if it does anything or omits to do anything that is in contravention of the SIS Legislation if:

- (i) the Trustees rectify the contravention within such period as may be allowed by the SIS Legislation or within such further period as the Responsible Authority allows; or
- (ii) the Responsible Authority notwithstanding the contravention treats the Fund as a Complying Superannuation Fund.

Trustee not subject to Direction

- 21.4 The Trustees, except to the extent permitted by the SIS Legislation, in the exercise of their powers under this Deed are not to be subject to the direction of any other person.

SIS Covenants and Requirements

- 21.5 (a) Notwithstanding any provision of this Deed any covenant or other requirement required by the SIS Legislation to be included in this Deed is deemed to be included as if every such covenant or requirement was set out in this Deed on and from the date that covenant or requirement is required to be so included.
- (b) If the SIS Legislation or the Responsible Authority no longer requires any such covenant or requirement to be so included then that covenant or requirement ceases to be included.
- (c) If any such covenant or requirement or its operation is pursuant to the provisions of the SIS Legislation modified then the Trustee is only required to comply with the covenant or requirement as it may be so modified.
- (d) The Trustee is not taken to be in contravention of this Deed or in breach of trust if the Trustees do or omit to do anything which is in contravention of such a covenant or requirement if the contravention is waived by the Responsible Authority.

22. EXPENSES AND TAXES

- 22.1 The Trustees for any potential or actual expenses or taxation liability of the Fund, or of any Member, Dependant, beneficiary or person claiming through them are empowered to:
- (a) establish such reserves, reserve accounts, reserve accounts pursuant to section 115 of the *Superannuation Industry (Supervision) Act* and provisions as they consider necessary or desirable to provide for the payment of such expenses or taxation liability; and
- (b) deduct from any contribution or other amount paid to the Fund, any benefit or other payment made from the Fund or the interest and entitlement of any Member, Dependant, beneficiary or any person claiming through them such amount as they consider equitable to establish and maintain such provisions and reserves;
- (c) pay any such expense or Taxes as and when it becomes payable out of the reserves and provisions and, if necessary, out of the other assets of the Fund and for the purposes of such payment realise the assets of the Fund;
- (d) not be required to make any retrospective adjustments in the event that any expense or Taxes becomes payable for a different period or periods other than that for which the provisions and reserves were established or if the taxation provisions and reserves prove excessive or unnecessary and in such cases the Trustee is entitled to apply the amount of the unnecessary or excessive provisions and reserves as they may decide including;
- (i) allocating such amount to any existing reserve or provision or future reserve or provision for Taxes or expenses for which it was established or to any existing or future reserve or provision for any other expense or Taxes; and
- (ii) crediting any account established in the records of the Fund or the interest or entitlement of any Member, Dependant or person claiming through them; and

- (e) deal with any tax deductions credits and rebates attributable to the Fund as and when they arise on such basis as the Trustees decide including offsetting them against any taxation reserves and provisions notwithstanding the period or periods to which such tax deductions credits and rebates are attributable or the date they arise or are received.

23. INSURANCE AGAINST FUND LOSSES

23.1 The Trustees may in their discretion effect or take out insurance against:

(a) any liability which arises against:

- (i) a Trustee; or
- (ii) the Fund; and


(b) any losses or damages which the Fund, or a Trustee may suffer or incur,

as a result of or arising from any act or omission of the Trustee or any person to whom the Trustees may have delegated their powers duties and discretions or any servant, agent or employer of the Trustees or any contractor (including persons acting in any professional role), Fund administrator, other administrator, custodian or other person or body engaged by the Trustees for the purposes of the Fund.

EXECUTED AS A DEED

Dated the _____ day of _____ Year _____

Executed for and on behalf of)
Jaymoss Nominees Pty Ltd)
(ACN 073 690 276) by the authority of its)
Directors and in accordance with s127
of the Corporations Law, by:



Director/Signature



Director/Secretary Signature




Director Name



Director/Secretary Name

Signed as a Deed By)
Leslie John Nelson)
in the presence of)



L J Nelson

Witnesses Name

Witnesses Signature

Witnesses Address

Witnesses Occupation

Signed as a Deed By)
Robyn-Maree Nelson)
in the presence of)

R Nelson

Witnesses Name

Witnesses Signature

Witnesses Address

Witnesses Occupation

Schedule of Members

(a maximum of 4 members at any one time are permitted in a Self Managed Superannuation Fund)

Member's Full Name	Date Entered as a Member	Date Resigned as a Member
Leslie John Nelson	11/11/1996	
Robyn-Maree Nelson	11/11/1996	

Appendix "A"

Application for Membership of The Nelson Family Pension Fund ("the Fund")

Applicant's Full Name	
Applicant's Address	
Employer	
Trustee	

1. I apply for the membership of the Fund.
2. If applicable, I have been invited by the Employer for membership to the Fund.
3. I have been advised of the benefits which I am entitled to receive from the Fund on retirement, death, disablement or termination of service with the Employer (where applicable).
4. In consideration of my admission to membership, I agree to abide by and be bound by the provisions of the Trust Deed governing the Fund. I declare that I have no entitlement to any annuity and I am not a member of, nor have I received benefits from, any other superannuation fund or approved deposit fund, other than as set out on the attached page (please supply details of benefits paid or payable on a separate page).
5. I undertake to advise the Trustee, in writing, if at any time I receive or become entitled to receive a benefit from any superannuation fund or approved deposit fund or deferred annuity not declared according to the above.
6. I undertake to advise the trustee in writing of any contributions made by or on behalf of me, other than by the Employer, which would vary the amount specified above.
7. I agree to the Trustee acting as Trustee of the Fund.
8. I enclose my Nomination Form.

Dated the _____ day of _____ Year _____

Applicant

Nomination Form for The Nelson Family Pension Fund

You may have Superannuation benefits left when you die and you can nominate which dependant gets your Superannuation benefits when you die. There are 2 types of nominations, non-binding and binding. Non-binding nominations merely suggest to the trustee where you want your Superannuation benefits to go when you die and your trustee may or may not follow your suggestion. A binding nomination directs you trustee where you want your Superannuation benefits to go when you die. To remove the Trustee's discretion complete the Binding Nomination.

Member's Full Name: _____

Date: _____

NON-BINDING NOMINATION		
Nominee's Full Name (eg My Estate)	Relationship	Percentage Entitlement
Member's Signature		

BINDING NOMINATION		
Nominee's Full Name (eg My Estate)	Relationship	Percentage Entitlement
Member's Signature		
Witnesses Signature		
Witnesses Full Name		
Witnesses Signature		
Witnesses Full Name		