



**DONJAN STAFF SUPERANNUATION
FUND**



**DEED OF AMENDMENT &
CONSOLIDATION**



Prepared by



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THIS DEED is made on 15 June 2006

BY: Donald Cowley Smith of
6 Avoca Street
Bundaberg Qld 4670

and

Janine Heather Smith of
6 Avoca Street
Bundaberg Qld 4670

Hereby Known as "The Trustees"

WHEREAS:

- A By deed made on 22nd May 2001, to be now referred to as the "**Original Deed**" an indefinitely continuing superannuation scheme was established to provide superannuation benefits for the members
- B The **Original Deed** has been amended from time to time so that the **Original Deed** and all its duly authorised amendments shall be referred to as the "**Original Deed (as amended)**".
- C The superannuation scheme referred to in Recital A is named as the Donjan Staff Superannuation Fund, and for the purposes of this deed shall be referred to as "**the Fund**"
- D The operative provisions of the **Original deed as amended** and any Rules attached to the **Original Deed as amended** shall for the purposes of this deed be known as the "**Governing Provisions**" of **the Fund**
- E. "**The Rules**" shall mean the Rules as attached to this Deed
- E All of the parties who execute this Deed hereby resolve and confirm that:
1. all of the beneficiaries of **the Fund** have executed this Deed and
 2. notwithstanding any prior event or contrary term, condition, rule or requirements contained within the **Original Deed (as amended)**, the **Original Deed (as amended)** is now substituted and replaced by deleting all of the recitals, definitions, operative terms and schedules contained within the **Original Deed (as amended)** and replacing same with the recitals, definitions, operative terms and schedules contained within this Deed and
 3. the amendments made by this Deed are binding and effective notwithstanding any prior event or contrary term, condition, rule or requirement contained within the **Original Deed (as amended)**, including without limitation any requirement for consent. The Trustee and members now wish to replace the **Governing Provisions of the Fund** by the adoption of the operative provisions and rules as contained in this deed and in the Rules annexed to this Deed


NOW THIS DEED WITNESSES as follows:

- 1 The **Governing Provisions** of **the Fund** are, without termination of **the Fund**, are now governed by the provisions of this Deed and the Rules attached which incorporate the **Original Deed as amended**.
- 2 The assets of **the Fund** will continue to be vested in the Trustee upon trust to apply the same in the manner set out in **the Rules**.
- 3 **The Fund** shall be managed and administered in all respects according to **the Rules**.
- 4 The power of appointing and removing Trustees shall be as provided in **the Rules**.
- 5 The provisions of this Deed may be amended in the manner set out in **the Rules**.
- 6 The primary purpose of the fund is to provide old age pensions to the members.
- 7 Operations of **the Fund**, conflicts and issues of law or practice between the **Original Deed** as amended and this Deed that may arise with this deed are to be settled by reference to **the Rules**.
- 8 The trustee hereby declares that the amendment of the provisions of the Trust Deed and Rules effected by virtue of this Deed does not prejudicially vary or affect the benefits already accrued to any member of **the Fund**.
- 9 This Deed and **the Rules** shall be governed by the laws of Queensland.

IN WITNESS the party has duly executed this Deed on the date first above written.

EXECUTED AS TRUSTEES

Signed Sealed & Delivered by)
Donald Cowley Smith)
in the presence of)

)
signature of witness)


MELISSA A. MART)
name of witness)


Donald Cowley Smith

Signed Sealed & Delivered by)
Janine Heather Smith)
in the presence of)

)
signature of witness)

MELISSA A. MART)
name of witness)


Janine Heather Smith

INDEX

PAGE NO.

Article 1	Definitions	2
Article 2	Eligibility, Membership and Transfer	4
Article 3	Contributions	6
Article 4	Benefit Entitlement and Determination	7
Article 5	Payment of Benefits	8
Article 6	Administration	17
Article 7	The Assets, Expenses and Investments	19
Article 8	Records, Accounts and reports	21
Article 9	Trustees	23
Article 10	Winding up	27
Article 11	Saving Provisions	27
Article 12	Compliance with Regulations	27

SCHEDULES

Schedule 1	Accumulated Contributions, Accrued Benefit, Retirement Benefit	28
Schedule 2	Application for Membership	30

THE RULES

ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

DEFINITIONS

- 1.1 In the Trust Deed to which these Rules are an annexure and in these Rules the meaning of terms and expressions shall have the meaning given to them by the Regulations unless the context indicates otherwise. The following words and expressions shall have the following meaning:
- 1.1.1 **Accumulated Contributions** means the total of contributions made to the Fund accumulated in accordance with Schedule 1 paragraph 1.1 hereto.
 - 1.1.2 **Accrued Benefit** means the amount determined in accordance with Schedule 1 paragraph 2 herein.
 - 1.1.3 **Ancillary Benefits** means the Benefits with minimum conditions of release and/or cashing restrictions permitted by the Regulations:
 - 1.1.3.1 on severe financial hardship as approved by the Trustees or Regulator,
 - 1.1.3.2 on compassionate grounds as approved by the Trustees or Regulator;
 - 1.1.3.3 when the Member is no longer in Gainful Employment and the Member's benefit is a Restricted Non-Preserved Benefit under the Regulations;
 - 1.1.3.4 when the Benefit is an Unrestricted Non-Preserved Benefit under the Regulations;
 - 1.1.3.5 on the Temporary Disablement of the Member where the Benefit is paid in accordance with the Regulations;
 - 1.1.3.6 any other type of Benefit approved under the Regulations; or
 - 1.1.3.7 any other Benefit provided for the other ancillary purposes approved by the Regulations or the Regulator.
 - 1.1.4 **Benefit** means any benefit payable in respect of the Member's membership of the Fund pursuant to the Rules and the Regulations but does not include any amount standing to the credit of a Member which is not fully vested until the Trustees exercise a discretion to fully vest the whole or part of such unvested amount unless required by the Regulations to be vested.
 - 1.1.5 **Commencement Date** means the date that is the later of:
 - 1.1.5.1 The date upon which the Deed was executed; or
 - 1.1.5.2 The date upon which the first contribution of monies were received by any Member of the fund.
 - 1.1.6 **Constitutional Corporation** means a body corporate that is either a trading corporation or a financial corporation, formed within the limits of the Commonwealth (within the meaning of paragraph 51(xx) of the *Commonwealth of Australia Constitution Act*).
 - 1.1.7 **Contributor** means any person permitted by the Regulations to make a contribution to the Fund (which may be money, securities or other property) for the benefit of one or more Members.
 - 1.1.8 **Dependants** means the Spouse (including de facto spouse) and children (including illegitimate, adopted and posthumous children) of a Member.
 - 1.1.9 **Designated Beneficiary** means any Dependant specified by a Member to the Trustees in accordance with Rule 5.
 - 1.1.10 **Eligible Fund** means a superannuation fund, approved deposit fund, Eligible Rollover Fund, retirement savings account, small accounts holding reserve or other approved fund including a pension fund or annuity arrangement which can accept a transfer from the Fund of assets of the Fund or is authorised to transfer assets to the Fund in accordance with the Regulations.
 - 1.1.11 **Eligible Person** means a person who can, under the Regulations, become a Member.
 - 1.1.12 **Employer** means any person, partnership, incorporated body or organisation who makes contributions to the fund and includes any person, partnership, incorporated body or organisation from whom a Member may receive salary or wages.
 - 1.1.13 **Financial Year** means a period of twelve calendar months ending on the last day of June.
 - 1.1.14 **Fund** means the superannuation fund constituted by the Trust Deed to which these Rules are an annexure.

- 1.1.15 **Gainful Employment** means in relation to a Member, engagement in any business, trade, profession, vocation, calling, occupation or employment for gain or reward to the extent required pursuant to the provisions of the Regulations.
- 1.1.16 **Government Approval** means such approval of a Regulator, or other person, appointed by the Australian Government or such compliance with the Regulations (whether or not the approval of that Regulator or other person has been given to the Trustees in relation to such compliance) as may be required to ensure that the fund is regarded as a bona fide superannuation fund and qualifies for the maximum taxation concessions.
- 1.1.17 **Individual Policy**, in relation to a Member, means a life insurance policy or an interest in a group life insurance policy which the Trustees have nominated as being held specifically for the purpose of providing Benefits in respect of that Member.
- 1.1.18 **Member** means a person who has met all the requirements of the Fund and been admitted to Membership of the Fund as provided in Rule 2 hereto.
- 1.1.19 **Old-age Pensions** has the same meaning as that in paragraph 51 (xxiii) of the *Commonwealth of Australia Constitution Act*.
- 1.1.20 **Pension** means an annuity or pension contemplated by the Regulations.
- 1.1.21 **Permanent Disablement** in relation to a Member has the same meaning as that contained in any insurance policy effected to cover Permanent Disablement of the Member and in force at the time of the disablement or where there is no such insurance policy means an incapacity for work such as, in the opinion of the Trustees, renders a Member unlikely to ever again engage in Gainful Employment for which the Member is reasonably qualified by education, training or experience or any other circumstances which are acceptable to the Trustees and which are acceptable to the Regulator. **Permanently Disabled** and **Permanent Disability** shall each have a corresponding meaning. Every question as to Permanent Disablement shall be decided by the Trustees after receipt of any relevant information and reports by such registered medical practitioners approved by the Trustees as they consider appropriate, and having regard to any requirements for Government Approval of the Fund and of any insurer underwriting the Member's Permanent Disability Benefit. The decision of the Trustees shall be conclusive and binding upon all parties concerned.
- 1.1.22 **Preserved Benefit** means any Benefit (or part thereof) that, having regard to the requirements for Government Approval of the Fund, must be held in the Fund until the Member Retires and attains such age as is prescribed in the Regulations, dies, becomes Permanently Disabled or satisfies such other condition as would enable, or require, the Trustees to make payment of the benefit.
- 1.1.23 **Public Offer Superannuation Fund** means a fund that is a public offer superannuation fund within the meaning of the Regulations.
- 1.1.24 **Regulated Superannuation Fund** means a fund where the Trustees have caused to be made the necessary election to be such a fund as required by the Regulations.
- 1.1.25 **Regulations** means the obligations imposed upon the Fund by the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation Industry (Supervision) Regulations*, the Superannuation Splitting Law, any amending or replacement legislation and any other present or future relevant legislation, regulation, rulings and explanatory notes published with the approval or knowledge of the Regulator which the Fund must satisfy in order for the Fund to:
- 1.1.25.1 qualify as a Complying Superannuation Fund;
 - 1.1.25.2 remain entitled to concessional tax treatment;
 - 1.1.25.3 provide an income stream which is to be an Asset Test Exempt Pension;
 - 1.1.25.4 comply with the law.
- 1.1.26 **Regulator** means, as the case may require one or more of the Federal Commissioner of Taxation, the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Department of Family, Community Services and Indigenous Affairs or any other authority or government regulatory body who may be involved with the regulation of superannuation, taxation or financial products.
- 1.1.27 **Reserve Accounts** means any of the accounts that may be established by the Trustees to which is credited amounts that the Trustees determine to credit to the account and to which are debited amounts that the Trustees determine to allocate to the Members in accordance with these Rules.
- 1.1.28 **Retires** means ceasing Gainful Employment and **Retirement** shall have a corresponding meaning.
- 1.1.29 **Splittable Contributions** has the same meaning as that contained in the Regulations.

- 1.1.30 **Spouse** in relation to a Member means, subject to the Regulations, a person married to the Member or a person who, although not legally married to the Member, lives with the Member or had lived with the Member immediately prior to the Member's death on a genuine domestic basis as husband, wife or lover and if there is more than one spouse the Trustees shall determine whether and how the entitlement of a spouse shall be distributed between them or whether one shall be exclusively treated as spouse.
- 1.1.31 **Superannuation Splitting Law** means the law dealing with superannuation interests as set out in Part VIIIB of the Family Law Act 1975.
- 1.1.32 **Temporary Disability** means physical or mental incapacity that causes the Member to cease Gainful Employment or which otherwise qualifies as temporary disablement (or its equivalent) under the Regulations but which does not qualify as Permanent Disablement. Every question as to Temporary Disablement shall be decided by the Trustees after receipt of any relevant information and reports by such registered medical practitioners approved by the Trustees as they consider appropriate, and having regard to any requirements for Government Approval of the Fund and of any insurer underwriting the Member's Temporary Disability Benefit. The decision of the Trustees shall be conclusive and binding upon all parties concerned.
- 1.1.33 **Trust Deed** means the deed to which these Rules are annexed and any authorised alterations, additions, amendments, modifications or variations due to any amendment or change made to the Regulations or by amending deed or otherwise.
- 1.1.34 **Trustees** means the individual trustees of the Fund or a corporate trustee of the Fund, for the time being, appointed in accordance with these Rules and where the context permits includes the directors of a Constitutional Corporation appointed as Trustee.

INTERPRETATION

- 1.2 Unless the context indicates otherwise, words importing the singular shall include the plural and vice versa, words importing one gender shall include other genders, and references to statutes (including any section thereof) shall include all statutes amending, consolidating or replacing the same. Headings inserted in any Article are for convenience only and shall not affect the interpretation of the Rules set out in that Article.
- 1.3 Except where otherwise expressly provided, if any question or dispute arises about the interpretation of the Rules or the incidence or application of any rights, benefit, duties or liabilities arising under these, the decision of the Trustees shall be binding upon a Member.
- 1.4 The Trustees shall, at all times administer the Fund in a manner that will ensure Government Approval of the application to specific circumstances, require the Trustees to act in a manner that would prejudice Government Approval of the Fund, that Rule shall be void for those circumstances.
- 1.5 If any term defined in the Regulations is used in this Deed but not defined herein then such term shall have the same meaning that it has for the purposes of the Regulations.
- 1.6 A reference in these Rules to the Regulations includes a reference to those Regulations as amended, consolidated, re-enacted or replaced from time to time and a reference to any provision of the Regulations includes a reference to the corresponding provision of those Regulations as amended, consolidated, re-enacted or replaced.

SEVERANCE

- 1.7 If, any provision of these Rules is void or voidable or unenforceable in accordance with its terms, but would not be void, voidable or unenforceable or illegal if it were read down and, if it is capable of being read down, such provisions shall be read down accordingly.
- 1.8 If, notwithstanding Rule 1.7, a provision is still void, voidable, enforceable or illegal;
- 1.8.1 if the provision would not be void, voidable or unenforceable or illegal if a word or words were omitted, that word or those words are hereby severed;
- 1.8.2 in any other case, the whole provision is hereby severed;
- and the remainder of these Rules shall be of full force and effect.

ARTICLE 2

ELIGIBILITY, MEMBERSHIP & TRANSFERS

ELIGIBILITY

- 2.1 Any Eligible Person shall be eligible to apply for membership of the Fund. Where an Eligible Person is a minor, the application for membership of the Fund shall be made on behalf of the minor by a parent, guardian or legal representative of the minor.

MEMBERSHIP

- 2.2 An Eligible Person may apply for membership to the Trustees in the form set out in Schedule 2 hereto or such other form as the Trustees may from time to time approve indicating a preference for the type of Benefit to be provided by the Fund and if no preference is specified shall be deemed to have specified an Allocated Pension Benefit. The Trustees may accept or refuse any such application in their absolute discretion and shall not be required to give any reason for a refusal. The Trustees may admit an Eligible Person as a Member without requiring an application for membership be completed by that person. If an application from an Eligible Person is accepted by the Trustees, membership commences on the date of acceptance or such earlier or later date as the Trustees determine.

ALTERATION OF MEMBER'S BENEFIT

- 2.3 The Trustees may alter a Member's preference for the type of Benefit to be provided by the Fund PROVIDED THAT:
- 2.3.1 it does not increase the Member's obligation to the Fund unless the Member consents in writing;
 - 2.3.2 the Member's entitlements in the Fund is not reduced; and
 - 2.3.3 it is not in breach of the Regulations.
- 2.4 The Member shall be advised in writing of any alteration to the Member's preference for Benefit.

INFORMATION TO MEMBERS

- 2.5 The Trustees shall ensure that every Eligible Person who applies for membership of the Fund is given such information as is required by the Regulations to be given to prospective new members. The information shall be given to the Eligible Person within the time prescribed in the Regulations.

COMPLAINTS AND ENQUIRIES

- 2.6 If required by the Regulations, the Trustees shall ensure that all enquiries or complaints from Members, beneficiaries or their dependents are considered and properly dealt with in the manner and within the time specified by the Regulations.

TRANSFER FROM ANOTHER FUND

- 2.7 If a Member makes a request, the Trustees,
- 2.7.1 may accept the transfer of assets from an Eligible Fund on such terms and conditions as the trustees think fit; and
 - 2.7.2 The details of any such terms and conditions shall be recorded in a letter written by the Trustees to the Member at the time of the transfer; and
 - 2.7.3 where the transfer is made in respect of 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 these Rules; and
 - 2.7.4 where the transfer is not attributable to a Member's interest or entitlement in the Eligible Fund, the Trustees may treat the amount of such transfer in such manner as they consider equitable, including deeming the assets being transferred as a foregone benefit and applied accordingly, or as required by the Regulations;

PROVIDED that any transfer must be permitted by the Regulations and PROVIDED that any Benefit arising from funds transferred shall be a Preserved Benefit to the extent advised by the Eligible Fund.

TRANSFER TO ANOTHER FUND

- 2.8 If a Member makes a request or if the Trustees resolve or are required by the Regulations to do so, the Trustees may pay or transfer all or part of the Member's interest or entitlement in the Fund to an Eligible Fund (including such portion of the assets of the Fund as the Trustees consider equitable) for the benefit of the Member or such other person as is permitted by the Regulations and shall advise the Eligible Fund the proportions (if any) of the amount so paid which are deemed to be transferred from the Member's Accrued Benefit PROVIDED HOWEVER THAT:
- 2.8.1 no such transfer shall be made in respect of a Preserved Benefit, unless there exists a condition in the rules of the Eligible Fund that such a transfer shall be treated as a Preserved Benefit;
 - 2.8.2 the payment or transfer must be consistent with the Regulations;
 - 2.8.3 the Trustees may not pay or transfer more than the amount requested by the Member; and
 - 2.8.4 the payment or transfer satisfies the Member's entitlement to any Benefit in relation to the amount so paid or transferred.

- 2.9 The receipt of the trustees of such Eligible Fund shall be sufficient discharge to the Trustees and Trustees shall not be in any way responsible or liable for the application or disposal by the trustees of such Eligible Fund of the benefits or assets so paid or transferred. Upon the completion of such payment or transfer in respect of a Member, all of the rights and interests of that Member (and any person entitled to claim under or in respect of that Member) under this Deed shall be extinguished or shall be adjusted in such manner and to such extent (if any) as may be determined by the Trustees.
- 2.10 The Trustees may pay or transfer the whole or part of any Benefit or the interest or entitlement of any Member to an Eligible Fund or otherwise in circumstances permitted or required by the Regulations whether or not such Member has requested or consented to such payment or transfer, and such payment or transfer satisfies the Member's entitlement to any benefit in relation to the amount so paid or transferred. The Trustees shall provide any information to that trustee of the Eligible Fund at such time and in such manner as required by the Regulations.

TRANSFERS WITHIN THE FUND

- 2.11 If a Member makes a request or if the Trustees resolve or are required by the Regulations to do so, the Trustees may pay or transfer all or part of the Member's interest or entitlement in the Fund (including such portion of the assets of the Fund as the Trustees consider equitable) to another Member provided however that:
- 2.11.1 The payment or transfer is not prohibited by the Regulations; and
- 2.11.2 The payment or transfer is made in accordance with the provisions, if any, of the Regulations.

CESSATION OF MEMBERSHIP

- 2.12 A person ceases to be a Member of the Fund when:
- 2.12.1 the Member dies;
- 2.12.2 all Benefits which are or may be payable under these Rules in respect of the Member have been paid;
- 2.12.3 a transfer is made to an Eligible Fund in satisfaction of all the Member's entitlement to Benefits;
- 2.12.4 the Member's entitlement to Benefits is terminated;
- 2.12.5 the Trustees require a Member to cease his Membership of the Fund to comply with the Regulations
- 2.12.6 the Trustees determine that continued membership may cause the Fund to become a Public Offer Superannuation Fund;
- 2.12.7 the Trustees determine that a Member is no longer required to be recognised as a Member of the Fund;
- 2.12.8 the Member being an individual Trustee which is the Trustee of the Fund ceases to be a Trustee pursuant to Rules 9.5 and the Member or his legal personal representative is not a director of any Constitutional Corporation which is appointed as a replacement Trustee of the Fund;
- 2.12.9 the Member is a director of a Constitutional Corporation which is the Trustee of the Fund and the Constitutional Corporation ceases to be Trustee pursuant to Rules 9.5 and the Member or his legal personal representative is not a director of any Constitutional Corporation or is not an individual Trustee appointed as a replacement Trustee of the Fund;
- 2.12.10 the Member being a director of a Constitutional Corporation which is the Trustee of the Fund ceases to be a director and the legal personal representative of the Member is not appointed as a replacement director; or
- 2.12.11 the Trustees shall otherwise reasonably determine.

ARTICLE 3 CONTRIBUTIONS

MEMBER CONTRIBUTIONS

- 3.1 A Member or a Spouse of a Member may, subject to Rules 3.3 and 3.4, contribute to the Fund in respect of a Member at such rate as he or she may from time to time determine.

OTHER CONTRIBUTIONS

- 3.2 Contributions in respect of a Member may, subject to Rules 3.3 and 3.4, be made to the Fund by any persons, partnerships, incorporated and government bodies other than the Member or Spouse of a Member and may also include the employer of the Spouse of a Member.

PAYMENT OF CONTRIBUTIONS

- 3.3 The Trustees:
- 3.3.1 must not accept contributions where the acceptance of the contributions is contrary to the requirements of the Regulations;
 - 3.3.2 may refuse to accept the whole or part of a contribution;
 - 3.3.3 may allocate or transfer the whole or part of a contribution to a Reserve established for that purpose, if not prohibited by the Regulations.
- 3.4 Despite Rule 3.3, the Trustees may accept a contribution in respect of a Member if the contribution is being made by an Employer in accordance with a prescribed agreement or award as defined in the Regulations or if the acceptance of such a contribution by the Trustees would not prejudice Government Approval of the Fund.
- 3.5 The Trustees may agree to accept contributions to the Fund in the form of a transfer of assets to the Fund which shall be subject to the following restrictions:
- 3.5.1 Any asset transferred to the Fund under this Rule shall comply with the provisions of Rules 7.6, 7.7, 7.8, and 7.9 as if the Trustees had accepted the contribution in cash and had then invested in the asset transferred to the Fund.
 - 3.5.2 In the event that the Trustees wish to restrict the benefits arising from the assets transferred to the Fund under this Rule to particular Members, they shall either proceed under Rule 7.11 to hold the assets specifically to provide benefits for those Members, or, if those Members are the only Members of the Fund at the time of transfer, the Trustees may close the membership of the Fund to new members until such time as the assets have been used to pay benefits to those Members.
 - 3.5.3 The Trustees shall not acquire any asset from a Member or a relative of a Member if that acquisition would contravene the Regulations and prejudice Government Approval of the Fund.
- 3.6 Unless the Trustees are advised otherwise by the Employer, all contributions made by an Employer shall be fully vested except to the extent that they are not required to be fully vested by the Regulations.

SPLITTABLE CONTRIBUTIONS

- 3.7 Subject to the Regulations, the Trustees may allow Splittable Contributions and a Member may request the Trustees in any form approved by the Trustees to allocate the whole or part of that contribution or transfer any part of that Contribution to any other Member or person so long as any transfer or allocation is in accordance with the Regulations.

TAXATION DEDUCTION CLAIMED

- 3.8 Where required by the Regulations, the Contributors shall advise the Trustees of the amount of contributions that shall be claimed and not claimed as a tax deduction by the Contributor.

REPAYMENT OF CONTRIBUTIONS

- 3.9 If directed by the Regulations, or in the event that the Trustees accept a contribution contrary to the Regulations, and the Regulations permit, the Trustees must repay the contribution to the Contributor less deduction for liabilities or expenses incurred or provision for liabilities or expenses in relation to the contribution.

ARTICLE 4 BENEFIT ENTITLEMENT & DETERMINATION

RETIREMENT

- 4.1 A Member shall be entitled to receive a Benefit which does not exceed total of the Member's Accrued Benefit, the Member's entitlement to be paid out of a Pension Reserve and any insurance proceeds to which the Member is entitled:
- 4.1.1 When a Member Retires provided the conditions for payment of a Preserved Benefit have been met;
 - 4.1.2 When a Member reaches the age of 65, or such other minimum age as allowed under the Regulations, whether or not the Member Retires provided the conditions for payment of a Preserved Benefit have been met.
- 4.2 A Benefit which does not exceed total of the Member's Accrued Benefit, the Member's entitlement to be paid out of a Pension Reserve and any insurance proceeds to which the Member is entitled must be paid to a Member who attains an age at which under the Regulations, the Benefit must be paid.

DISABLEMENT

- 4.3 If a Member Retires on the grounds of Permanent Disablement, the Member shall be entitled to receive a Permanent Disablement Benefit which does not exceed total of the Member's Accrued Benefit, the Member's entitlement to be paid out of a Pension Reserve and any insurance proceeds to which the Member is entitled.
- 4.4 Notwithstanding anything to the contrary contained within these Rules, where the Trustees receive a benefit under an insurance policy effected to cover the Permanent Disability of a Member then that Member will be entitled to receive a disablement benefit under these Rules.
- 4.5 If a Member is unable to work due to Temporary Disability then the Member shall be entitled to receive payment of a Temporary Disablement Benefit for a period of up to two years from the time the Member is unable to continue to work providing that payment shall not be made to the Member for the first sixty (60) days of them not being able to work.
- 4.6 Notwithstanding anything to the contrary contained within these Rules, where the Trustees receive a Benefit under an insurance policy effected to cover the Temporary Disability of a Member then that Member will be entitled to receive a disablement benefit under these Rules providing that the payment of such a Benefit is allowed under the Regulations.

DEATH

- 4.7 On the death of a Member, a Death Benefit which does not exceed total of the Member's Accrued Benefit, the Member's entitlement to be paid out of a Pension Reserve and any insurance proceeds to which the Member is entitled shall become payable in accordance with Rule 5.14.
- 4.8 Where at least two (2) Registered Medical Practitioners certify, independently and to the satisfaction of the Trustees, that a Member has an illness or condition being such that the Member has a life expectancy less than twelve (12) months then, subject only to the Regulations, the Member is entitled to receive payment of a Death Benefit in accordance with Rule 5.14.

TERMINATION OF SERVICE

- 4.9 A Member whose Employer has contributed to the Fund and who leaves the service of his Employer and who is not entitled to a Retirement Benefit or a Permanent Disablement Benefit and in respect of whom a Death Benefit is not payable shall be entitled to receive a Withdrawal Benefit being a Benefit which does not exceed the Member's Accrued Benefit.
- 4.10 Where part of the Member's Withdrawal Benefit is a Preserved Benefit, such amount shall be retained in the Fund and shall be increased in accordance with paragraph 1 of Schedule 1. Such amount retained in the Fund may be transferred to an Eligible Fund subject to the transfer being restricted in its future availability by conditions similar in effect to those set out in Rules 2.7 and 2.58

TRANSITION TO RETIREMENT PENSION

- 4.11 Where a Member has reached age 55 or such other minimum age permitted by the Regulations, the Member may receive a Benefit in the form of a Pension contemplated by Article 5. Notwithstanding anything to the contrary contained in Article 5 any Pension paid under this Rule may not be commuted to a lump sum until the Member retires or reaches age 65 or such other minimum age permitted by the Regulations.

SPECIAL CIRCUMSTANCES

- 4.12 No Benefit will be paid to a Member or his Dependants except as provided for in Rules 4.1 to 4.10 inclusive and save for Ancillary Benefits permitted by the Regulations. However, in circumstances where the Regulations would allow the Trustees to make a payment of part or all of the Member's Accrued Benefit to the Member or his Dependants without prejudicing Government Approval of the Fund, the Trustees may make such payment as requested by the Member.

ARTICLE 5 PAYMENT OF BENEFITS

TYPE OF BENEFIT

- 5.1 The Benefit payable to a Member or a Beneficiary, where permitted by the Regulations, may be paid as:
- 5.1.1 a Lump Sum;
 - 5.1.2 a Pension which may include a lump sum component subject to any applicable limitations imposed by the Regulations;
 - 5.1.3 a non-complying lifetime pension;
 - 5.1.4 an annuity acquired from an Eligible Fund;

5.1.5 an Ancillary Benefit;

5.1.6 a Benefit in such form or manner permitted to be provided under the Regulations in such form or manner as is required under the Regulations; or

a combination of the above which may include more than one of each and may be paid to the Member or Beneficiary either in money or in other property provided the Benefit is paid in accordance with the Regulations.

LUMP SUM BENEFIT

5.2 When a Member is entitled to a Benefit and has elected to receive a Lump Sum Benefit, the Member is entitled to a Benefit which does not exceed the Member's Accumulated Benefit.

PENSION CONDITIONS

5.3 A Pension Benefit payable under these Rules is subject to the following conditions:

Trustees' Discretion

5.3.1 Where a Benefit is payable under these Rules by way of Pension, the Trustees and the Member may agree that the pension be paid as a Lifetime Pension in accordance with 5.4 or as a Fixed Term Pension in accordance with Rule 5.5 or a Term Allocated Pension in accordance with Rule 5.6 or a Non-Complying Lifetime Pension in accordance with Rule 5.7 or as an Allocated Pension in accordance with Rule 5.8 providing that such form of payment is allowed under the Regulations. In the absence of agreement, the Trustees shall determine the basis on which the Pension is paid.

No Assignment or Encumbrance

5.3.2 Pensions payable from the Fund shall not be assigned or otherwise transferred by the person in receipt thereof (except to the extent permitted by the Rules) and shall not be mortgaged or encumbered in any manner whatsoever.

5.3.3 Neither the capital value (if any) of any pension payable from the Fund nor any income from it, may be used as a Security for a borrowing.

Annuities

5.3.4 The Trustees may, in their absolute discretion, (including where an old-age pension is required to be paid) provide pensions payable under these Rules by applying a Member's Benefit to the purchase of an annuity that meets the requirements of the Regulations.

Imputation Credits

5.3.5 The Trustees may, in their absolute discretion, debit amounts to the accounts of Members to whom current pensions are not being paid and credit corresponding amounts to the accounts of Members to whom current pensions are being paid to compensate the latter for not obtaining the benefit of dividend imputation credits on investments in the form of shares in companies.

LIFETIME PENSIONS

5.4 Lifetime Pension

5.4.1 A Lifetime Pension shall be paid, at least, annually throughout the life of the Member.

5.4.2 Notwithstanding anything else in this Rule 5.4, a Lifetime Pension shall comply with the requirements of the Regulations and with the requirements of section 9B of the *Social Security Act 1991* or any replacement legislation.

Pension Amount

5.4.3 Subject to meeting the requirements of the Regulations and of section 9A of the *Social Security Act 1991* (or any replacement legislation) in relation to the amount of pension payments, the annual amount of a Lifetime Pension shall be determined by the Trustees and shall be paid by installments of such amounts and on such dates as the Trustees and Member agree on or, in the absence of agreement, as the Trustees determine.

Indexation

5.4.4 Subject to meeting the requirements of the Regulations in relation to pension increases, the amount of a Lifetime Pension shall be increased annually in the manner (if any) agreed on by the Trustees and the Member or, in the absence of agreement, as the Trustees determine. Provided always that where the pension must satisfy the requirements of section 9B of the *Social Security Act 1991* (or any replacement legislation), the rate of indexation shall be fixed and not capable of variation.

Commutation of Pension

- 5.4.5 A person in receipt of or entitled to a Lifetime Pension may make a written application to the Trustees requesting the Trustees to commute part or all of the pension to a lump sum payment.
- 5.4.6 The Trustees may, in their discretion, agree to the commutation request and pay the lump sum amount calculated by the Trustees, but only in the circumstances and manner permitted by the Regulations and by section 9A of the *Social Security Act 1991* (or any replacement legislation).
- 5.4.7 If the pension is commuted under Rule 5.4.6, the amount payable shall not be greater than the benefit that was payable before the computation.

Pension Payable to Reversionary Pensioner on Death of Member

- 5.4.8 Trustees and the Member may agree or, in the absence of agreement, the Trustees may determine that, on the death of the Member, a pension shall be paid to a reversionary pensioner or pensioners.
- 5.4.9 The amount of the reversionary pension shall be the amount agreed on by the Trustees and the Member or, in the absence of agreement, the amount determined by the Trustees.
- 5.4.10 The reversionary pension shall only be paid for the period and on the terms permitted by the Regulations and by section 9A of the *Social Security Act 1991* (or any replacement legislation).

Payment to Reversionary Pensioner or Legal Personal Representative

- 5.4.11 Subject to Rules 5.4.8 to 5.4.10 inclusive, in the event of the death of a Member entitled to a Lifetime Pension, within 20 years after the commencement date of the pension, or a period equal to the life expectancy of the Member at the time if commencing the pension, whichever occurs earlier, the Trustees shall pay to a reversionary pensioner of the deceased Member or, if there is not a surviving reversionary pensioner, to the deceased Member's legal personal representative, an amount equal to the total payments that the Member would have received, had the Member not died, from the date of the death until 10 years after the commencement date of the pension.
- 5.4.12 Subject to Rules 5.4.8 to 5.4.10 inclusive, in the event of the death of a Member entitled to a Lifetime Pension within the period specified in Rule 5.4.11 above if there is a reversionary pensioner who dies within that same period, the Trustees shall pay to the reversionary pensioner's legal personal representative an amount determined by the Trustees not exceeding the difference between:
- 5.4.12.1 the sum of the amounts that would have been payable to the deceased reversionary pensioner in the period stated in Rule 5.4.11 above; and
- 5.4.12.2 the sum of the amounts paid to the deceased reversionary pensioner.
- 5.4.13 If a legal personal representative of a deceased Member or reversionary pensioner is not appointed within 3 years after the date of death (or such longer period as the Trustees determine), any assets of the Fund which were funding the Lifetime Pension shall be treated as forfeited benefits and applied by the Trustees in the manner they determine, subject to meeting any requirements of the Regulations.
- 5.4.14 No benefit is payable in respect of a Member who dies more than 20 years after the commencement date of a pension or after the Member's life expectancy at the commencement of the pension, which ever occurs earlier, if the deceased Member does not have a reversionary pensioner to whom a pension is paid or payable under Rules 5.4.8 to 5.4.10 inclusive. Any assets of that Fund which were funding the Lifetime Pension shall be treated as forfeited benefits and applied by the Trustees in the manner they determine, subject to meeting any requirements of the Regulations.

FIXED TERM PENSIONS

5.5 Fixed Term Pension

- 5.5.1 A Fixed Term Pension shall be paid, at least, annually for a fixed term agreed on by the Member and the Trustees.
- 5.5.2 Notwithstanding anything else in this Rule 5.5, a Fixed Term Pension shall comply with the requirements of the Regulations and with the requirements of section 9B of the *Social Security Act 1991* or any replacement legislation.

Pension Amount

- 5.5.3 Subject to meeting the requirements of the Regulations and of section 9B of the *Social Security Act 1991* (or any replacement legislation) in relation to the amount of pension payments, the annual amount of a Fixed Term Pension shall be determined by the Trustees and shall be paid by installments of such

amounts and on such dates as the Trustees and Member agree on or, in the absence of agreement, as the Trustees determine.

Indexation

- 5.5.4 Subject to meeting the requirements of the Regulations in relation to pension increases, the amount of a Fixed Term Pension shall be increased annually in the manner (if any) agreed on by the Trustees and the Member or, in the absence of agreement, as the Trustees determine. Provided always that where the pension must satisfy the requirements of section 9B of the *Social Security Act 1991* (or any replacement legislation), the rate of indexation shall be fixed and not capable of variation.

Commutation of Pension

- 5.5.5 A person in receipt of or entitled to a Fixed Term Pension may make a written application to the Trustees requesting the Trustees to commute part or all of the pension to a lump sum payment.
- 5.5.6 The Trustees may, in their discretion, agree to the commutation and request and pay the lump sum amount calculated by the Trustees, but only in the circumstances and manner permitted by the Regulations and by section 9B of the *Social Security Act 1991* (or any replacement legislation).
- 5.5.7 If the pension is commuted under Rule 5.5.6, the amount payable shall not be greater than the benefit that was payable before the commutation.

Pension Payable to Reversionary Pensioner on Death of Member

- 5.5.8 The Trustees and the Member may agree or, in the absence of agreement, the Trustees may determine, that, in the event of the death of the Member a pension shall be paid to a reversionary pensioner or pensioners.
- 5.5.9 The total amount of the reversionary pension or pensions shall be the amount that would have been payable to the deceased Member, had the deceased Member not died, apportioned between the reversionary pensioners on the basis agreed by Trustees and the Member or in the absence of agreement, the amount determined by the Trustees.

Payment to Legal Personal Representative

- 5.5.10 The Trustees and the Member may agree or, in the absence of agreement, the Trustees may determine, that, in the event of the death of a Member and if there is not a surviving reversionary pensioner, the Trustees shall pay to the deceased Member's legal personal representative, an amount equal to the pension payments that the Member would have received, had the Member not died. The Trustees may commute such payments to a lump sum payment of an amount calculated by the Trustees.
- 5.5.11 If a pension is paid to a reversionary pensioner who dies within the fixed term for which the pension is payable, the Trustees may either pay to another reversionary pensioner or to the deceased Member's legal personal representative an amount equal to the pension payments that the Member would have received, had the Member not died. The Trustees may commute such payments to a lump sum payment of an amount calculated by the Trustees.
- 5.5.12 If a legal personal representative of a deceased Member (to whom an amount is payable under paragraph Trustees determine), any assets of the Fund which were funding the pension shall be treated as forfeited benefits and applied by the Trustees in the manner it determines, subject to meeting any requirements of the Regulations.

TERM ALLOCATED PENSIONS

5.6 Term Allocated Pensions

- 5.6.1 A Term Allocated Pension must be paid at least annually on a basis agreed on by the Member and Trustees, for a period equal to:
- 5.6.1.1 A period equal to the Members life expectancy, or
- 5.6.1.2 A period greater than the Members life expectancy but not more than 5 years greater than the Members life expectancy, or
- 5.6.1.3 A period equal to the Members Spouse's life expectancy, or
- 5.6.1.4 A period greater than the Members Spouse's life expectancy but not more than 5 years greater than the Members Spouse's life expectancy, or
- 5.6.1.5 A period equal to the Member reaching age 100, or
- 5.6.1.6 Any other period permitted by the Regulations .

5.6.2 Notwithstanding anything else in this Rule 5.6, the Term Allocated Pension shall comply with the Regulations.

Pension Amount

5.6.3 Subject to meeting the requirements of the Regulations in relation to the amount of pension payments, including that the pension will not have a residual capital value, then the annual amount of the Term Allocated Pension shall be determined by the Trustees, and will be paid by instalments of amounts and on dates that the Trustees and Member agree on or, in the absence of agreement, as the Trustees determine.

Commutation of Pension

5.6.4 A person in receipt of a Term Allocated Pension may commute from time to time part or the whole of the Pension to a Lump Sum payment on making a written application to the Trustees provided that the Trustees will only act on the written application to the extent that doing so will not breach the Regulations.

Pension payable to reversionary pensioner on the death of a Member

5.6.5 The Trustees and the Member may agree or, in the absence of agreement the Trustees may determine, that, on the death of a Member to whom a Term Allocated Pension is being paid, a Pension may be paid to a reversionary pensioner.

5.6.6 The amount and the terms and conditions of the Term Allocated Pension paid to a reversionary pensioner under this Rule shall be determined by the Trustees in accordance with the Regulations.

5.6.7 The Term Allocated Pension payable under this Rule 5.6.5 shall cease to be payable:

5.6.7.1 if the, Member's Benefit is reduced to nil; or

5.6.7.2 on the death of the reversionary pensioner.

Payment to Member's Dependants

5.6.8 When, in respect of a deceased Member, a Term Allocated Pension:

5.6.8.1 ceases to be payable to any reversionary pensioner under Rule 5.6.7; or

5.6.8.2 is not payable because the Member has no reversionary pensioners, or

5.6.8.3 is not payable because the Trustees have determined to not pay an allocated pension to any of the Member's reversionary pensioners, the balance of that Member's Benefit (if any) shall be:

5.6.8.3.1 held by the Trustees on trust for the benefit of such one or more of the Member's Dependants, to be paid in a lump sum in such shares and proportions as the Trustees, in their absolute discretion, determine; and/or

5.6.8.3.2 paid to the Member's legal personal representative.

5.6.9 When deciding whom to pay a death benefit, the Trustees shall take account of any nomination of beneficiaries made by the Member, but shall not be bound by it.

5.6.10 If, after making enquiries that the Trustees regard as reasonable, the Trustees are unable to establish that there are any Dependants or a legal personal representative of the deceased Member, the Trustees may, if permitted by the Regulations, pay the Benefit to a person or persons selected by the Trustees.

5.6.11 Subject to Rule 5.6.10, if a grant of probate or letters of administration is not made in respect of the estate of the Member within 3 years after his death (or such longer period as the Trustees determine), the benefit payable under Rules 5.6.1 to 5.6.10 inclusive shall be treated as a forfeited benefit and shall be applied by the Trustees in the manner it determines subject to meeting any requirements of the Regulations.

5.6.12 If payment of all or part of the benefit payable under Rules 5.6.1 to 5.6.11 inclusive does not comply with the requirements of the Regulations, the proportion of the benefit that does not comply shall be treated as a forfeited benefit and shall be applied by the Trustees in the manner they determine subject to meeting any requirements of the Regulations.

NON-COMPLYING LIFETIME PENSIONS

5.7 Non-Complying Lifetime Pensions

5.7.1 A non-complying Lifetime Pension will be paid at least annually throughout the life of the Member.

Pension Amount

- 5.7.2 Subject to meeting the requirements of the Regulations in relation to the amount of pension payments, including that the pension will not have a residual capital value, then the annual amount of the Term Allocated Pension shall be determined by the Trustees, and will be paid by instalments of amounts and on dates that the Trustees and Member agree on or, in the absence of agreement, as the Trustees determine.

Indexation

- 5.7.3 The amount of a Non-complying Lifetime Pension may be increased or decreased annually by the amount (if any) agreed on by the Trustees and the Member or, in the absence of agreement, as the Trustees determine.

Commutation of Pension

- 5.7.4 A person in receipt of or entitled to a Non-complying Lifetime Pension may make a written application to the Trustees requesting the Trustees to commute part or all of the pension to a lump sum payment.
- 5.7.5 The Trustees may, in their discretion, agree to the commutation request and pay the lump sum amount calculated by the Trustees, but only in the circumstances and manner permitted by the Regulations.
- 5.7.6 If the pension is commuted under Rule 5.75, the amount payable shall not be greater than the benefit that was payable before the commutation.

Pension Payable to Reversionary Pensioner on Death of Member.

- 5.7.7 The Trustees and the Member may agree or, in the absence of agreement, the Trustees may determine that, on the death of the Member, a pension shall be paid to a reversionary pensioner or pensioners.
- 5.7.8 The amount of the reversionary pension shall be the amount agreed on by the Trustees and the Member or, in the absence of agreement, the amount determined by the Trustees.
- 5.7.9 The reversionary pension shall only be paid for the period and on the terms permitted by the Regulations.

Payment to Reversionary Pensioner or Legal Personal Representative

- 5.7.10 Subject to Rules 5.7.7 to 5.7.9 inclusive, in the event of the death of a Member entitled to a Non-complying Lifetime Pension, within 20 years after the commencement date of the pension, or within a period equal to the life expectancy of the Member at the time if commencing the pension, whichever occurs earlier, the Trustees shall pay to a reversionary pensioner of the deceased Member or, if there is not a surviving reversionary pensioner, to the deceased Member's legal personal representative, an amount equal to the total payments that the Member would have received, had the Member not died, from the date of the death until 10 years after the commencement date of the pension.
- 5.7.11 Subject to Rules 5.7.7 to 5.7.9 inclusive, in the event of the death of a Member entitled to a Lifetime Pension within the period stated in Rule 5.7.10 above, if there is a reversionary pensioner who dies within that period, the Trustees shall pay to the reversionary pensioner's legal personal representative an amount determined by the Trustees not exceeding the difference between:
- 5.7.11.1 the sum of the amounts that would have been payable to the deceased reversionary pensioner in the period stated in 5.7(f) above; and
- 5.7.11.2 the sum of the amounts paid to the deceased reversionary pensioner.
- 5.7.12 If a legal personal representative of a deceased Member or reversionary pensioner is not appointed within 3 years after the date of death (or such longer period as the Trustees determines), any assets of the Fund which were funding the Lifetime Pension shall be treated as forfeited benefits and applied by the Trustees in the manner they determine, subject to meeting any requirements of the Regulations.
- 5.7.13 No benefit is payable in respect of a Member who dies more than 20 years after the commencement date of a pension or after the Member's life expectancy at the commencement of the pension, which ever occurs earlier, if the deceased Member does not have a reversionary pensioner to whom a pension is paid or payable under Rules 5.7.7 to 5.7.9 inclusive. Any assets of that Fund which were funding the Lifetime Pension shall be treated as forfeited benefits and applied by the Trustees in the manner they determine, subject to meeting any requirements of the Regulations.

ALLOCATED PENSIONS

5.8 Allocated Pensions

- 5.8.1 An Allocated Pension shall be paid, at least annually.

5.8.2 The annual amount of an Allocated Pension shall (excluding any commutation) not be greater than nor less than any maximum or minimum amounts stated in the Regulations.

5.8.3 Notwithstanding anything else in this Rule 5.8, the Allocated Pension shall comply with the Regulations.

Paid until Member's Account is Exhausted

5.8.4 An Allocated Pension shall be paid on such dates and by installments of such amounts as the Trustees and the Member agree on or, in the absence of agreement, as the Trustees determine and shall cease to be payable if the Member's Benefit is reduced to nil.

Commutation of Pension

5.8.5 A person in receipt of an Allocated Pension may commute from time to time part or the whole of the pension to a lump sum payment on making a written application to the Trustees provided that the Trustees will only act on the written application to the extent that doing so will not breach the Regulations.

Benefit Payable to Allocated Pension Reversionary Pensioners

5.8.6 The Trustees and the Member may agree or, in the absence of agreement the Trustees may determine, that, on the death of a Member to whom an Allocated Pension is being paid, a pension may be paid to one or more reversionary pensioners. The Trustees shall pay an Allocated Pension to such of the reversionary pensioners as they, in their absolute discretion, determines

5.8.7 The amount and the terms and conditions of the Allocated Pension paid to a reversionary pensioner under this Rule shall be agreed on by the reversionary pensioner and the Trustees, but, in the absence of agreement, the amount and the terms and conditions of the Allocated Pension shall be determined by the Trustees.

5.8.8 Notwithstanding Rule 5.8.7, if the Allocated Pension has to be paid on some other basis for the Fund to comply with the Regulations, it shall be paid on that basis.

5.8.9 The annual amount of the Allocated Pension shall not be greater than nor less than any maximum or minimum amount stated in the Regulations.

5.8.10 The Allocated Pension payable under Rules 5.8.6 and 5.8.8 shall cease to be payable:

5.8.10.1 if the, Member's Benefit is reduced to nil; or

5.8.10.2 on the death of the reversionary pensioner.

Payment to Member's Dependants

5.8.11 When, in respect of a deceased Member, an Allocated Pension:

5.8.11.1 ceases to be payable to all of the Member's reversionary pensioners under Rule 5.8.10; or

5.8.11.2 is not payable because the Member has no reversionary pensioners, or

5.8.11.3 is not payable because the Trustees have determined to not pay an Allocated Pension to any of the Member's reversionary pensioners,

the balance of that Member's Benefit (if any) shall be:

5.8.11.4 held by the Trustees on trust for the benefit of such one or more of the Member's Dependants, to be paid in a lump sum in such shares and proportions as the Trustees, in their absolute discretion, determine; and/or

5.8.11.5 paid to the Member's legal personal representative.

5.8.12 When deciding whom to pay a death benefit, the Trustees shall take account of any nomination of beneficiaries made by the Member, but shall not be bound by it unless the Trustees are required to do so by the Regulations.

5.8.13 If, after making enquiries that the Trustees regard as reasonable, the Trustees are unable to establish that there are any Dependants or a legal personal representative of the demised Member, the Trustees may, if permitted by the Regulations, pay the benefit to a person or persons selected by the Trustees.

5.8.14 Subject to Rule 5.8.13, if a grant of probate or letters of administration is not made in respect of the estate of the Member within 3 years after his death (or such longer period as the Trustees determines), the benefit payable under Rules 5.8.6 to 5.8.13 inclusive shall be treated as a forfeited benefit and shall be applied by the Trustees in the manner it determines subject to meeting any requirements of the Regulations.

- 5.8.15 If payment of all or part of the benefit payable under Rules 5.8.6 to 5.8.4 inclusive does not comply with the requirements of the Regulations, the proportion of the benefit that does not comply shall be treated as a forfeited benefit and shall be applied by the Trustees in the manner it determines subject to meeting any requirements of the Regulations.

FORMS OF BENEFIT PAYMENT

- 5.9 Any form of Benefit payment agreed to by the Trustees shall conform to the requirements of the Regulations and shall not prejudice Government Approval of the Fund. When entitled to a Benefit from the Fund, before the Benefit is paid or commences or within such time as permitted by the Trustees, a Member may, subject to the Regulations, make an election in writing (which is not binding upon the Trustees) to receive the Benefit in any manner contemplated by Article 5 and indicate the desired amount or extent, as the case may be, that the Benefit is sought to be received as a Lump Sum or Pension. In the case of an election relating to a Pension, a Member may specify whether or not it is intended to be a Reversionary Pension and, if so, to whom and under what terms or conditions the Member requires the Pension to be subject.

PAYMENT OF BENEFITS IN SPECIE - BY TRANSFER OF ASSETS

- 5.10 The Trustees may with the agreement of a Member or beneficiary to whom a Benefit is payable, transfer in specie investments of the Fund of equivalent value to the Member or beneficiary in lieu of paying the whole or part of the amount otherwise payable under there Rules.

DESIGNATED BENEFICIARY AND DEATH BENEFIT NOMINATIONS

- 5.11 A Member may give the Trustees a nomination notice in the form approved by the Trustees relating to death benefit nominations stating:
- 5.11.1 the form in which the Member's Death Benefit is to be paid including, if appropriate, the extent to which it is paid as one or more lump sums, pensions, annuities or any of these and may specify whether a Pension, reversionary or not, is to be provided; and
 - 5.11.2 those of the Members Dependents and such other persons authorised by the Regulations and Legal Personal Representative to whom the Members Death Benefit is to be paid and, if more than one, in what proportion.
- 5.12 A nomination notice:
- 5.12.1 may be revoked in such manner approved by the Trustees and may be replaced with a new nomination notice at any time;
 - 5.12.2 if the Member so elects shall be binding upon the Trustees;
 - 5.12.3 need not comply with the requirements of the Regulations unless it must conform with the Regulations in order for the nomination notice to be effective or valid.
- 5.13 If, at the time of a Member's death:
- 5.13.1 the Trustees hold a binding nomination notice in respect of the Member, the Trustees must distribute so much of the Member's Death Benefit as is validly covered by the nomination notice and is not in breach of the Regulations;
 - 5.13.2 the Trustees hold a binding nomination notice in respect of the Member and the notice does not cover the whole of the Member's Death Benefit, the Trustees must pay so much of the Member's Death Benefit as is not covered by the nomination notice to the Member's Legal Personal Representative;
 - 5.13.3 the Trustees do not hold a binding nomination notice, the Trustees may use their absolute discretion in distributing any Death Benefit payable on the Member's death in accordance with Rule 5.14 and the Trustees shall take account of any nomination of Designated Beneficiaries made by the Member, but shall not be bound by it.

PAYMENT OF DEATH BENEFITS

- 5.14 To the extent that the Trustees are not bound by a binding nomination notice, any Death Benefit shall, be paid as the Trustees in their absolute discretion decide either in whole or part:
- 5.14.1 by way of pension or lump sum payments to such one or more of the Designated Beneficiaries (if any) or other Dependants of the Member or other person authorised by the Regulations, and in such proportions, as the Trustees in their absolute discretion decide, or
 - 5.14.2 in a lump sum to the Member or the legal personal representative of the Member.

- 5.15 If the Trustees are unable to establish within 6 months of the death of the Member that there are any Dependants, then the Death Benefit shall be paid to the Member's legal personal representative but, if a Grant of Probate or Letters of Administration in respect of the estate of the Member is not made within 3 years of the Member's date of death (or such other period that the Trustees determine), then the Death Benefit shall be paid to such person or persons that the Trustees determine or shall be dealt with pursuant to Rule 5.16 or Rule 5.17.

UNCLAIMED MONIES

- 5.16 The Trustees shall comply with the Regulations relating to unclaimed money which becomes payable by the Fund to a Member or a Dependant or other person whom the Trustees are unable to locate after making reasonable efforts and enquiries which shall be paid in accordance with any applicable unclaimed money law or, in the event that no such law is applicable, to the Regulators.

PAYMENT OF MONIES TO AN EMPLOYER

- 5.17 In the event that the Trustees determine that an Employer is entitled to receive monies from the Fund, the Trustees shall pay such amount to the Employer in accordance with the requirements of the Regulations and provided Government Approval of the Fund is not prejudiced.

ROLLOVER OF BENEFITS BETWEEN FUNDS

- 5.18 In the event that the Trustees determine that a benefit (other than a pension) is immediately payable to a Member, to an Eligible Fund in respect of a Member or to another person in respect of a Member, and the Benefit has not been paid within 90 days of the date the benefit first became payable, the Trustees may pay the benefit to an Eligible Fund that has been declared by the Regulator to be a fund eligible to receive such rolled-over benefits.
- 5.19 Where a benefit has become payable and the Trustees are satisfied that at least 2 consecutive annual Member Statements and Reports, as described in Rules 8.13 and 8.14, have not been received by the Member the Trustees shall pay the Benefit to an Eligible Fund that has been declared by the Regulator to be a fund eligible to receive such rolled-over benefits.

BENEFIT PAYABLE IN OTHER CIRCUMSTANCES

- 5.20 The Trustees may, in its absolute discretion, pay part or all of a Member's benefit to a Member, or another person, in the circumstances provided for in the Regulations, notwithstanding the restrictions imposed by the Rules.

PRESERVATION

- 5.21 The Trustees shall ensure that any Preserved Benefit is preserved within the Fund or is transferred to an Eligible Fund in accordance with the Regulations.

NON-COMMUTABLE BENEFITS

- 5.22 When a Member is entitled to a Benefit which is subject to cashing restrictions, the Trustees shall ensure that the Benefit is not commuted except in accordance with the Regulations.

PREVENTION OF EXCESSIVE BENEFITS

- 5.23 In the event that the total benefits payable to or in respect of a Member under these Rules together with the benefits paid or payable to or in respect of him under any other Eligible Fund being in the opinion of the Trustees excessive in amount having regard to the Regulations, the Trustees in their sole and absolute discretion may adjust Member's benefits and contributions appropriately.

DISCHARGE OF OBLIGATIONS

- 5.24 The payment or application of any moneys pursuant to Article 5 shall be a complete discharge thereof.
- 5.25 No Benefit shall be payable until the Trustees have ascertained that it may be paid in accordance with the provisions of these Rules.
- 5.26 Payment or assignment of a Benefit in good faith to a person believed by the Trustees to be entitled to receive it shall be deemed for the purposes of these Rules to be payment or assignment to a person entitled to receive such Benefit and shall be a valid discharge to the Trustees of their obligations in respect of the payment or assignment of that Benefit.
- 5.27 The Trustees when determining questions of fact may act upon such proofs or presumptions as they may deem satisfactory whether strictly legal proofs or presumptions or not.

ARTICLE 6 ADMINISTRATION

SOLE OR PRIMARY PURPOSE

- 6.1 The sole or primary purpose of the Fund shall be the payment of Benefits to Members but if the Trustees are not a Constitutional Corporation, the sole or primary purpose of the Fund shall be the payment of Old-age Pensions to Members .

ENTITLEMENT

- 6.2 All questions as to whether any person is entitled to a payment out of the Fund and, if so, the amount of such payment shall be determined by the Trustees whose decision shall be final.

EXPENSES, TAX AND CHARGES

- 6.3 Notwithstanding anything expressed or implied to the contrary in these Rules:
- 6.3.1 the Trustees may deduct from any moneys which but for this Rule would be payable to or for the benefit of a Member or Dependant and may retain in the Fund, any amount which the Trustees determine is owing to the Trustee or the Fund by the Member or Dependant;
 - 6.3.2 the Trustees shall estimate and deduct from any contribution to the Fund or debit the Fund with such amount as the Trustees shall think fit in respect of any income or other tax assessed or likely to be assessed in relation to the contribution received from the Fund;
 - 6.3.3 the Trustees may deduct an amount equal to any tax or charges in respect of any payment out of the Fund from such payment as they think proper and the Trustees shall not be liable to any Member or Dependant in respect of any amount so deducted and the Trustees shall only be required to pay the residual amount of the payment; and

nothing in this Rule shall prejudice any other rights which the Trustees may have to deduct tax or charges from any payment out of the Fund, or to pay from the Fund any other tax or charges which such payment may incur.

- 6.4 For the purpose of Rule 6.3 the Trustees may alter, exchange and segregate current pension assets from non-current pension assets and deal with the Fund as different sub-funds, segments or portions and account for them in accordance with these Rules.

FORFEITURE OF BENEFITS

- 6.5 The Trustees may only forfeit Benefits where such forfeiture is allowed under the Regulations or the Bankruptcy Act 1966.
- 6.6 Benefits forfeited under Rule 6.5 shall be applied by the Trustees as the Trustees may think fit for the benefit of any such person and his Dependants or any one or more of them, provided that where the person is a Member the Trustees shall not make any payment to or for the benefit of the Member or his Dependants until the Member attains such age as is prescribed in the Regulations, other than for personal maintenance and support in case of hardship. Such application of the benefit shall be a discharge to the Trustees for the payment thereof.

RIGHTS OF MEMBERS

- 6.7 No person, whether as a Member or otherwise, shall have any claim, right or interest to or in respect of the Fund or any contributions thereto or any interest therein or any claim upon or against the Trustees except under and in accordance with the provisions of the Rules in these Articles.
- 6.8 A Member shall be bound by the Rules in these Articles.
- 6.9 A Member shall not more than once a year, be entitled to receive from the Trustees, on request, a copy of the latest accounts, balance sheet, auditor's report, actuarial report, returns to a Regulator, certificates received from a Regulator and such other information as is required by the Regulations to be provided to a Member.

MEMBERS TO GIVE INFORMATION

- 6.10 A Member and every person claiming a Benefit ("claimant") shall, from time to time, give the Trustees such documents as they consider are required for the purpose of putting the Rules in these Articles into effect. If any Member or claimant fails to supply all or any of such information then the Trustees may suspend the payment of any Benefits.
- 6.11 Where information or a document is not furnished within six (6) months of the first request the Benefits payable to or in respect of such Member or claimant may cease or may be transferred in part or in whole in such amounts as shall be determined by the Trustees in their absolute discretion (subject at all times to the provisions of the Regulations) to an Eligible Fund PROVIDED HOWEVER in the case of the information furnished by or in respect of a Member or claimant in any statement submitted to the Trustees being fraudulently incorrect in any material

particular such Member's Benefit shall be otherwise dealt with in accordance with the provisions of the Regulations.

NOTICES

- 6.12 Any notices to be given under these Rules shall be deemed to have been validly given if they were handed to the party to be served or, if posted, duly addressed to the party to be served at the last known address of such party.

POWER OF ATTORNEY

- 6.13 Each Member hereby irrevocably appoints the Trustees and each of them as his attorney to execute and sign and do all such deeds, instruments and things as the Trustees may consider necessary or desirable in order to carry out and give effect to the Trust Deed or these Rules or the powers vested in the Trustees.

VARIATION OF RULES

- 6.14 The Trustees may, at any time, by oral or written resolution or by instrument in writing amend all or any of the provisions of these Rules provided that no reduction of the Accrued Benefit of a Member shall be made as a result of a variation of those Rules without his consent in writing, or the consent in writing of the Regulator and the consent in writing of such other persons as is necessary to avoid prejudicing Government Approval of the Fund.
- 6.15 No amendment to the Rules introduced primarily for the purpose of securing exemption or relief from liability for taxation, stamp duty, gift duty, death duty, or any other form of taxation imposed or to be imposed or primarily for the purpose of complying with or conforming to future State or Commonwealth legislation governing or regulating the maintenance or operation of superannuation pension or like funds shall be deemed prejudicially to vary or to affect the Accrued Benefit of a Member.
- 6.16 No amendment to the Rules shall be made:
- 6.16.1 While an individual is a Trustee, to allow the sole or primary purpose of the Fund to be other than the provision of Old-age Pensions; or
- 6.16.2 While the sole or primary purpose of the Fund is other than the provision of Old-age Pensions to allow the Trustees to be other than a Constitutional Corporation.

LAW

- 6.17 The Fund or any of the provisions thereof shall be governed by and construed according to the law of the State as detailed in the Trust Deed.

SUPERANNUATION SPLITTING LAW

- 6.18 The Trustees shall only be obliged to comply with any request for information, agreement or order made under the Superannuation Splitting Law to the extent permitted or required by the Regulations.
- 6.19 The Trustees may impose a fee not exceeding the amount, if any, prescribed by the Regulations for the administrative costs associated with complying with an agreement or order made under the Superannuation Splitting Law and such fee shall be payable by such persons and in such proportions as prescribed by the Regulations. The Trustee may add interest, at a rate the Trustee determines, to any unpaid fee that the Trustee imposes and may debit the interest to a benefit or interest that the relevant Member or person deemed to be a Member has in the Fund.
- 6.20 Nothing in these Rules shall impose a duty or obligation upon the Trustees to admit as a Member of the Fund any person being a party to an agreement or order made under the Superannuation Splitting Law who is not already a Member of the Fund and the Trustees may transfer any Benefit to which such person is entitled to an Eligible Fund in accordance with the Regulations.
- 6.21 Notwithstanding anything contained in these Rules, a Benefit payable to a Member or Dependant under these Rules shall be subject to any agreement or order made under the Superannuation Splitting Law applying to that Benefit.

COMPLIANCE WITH REGULATIONS

- 6.22 This Trust Deed shall be read and construed on the basis that the provisions of the Regulations are incorporated herein to the extent that they impose requirements on the Trustees or are required by the Regulations to be so incorporated but this Trust Deed shall not be so read or construed if to do so would constitute a breach of the power granted by Rules 6.14 to 6.16 inclusive to amend the provisions of this Trust Deed or where provisions of the Regulations are expressly excluded by these Rules. Where there is any inconsistency between a provision in this Trust Deed and a provision in the Regulations which is so incorporated, the latter shall prevail.

ARTICLE 7 THE ASSETS, EXPENSES & INVESTMENTS

THE ASSETS

- 7.1 The following property and the property for the time being representing the same and the income thereof shall constitute the assets of the Fund namely;
- 7.1.1 contributions;
 - 7.1.2 any assets paid or transferred to the Fund,
 - 7.1.3 all profits, accumulations and earnings of the Fund, and
 - 7.1.4 any other moneys received or receivable by the Trustees for the purposes of the Fund.

ASSETS HELD BY TRUSTEES

- 7.2 The assets of the Fund shall be held by the Trustees upon trust to be applied in accordance with the provisions of these Articles.

EXPENSES OF THE FUND

- 7.3 All the expenses of operation of the Fund incurred from time to time shall be paid out of the assets of the Fund. Costs of the Fund must be distributed in a fair and reasonable manner as between all Members of the Fund in compliance with the Regulations.

INVESTMENTS IN NAME OF NOMINEE

- 7.4 Subject to the requirements of the Regulations, any investments may be held in such names including the name of a nominee (whether an individual or a corporation as the Trustees shall from time to time determine).

CHARGING ASSETS

- 7.5 The Trustees shall not give a charge over or in relation to an asset of the Fund except in the circumstances permitted in the Regulations.

LOANS TO MEMBERS

- 7.6 The Trustees shall not make loans, or use the resources of the Fund to give any other financial assistance, to Members or to relatives of Members unless the Fund was established before 16 December 1985 and either the Rules of the Fund contained provisions allowing the Trustees to make loans to Members or the Trustees lent money to Members and that lending was not expressly prohibited by the Rules of the Fund.

ACQUIRING ASSETS FROM MEMBERS

- 7.7 The Trustees will not acquire assets from a Member or from a relative of a Member if such acquisition would contravene the Regulations and prejudice Government Approval of the Fund.

IN-HOUSE ASSETS

- 7.8 The Trustees shall not invest in any In-house Assets as defined in the Regulations unless such investment can be made without prejudicing Government Approval of the Fund.

INVESTMENTS

- 7.9 Subject to the provisions of the Regulations and to Rules 7.6, 7.7 and 7.8. and provided investments are made on an arm's-length basis, all moneys received by the Trustees but not required to meet current payments may in the absolute discretion of the Trustees either be and remain on deposit or be reinvested either directly or indirectly in any manner in which the Trustees, if they were personally entitled to such assets, could invest without prejudicing Government Approval of the Fund. Without restricting the generality of the foregoing, moneys may be invested:
- 7.9.1 in any one or more of the modes of investment considered by law to be prudent or authorised by law for the investment of trust funds;
 - 7.9.2 on deposit with or on loan to any bank, company or business whether secured or unsecured and at such rate of interest and upon such terms as the Trustees think fit;
 - 7.9.3 on the purchase or acquisition of or at interest upon the security of such real or personal property of whatsoever nature and wheresoever situate;
 - 7.9.4 in the shares, notes, options, debentures or other securities of any company or the securities of any government, semi-governmental body or public authority;
 - 7.9.5 in units of any common fund property trust or unit trust;
 - 7.9.6 in any policies of life insurance or annuities; and

- 7.9.7 any other investment which the Trustees consider to be appropriate and which is acceptable to the Regulator.
- 7.10 The Trustees shall have full power to vary replace 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 so.

ASSETS SPECIFIC TO A MEMBER

- 7.11 The Trustees, with the agreement of the Member concerned, may invest in or acquire certain identifiable investments or assets for the benefit of any Member and to make a specific investment for the benefit of any Member providing that such investment complies with the investment strategy of the Trustees and shall hold such assets for the specific benefit of the Member concerned and which shall be recorded in the Member's account.
- 7.12 Notwithstanding anything contained in these Articles, any asset held for the specific benefit of a Member shall not be transferred out of the Member's account and no other person shall obtain an interest in the asset unless:
- 7.12.1 the asset is being transferred to the Member as payment of a Benefit in specie to the Member;
 - 7.12.2 the asset is being sold and the proceeds are to be paid to the Member as payment of a Benefit; or
 - 7.12.3 the transfer of the asset does not affect any duty exemption or nominal assessment of duty obtained under the laws of any State or Territory to the transfer of the asset to the Fund when the asset was first acquired by the Trustees.

RESERVE ACCOUNTS

- 7.13 The Trustees to the extent permitted by the Regulations may establish and maintain the following Reserve Accounts:
- 7.13.1 a Taxation Reserve (in which is recorded any unpaid or expected taxation liabilities);
 - 7.13.2 an Expense Reserve;
 - 7.13.3 an Investment Reserve;
 - 7.13.4 a Contributions Reserve;
 - 7.13.5 a Miscellaneous Reserve;
 - 7.13.6 an Accumulation Reserve;
 - 7.13.7 a Pension Reserve;
 - 7.13.8 such Reserves or liability accounts as may assist the Trustees to identify the value of assets that may be 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
 - 7.13.9 such other Reserves and accounts as the Trustees consider appropriate from time to time;

and the Trustees may transfer any amount from the income of the Fund including contributions for any Member to any one or more of the Reserves and vice versa and between the Reserves so established as they consider appropriate and which is acceptable to the Regulators.

PENSION RESERVE

- 7.14 Based on the advice of an actuary, the Trustees may credit a Pension Reserve with:
- 7.14.1 contributions for a Member to fund a Complying Pension including any contributions which exceed the Member's maximum contribution limit in a Financial Year as determined by the Regulations;
 - 7.14.2 transfers from an Eligible Fund under Rule 2.7;
 - 7.14.3 allocations of income and profit of the Fund pursuant to paragraphs 1 and 2 of Schedule 1;
 - 7.14.4 allocations made from time to time by the Trustees from the Accumulation Reserve;
 - 7.14.5 proceeds of policies of insurance effected to provide benefits on the death or disablement of the Member;
 - 7.14.6 transfers from the Member's Accrued Benefit or any of the Reserves where the Trustees determine that an anticipated Member's Complying Pension requires further funding; and
 - 7.14.7 such other amounts as the Trustees may determine be properly credited to a Pension Reserve in respect of a Member;

and shall debit a Pension Reserve with:

- 7.14.8 amounts paid by way of Benefits in respect of a Member;
- 7.14.9 transfers to a Member's Accrued Benefit or any of the Reserve Accounts where the Trustees determine that an anticipated Member's Complying Pension is over-funded;
- 7.14.10 amounts debited to pay premiums on policies of insurance effected to provide benefits to Members;
- 7.14.11 amounts debited to pay any tax and other expenses, or amounts to provide for them;
- 7.14.12 any part of an amount transferred to an Eligible Fund in respect of the Member pursuant to Rule 2. or Rule 2.10 which the Trustees have determined shall be debited to Pension Reserve; and
- 7.14.13 any other amount which shall be credited or debited for the purposes of these Rules;

PROVIDED THAT the transfer, payment or provision is in accordance with the Regulations and the amounts credited are not a minimum benefit.

ACCUMULATION RESERVE

7.15 The Trustees may credit an Accumulation Reserve with:

- 7.15.1 transfers of any balance remaining of any Member's Accrued Benefit after all Benefits have been paid to a Member or is otherwise satisfied in full;
- 7.15.2 transfers from a Member's Accrued Benefit where the Trustees consider that it is in the interests of the Member to do so;
- 7.15.3 allocations of income and profit of the Fund pursuant to paragraphs 1 and 2 of Schedule 1;
- 7.15.4 transfers from a Pension Reserve where the Trustees determine that an anticipated Member's Complying Pension is over-funded;
- 7.15.5 the value of any Benefit covered by Rule 5.14;
- 7.15.6 the value of any Benefit covered by Rule 6.5; and
- 7.15.7 such other amounts as the Trustees may determine be properly credited to the Accumulation Reserve in respect of a Member;

and shall debit an Accumulation Reserve with:

- 7.15.8 transfers to a Member's Accrued Benefit as determined by the Trustees from time to time;
- 7.15.9 transfers to a Pension Reserve where the Trustees determine that an anticipated Member's Complying Pension requires further funding
- 7.15.10 amounts debited to pay any tax and other expenses, or amounts to provide for them;
- 7.15.11 any part of an amount transferred to an Eligible Fund in respect of the Member pursuant to Rule 2.8 or Rule 2.10 which the Trustees have determined shall be debited to an Accumulation Reserve; and
- 7.15.12 any other amount which shall be credited or debited for the purposes of these Rules;

PROVIDED THAT the transfer, payment or provision is in accordance with the Regulations and actuarial advice.

ARTICLE 8 RECORDS, ACCOUNTS AND REPORTS

RECORDS

8.1 The Trustees shall keep or cause to be kept:

- 8.1.1 such accounting records as correctly record and explain the transactions and financial position of the Fund, including a complete record of the income and expenditure of the Fund, personal details of the Members of the Fund including a record of their Benefit entitlements, details of any orders or agreements made under the Superannuation Splitting Law and all other matters essential for the working of the Fund; and
- 8.1.2 All such records in writing in the English language in Australia for the period specified in the Regulations.

ACCOUNTS

- 8.2 The Trustees shall at the end of each Financial Year prepare a statement of financial position of the Fund and an operating statement for the Fund or alternatively such accounts and statements as are provided for in the Regulations.

AUDIT

- 8.3 The Trustees shall appoint an Auditor to the Fund in accordance with the Regulations to audit the accounts and records of the Fund and to:
- 8.3.1 report in writing to the Trustees the result of such audit; and
 - 8.3.2 to certify to the Trustees whether the Fund complies with the Regulations.

ACTUARIAL REVIEW

- 8.4 The Trustees shall when required by the Regulations or when the Trustees determine appoint an actuary to make such enquiries and investigations as they may determine and to report in writing to the Trustees.

ANNUAL RETURNS

- 8.5 The Trustees shall, at the end of each Financial Year, give to the Regulator:
- 8.5.1 a return, in the approved form, containing such information as is required by that form in relation to the Fund in respect of that year of income;
 - 8.5.2 a certificate, in the approved form, by the Trustees in relation to the Fund in respect of that year of income; and
 - 8.5.3 a certificate given to the Trustees by the Auditor in relation to the Fund in respect of that year of income.

REPORTS ON SIGNIFICANT EVENTS

- 8.6 The Trustees shall give every Member information and details concerning any significant event that the Trustees reasonably believe a Member would reasonably need to understand the nature, purpose and effect of the event. The Trustees shall give the necessary information to the Member before, or as soon as practicable after the occurrence of the significant event but, in any case, no later than three months after the occurrence of the event.
- 8.7 Significant events requiring the Trustees to notify the Members include:
- 8.7.1 A change to the Rules of the Fund adversely affecting the Member's Benefits in any way;
 - 8.7.2 A change to the Member's category of membership;
 - 8.7.3 A transfer of the Member's benefit to another fund;
 - 8.7.4 The receipt by the Trustees of a notice of non-compliance.
- 8.8 In the event of the receipt of a notice of non-compliance the Trustees shall give to every Member:
- 8.8.1 A statement of the circumstances that gave rise to the notice;
 - 8.8.2 A statement of the effect of the notice on the Fund and its taxation position;
 - 8.8.3 Details of the action to be taken to return the Fund to complying status; and
 - 8.8.4 Any information that the Regulator directs to be given to the Members.

RECEIVING OF INFORMATION ON REQUEST

- 8.9 The Trustees shall make available to any Member and any person entitled, who makes a written request to the Trustees, any information or copies of any documents that the Member and any person entitled could reasonably require to understand his Benefit entitlements under the Fund, the main features of the Fund, the investment performance of the Fund and any other matter referred to in the Regulations. If not prohibited by the Regulations, the Trustees may charge a fee for the provision of information requested by a Member and any other person.
- 8.10 The Trustees shall specifically make available copies of the Rules, the audited accounts, the auditors report, and advice to the extent they are relevant to the financial condition of the Fund and the persons entitlements and the latest Member Fund Report.
- 8.11 The Trustees shall not make available to a Member any information that is confidential to the Fund, other Members of the Fund and other persons provided that the Regulations allow the Trustees to keep such information confidential.

- 8.12 Where the Trustees would otherwise be required to provide a Product Disclosure Statement under the requirements of the Corporations Act 2001 the Trustees shall provide access to any Member, or any person applying to become a Member, to any information that a Product Disclosure Statement would otherwise be required to contain.

MEMBER BENEFIT STATEMENTS

- 8.13 As soon as practicable, after the end of each Financial Year, the Trustees shall give each Member a written statement detailing such information as the Trustees reasonably believe a Member reasonably needs to understand his benefit entitlements in the Fund and such information as is required by the Regulations.

MEMBER FUND REPORT

- 8.14 As soon as practicable, but in any event within six months, after the end of each Financial Year, the Trustees shall give each Member a written report on the financial affairs of the Fund showing such details as the Trustees reasonably believe a Member would reasonably need to understand the management, the financial condition and the investment performance of the Fund and such information as is required by the Regulations.

MEMBER LEAVING STATEMENT

- 8.15 The Trustees shall give a person, as soon as practicable after becoming aware that the Person has ceased to be a Member of the Fund, a statement detailing such information as the Trustees reasonably believe the Person reasonably needs to understand his benefit entitlements from the Fund and such information as is required by the Regulations.

ARTICLE 9 TRUSTEES

TRUSTEES STRUCTURE

- 9.1 The Trustee of the Fund shall be a Constitutional Corporation if the Sole or Primary purpose of the Fund is other than the provision of Old-age Pensions.

APPOINTMENT OF TRUSTEES

- 9.2 The Trustees shall take such action as they consider necessary and appropriate to ensure that the Trustees are constituted in a manner which complies with the Regulations including action relating to constitution or governing rules of a Trustee which is a Constitutional Corporation and the eligibility, appointment, replacement, representation, removal and composition of Trustees and the board of directors of a Trustee which is a Constitutional Corporation.
- 9.3 A person shall only be appointed as a Trustee or a director of a corporate Trustee if that person consents in writing to the appointment. Each written consent shall be retained by the Trustees for 10 years or such other period required by the Regulations.
- 9.4 The Trustees may be appointed, removed or replaced with the agreement of at least two-thirds of the Members except where there are only two Members in which case unanimous agreement is required and where there is deadlock each individual Member' vote shall be weighted in relation to the value of the member's interest or entitlement in the Fund.

RETIREMENT OF TRUSTEES

- 9.5 A Trustee for the time being must retire or ceases to hold that office if:
- 9.5.1 being an individual Trustee, the person dies or becomes bankrupt or legally incompetent;
 - 9.5.2 the Trustee resigns by notice in writing to the Members and the other Trustees, if any;
 - 9.5.3 the Trustee is removed by the Members pursuant to Rule 9.4;
 - 9.5.4 the Trustee is suspended or removed by the Regulator pursuant to the Regulations;
 - 9.5.5 being a Constitutional Corporation, the Trustee is placed into receivership or liquidation whether compulsory or voluntary;
 - 9.5.6 the Trustee is a disqualified person pursuant to the Regulations.
 - 9.5.7 subject to the Regulations, complying of the Fund would be jeopardised or altered unless the Trustee ceased to act in that role; or
 - 9.5.8 where the Trustees is required by the Regulations to establish a procedure for the removal of Trustees, the Trustee is removed by such procedure.

VACANCY

- 9.6 Any vacancy in the office of Trustee or the board of directors of a Constitutional Corporation holding the office of Trustee shall be filled within such period as and when required by the Regulations but until and unless the vacancy is filled, the continuing Trustees or the board of directors may exercise any of the powers, authorities and discretions conferred on the Trustees under the Deed provided that where there is at least two continuing Trustees or one continuing director there shall be no obligation to fill any vacancy unless required by the Regulations.
- 9.7 Notwithstanding anything contained in the Rule 9.6 and without limiting the power to remove a Trustee under Rules 9.4, where a Trustee being an individual dies or is under a legal disability, the legal personal representative of the Trustee shall to the extent permitted by the Regulations replace that Trustee and where a Trustee is a Constitutional Corporation, the Trustee shall ensure that the constitution or governing rules of the Constitutional Corporation provide that a director of the Constitutional Corporation who dies or is under a legal disability shall to the extent permitted by the Regulations be replaced as a director of the Constitutional Corporation by the legal personal representative of that director. This sub-Rule shall not apply to any individual Trustee or a director of a Constitutional Corporation who is not also a Member of the Fund.

TRANSFER OF ASSETS

- 9.8 Upon a change of Trustees the retiring Trustee, shall execute all transfers, deeds or other documents necessary to transfer investments or moneys into the name of the new Trustees.

COVENANTS GIVEN BY THE TRUSTEES

- 9.9 The Trustees give the following covenants:
- 9.9.1 to act honestly in all matters concerning the Fund;
- 9.9.2 to exercise, in relation to all matters affecting the Fund, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
- 9.9.3 to ensure that the Trustee's duties and powers are performed and exercised in the best interests of the beneficiaries;
- 9.9.4 to keep the money and other assets of the Fund separate from any money and assets, respectively:
- 9.9.4.1 that are held by the Trustees personally; or
- 9.9.4.2 that are money or assets, as the case may be, of an Employer or an associate of an Employer;
- 9.9.5 not to enter into any contract, or do anything else, that would prevent the Trustees from, or hinder the Trustees in, properly performing or exercising the Trustee's functions and powers;
- 9.9.6 to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the Fund including, but not limited to, the following:
- 9.9.6.1 the risk involved in making, holding and realising, and the likely return from the Fund's investments having regard to its objectives and its expected cash flow requirements;
- 9.9.6.2 the composition of the Fund's investments as a whole including the extent to which the investments are diverse or involve the Fund in being exposed to risks from inadequate diversification;
- 9.9.6.3 the liquidity of the Fund's investments having regard to its expected cash flow requirements;
- 9.9.6.4 the ability of the Fund to discharge its existing and prospective liabilities;
- 9.9.7 if there are any Reserve Accounts of the Fund - to formulate and to give effect to a strategy for their prudential management, consistent with the Fund's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;
- 9.9.8 to allow a Member access to any prescribed information or any prescribed documents.

POWERS OF TRUSTEES

- 9.10 Without prejudice to the powers vested in the Trustees by the Trust Deed and the Rules or otherwise the Trustees shall have the following powers, that is to say, power:
- 9.10.1 to purchase or otherwise acquire and to sell or otherwise dispose of property, rights or privileges which the Trustees are authorised to acquire or dispose of on such terms and conditions as they shall think fit:

- 9.10.2 to appoint and at their discretion remove or suspend the auditor, actuary, managers, secretaries, clerks, agents and other servants, appoint them for permanent, temporary or special services as they from time to time think fit, determine their powers and duties and fix their salaries or emoluments and require security in such instances and to such amount as they may think fit and any person so employed shall be deemed for the purposes of the Rules to be employed by the Trustees:
- 9.10.3 to institute, conduct, defend, compound or abandon any legal proceedings by or against the Fund or its officers or otherwise concerning the affairs of the Fund and also to compound and allow time for payments or satisfaction of any debts due and of any claims or demands by or against the Fund;
- 9.10.4 to refer any claims or demands by or against the Fund to arbitration and observe and perform the awards;
- 9.10.5 to make and give receipts, releases and other discharges for money payable to the Fund and for the claims and demands of the Fund:
- 9.10.6 to open bank accounts and to retain on current or deposit account at any bank such moneys as it considers proper and to make regulations for the operation of such bank accounts including the signing and endorsing of cheques in connection therewith;
- 9.10.7 to determine who shall be entitled to sign on the Plan's behalf, receipts, acceptances, endorsements, releases, contracts and documents;
- 9.10.8 to pay benefits out of the Fund to persons entitled;
- 9.10.9 to decide as and when the need shall arise who are Dependants for the purposes of the Rules; and
- 9.10.10 in case of mental or physical ill-health, or incapacity of a person entitled to benefits to pay or apply such benefits or any part thereof at their discretion to or for the benefit of such person and the Dependants of such person or any of them as the case may be without being responsible for seeing the application of payments under this sub-clause or payments made in the exercise of any other powers vested in the Trustees by the Trust Deed and the Rules.
- 9.10.11 The Trustees shall have the power to borrow any sum of money for the purposes permitted by the Regulations and secure the repayment thereof in such a manner and upon such terms and conditions and at such rate of interest as the Trustees determine and in particular, by charging or mortgaging all or any of the assets of the Fund and no lender shall be concerned to inquire as to whether the necessity for any such borrowing has arisen or as to the purpose for which it is required or as to the application of money borrowed.
- 9.10.12 To elect that the Fund become a Regulated Superannuation Fund;
- 9.10.13 To act on a direction given by a Court or the Regulator;
- 9.10.14 To comply with the covenants of Trustees imposed by the *Superannuation Industry (Supervision) Act 1993* (Commonwealth).
- 9.10.15 To do those things permitted or required by the Regulations.

DUTIES OF TRUSTEES

- 9.11 The Trustees must:
 - 9.11.1 ensure that any agreement made with an investment manager under which money of the Fund is placed in the control of the investment manager, is in writing and contains provisions which comply with the Regulations, including adequate provision to enable the Trustees to obtain information concerning the making of, and return on, the investments and to assess the capability of the investment manager.
 - 9.11.2 The Trustees must keep and retain for at least 10 years minutes of all meetings of the Trustees at which matters affecting the Fund were considered.
 - 9.11.3 The Trustees must keep and retain for at least 10 years records of all changes of trustees and, in the case of corporate trustees, directors of the corporate trustees.
 - 9.11.4 The Trustees must keep and retain for at least 10 years copies of reports given in the same form to all Members of the Fund.
 - 9.11.5 The Trustees must give written notice to the Regulator of the occurrence of any event, having a significant adverse effect on the financial position of the Fund, no later than three business days after becoming aware of the event.

- 9.11.6 If the Trustee of the Fund is a Constitutional Corporation and it is necessary for Government Approval of the Fund, then the Trustee must establish a procedure for the appointment and removal of member representatives to the board of directors of the Trustee.

INDEMNITY TO TRUSTEES

- 9.12 The Trustees and each person thereof in the case of a group of persons shall, unless prohibited by any law or court of competent jurisdiction, be indemnified out of the Fund against all liabilities incurred by them through any act or omission in the exercise of the powers, duties and discretions under the Trust Deed and the Rules or in the *bona fide* intended or purported exercise of their duties under the Trust Deed and the Rules and shall, unless prohibited by the Regulations have a lien on the Fund for such indemnity. The Trustees shall not be liable for any act or default done or omitted to be done in the exercise of their powers, duties and discretions or for any loss or expenses incurred by the Fund through the insufficiency or deficiency of any security in or upon which any of the moneys of the Fund shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any moneys or securities shall be deposited or for any other loss, damage or misfortune whatsoever except where the Trustees fail to act honestly in a matter concerning the Fund, where the Trustees intentionally or recklessly fail to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustees were required to exercise or where the Trustees are liable for monetary penalty under a civil penalty order.
- 9.13 For the purposes of the Trust Deed and the Rules the Trustees shall be entitled to regard a discretion, instruction or other written authorisation signed by a Member as a valid discretion, instruction or other written authorisation of the Member.

DISCRETIONS

- 9.14 The Trustees in the exercise of the powers, authorities and discretions hereby vested in them shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of such powers, authorities and discretions from time to time and at any time or may refrain from exercising all or any of such powers, authorities and discretions from time to time or at all and their decision as to the interpretation and effect of the Trust Deed and Rules shall be final, provided that the Trustees shall not discriminate against any person in a way which infringes any law of a Commonwealth or of a State or Territory that is applicable to the Fund, in respect of discrimination.
- 9.15 The Trustees or any director, employee, delegate, agent or other officer of the Trustees may be involved in the exercise of all powers, authorities and discretions conferred on the Trustees notwithstanding that they may have a conflict of interest or duty.

DELEGATION

- 9.16 The Trustees may delegate any of their powers, authorities and discretions vested in them (including the power of delegation) to any person in such manner and upon such terms and conditions as they think fit if the delegation is in accordance with the Regulations and may vary or revoke any delegation in such manner and terms as they see fit. The Trustees may exercise any power, authority or discretion in conjunction with or to the temporary or permanent exclusion of a delegate.

MANNER OF EXERCISE BY TRUSTEES OF DISCRETIONS, POWERS, ETC.

- 9.17 Where the Trustees consist of more than one person they:
- 9.17.1 may meet together for the dispatch of business;
 - 9.17.2 may adjourn and otherwise regulate their meetings as they think fit;
 - 9.17.3 may determine the quorum necessary for the transaction of business;
 - 9.17.4 shall appoint a chairman for the time being, from time to time or of each meeting, and
 - 9.17.5 may act by a majority of two thirds of the total number of Trustees except where there is a total of two individual Trustees in which case unanimous approval is required and where there is deadlock each individual Trustee's vote shall be weighted in relation to the value of their interest or entitlement in the Fund.
- 9.18 Where the Trustees consist of more than one person, a resolution in writing, signed by all the Trustees for the time being, shall be as valid and effectual as if it had been passed by a two thirds majority vote at a meeting of the Trustees duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more Trustees.
- 9.19 Any minutes so entered that purport to be signed as provided in Rules 9.17 and 9.18 shall be evidence of the proceedings or of the exercise of the discretion, authority or power which it relates, as the case may be. When minutes have been so entered and signed, then, until the contrary is proved:
- 9.19.1 the meeting (if any) shall be deemed to have been duly held and convened;

- 9.19.2 all proceedings had at any such meeting shall be deemed to have been duly had;
- 9.19.3 all determinations or decisions made at any meeting shall be deemed to be valid; and
- 9.19.4 where the minute does not relate to a meeting, the discretion, authority or power to which the minute relates shall be deemed to have been duly exercised.
- 9.20 If the Trustee is a Constitutional Corporation then such Constitutional Corporation may exercise or concur in exercising any discretion or power conferred on the Trustees by the Trust Deed to which these Rules are an annexure or by these Rules by a resolution of its directors or governing body in accordance with the company's Constitution, Memorandum and Articles of Association or other constituent document and may delegate the rights and powers conferred on it by the Trust Deed to which these Rules are an annexure or by these Rules.

NO REMUNERATION

- 9.21 The Trustees shall not be entitled to remuneration except to the extent permitted by the Regulations.

ARTICLE 10 WINDING UP

TERMINATION OF TRUST

- 10.1 If it shall, at any time, appear to the Trustees, for such reasons as they shall think fit, appropriate so to do or if required by the Regulations then the Fund shall be terminated and the Trustees shall determine a termination date. In any event, if required by law the Fund shall be terminated on the eightieth anniversary of the Date of the Trust Deed or such later date as permitted by law.
- 10.2 Upon the termination of the Fund in accordance with Rule 10.1, no further contributions shall be accepted by the Trustees other than any arrears of contributions already due, which shall be called in immediately.
- 10.3 Subject to any requirement of the Regulations including any requirements relating to the preservation of Benefits, as from the termination date, the assets of the Fund shall, after provision is made for all expenses and liabilities of the Fund, be held in trust and applied in the following priority:
- 10.3.1 in payment of benefits which on or before the termination date have become payable to Members or Dependants or legal personal representatives of deceased Members but not paid;
- 10.3.2 in payment or transfer of Member's Accumulated Benefit (but not including any amount that has not vested unless the Trustees determine that such amount shall vest) or entitlements to the Pension Reserve in accordance with these Rules;
- 10.3.3 in payment of any surplus to Members, former Members, Dependants of Members and former Members, or legal personal representatives of Members, former Members or Dependants in proportions the Trustees in their discretion determine is appropriate.
- 10.4 Where a Member dies before receiving a Benefit to which he has become entitled pursuant to Rule 10.3 such Benefit shall be paid in accordance with Rule 5.14.

ARTICLE 11 SAVING PROVISIONS

- 11.1 If a provision of the Deed or Rules would otherwise be wholly or partly invalid because it:
- 11.2 Subjects the Trustees to direction by another person; or
- 11.3 permits a person to exercise a discretion without the consent of the Trustees,
- then the Trustees' consent are required for the giving of the direction or exercise of the discretion.

ARTICLE 12 COMPLIANCE WITH THE REGULATIONS

- 12.1 Notwithstanding anything to the contrary contained within these Rules, the Trustees may do anything that is allowed by or under the Regulations and must not do anything that is prohibited by the Regulations or anything that will jeopardise or alter the complying status of the Fund where the Trustees have made an election to be regulated as a self-managed superannuation fund.
- 12.2 This Rule is paramount and it shall prevail over any inconsistent Rule herein.

SCHEDULE 1

- 1 The Accumulated Contributions in respect of each Member shall be determined at the end of each Financial Year as follows:
 - 1.1 To the Accumulated Contributions in respect of the Member at the beginning of the Financial Year there shall be added:
 - 1.1.1 contributions made in respect of the Member during the Financial Year; and
 - 1.1.2 the proceeds of any Individual Policies in respect of the Member of the kind referred to in paragraph 1.1.5 below;
 - 1.1.3 the income derived from any assets held in respect of the Member in accordance with Rule 7.11 and which are deemed by the Trustees to have been secured with monies debited to the Member's Accumulated Contributions as referred to in paragraph 1.1.6 below;
 - 1.1.4 Splittable Contributions transferred or allocated to a Member which the Trustees have determined shall be credited to the Member's Accumulated Contributions; and
 - 1.1.5 amounts credited to the Member out of the Reserve Account;and there shall be subtracted:
 - 1.1.6 premiums paid during the Financial Year under any Individual Policy in respect of the Member which the Trustees have determined shall be funded out of Member contributions, and
 - 1.1.7 amounts paid during the Financial Year to secure assets specific to the Member in accordance with Rule 7.11 and which the Trustees have determined shall be funded out of the Member's Accumulated Contributions; and
 - 1.1.8 Benefits paid in respect of the Member during the Financial Year;
 - 1.1.9 Splittable Contributions transferred or allocated from the Member to another Member or an Eligible Fund which the Trustees have determined shall be debited to the Member's Accumulated Contributions; and
 - 1.1.10 any amounts by way of tax and expense which are or may become payable and which the Trustees consider proper to be deducted from the Member's Accumulated Contributions.
 - 1.2 The profit for the Financial Year shall be determined by deducting from the net assets of the Fund, as shown in the balance sheet at the end of the Financial Year, the total value of any individual Policies, the total value of any assets held in respect of specific Members in accordance with Rule 7.11, the total of the amounts determined under paragraph 1.1 above for all Members, any amount in the Reserve Accounts and such other amounts credited to Members in accordance with paragraph 2.3.
 - 1.3 The profit for the Financial Year shall, after deducting any amount that the Trustees determine to allocate to the Reserve Accounts, be allocated to each Member's Accumulated Contributions in one of the following ways, as the Trustees shall determine:
 - 1.3.1 in proportion to the Member's Accumulated Contributions as at the beginning of the Financial Year;
 - 1.3.2 in proportion to the amount determined under paragraph 1.1; or
 - 1.3.3 in proportion to the amount determined under paragraph 1.1 above but with allowance being made, on such basis as the Trustees may determine, for the time during the Financial Year at which each item required to be added or subtracted under paragraph 1.1 was received or paid.
- 2 The Accrued Benefit in respect of a Member shall be determined as follows:
 - 2.1 The Member's Accumulated Contributions at the beginning of the Financial Year shall be increased and decreased in the manner indicated in paragraph 1.1 above.
 - 2.2 To the amount determined under paragraph 2.1 above, shall be added an amount representing a share of the profit for the Financial Year to date. This share will be determined by the Trustees and will be calculated as a proportion of the profit allocated to the Member's Accumulated Contributions at the end of the previous Financial Year in accordance with paragraph 1.3 above but with such allowance as the Trustees think fit having regard to:
 - 2.2.1 the growth in the Member's Accumulated Contributions;
 - 2.2.2 the property held on behalf of a Member and the income earned from that property;

- 2.2.3 the balance of any Reserve Accounts;
 - 2.2.4 the length of time since the beginning of the Financial Year;
 - 2.2.5 length of membership;
 - 2.2.6 investment strategies;
 - 2.2.7 any actuarial advice;
 - 2.2.8 the exchange and segregation of any Fund assets set aside to meet current pension liabilities or for other Fund purposes and the extent to which profit is attributable to those assets; and
 - 2.2.9 and any particularly adverse or favourable circumstances known to the Trustees.;
- 2.3 To the amount determined under paragraphs 2.1 and 2.2, provided that have not already been added to or deducted from the Member's Accumulated Contributions under the provisions of paragraph 2.1, as the case may be:
- 2.3.1 shall be added:
 - 2.3.1.1 the value of any Individual Policy or Assets held in respect of the Member in accordance with Rule 7.11;
 - 2.3.1.2 any part of an amount transferred from an Eligible Fund in respect of the Member pursuant to Rule 2.7 which the Trustees have determined shall be credited to the Member's Accrued Benefit;
 - 2.3.1.3 any other amount which shall be credited for the purposes of these Rules;
 - 2.3.2 shall be subtracted:
 - 2.3.2.1 any part of an amount transferred to an Eligible Fund in respect of the Member pursuant to Rule 2.8 or Rule 2.10 which the Trustees have determined shall be debited to the Member's Accrued Benefit;
 - 2.3.2.2 any other amount which shall be debited for the purposes of these Rules;
- 2.4 In determining the share of profit from property under paragraph 2.2.2, attributing profit to assets set aside to meet current pension liabilities of the Fund or for other purposes of the Fund for the purposes of paragraph 2.2.8 or identifying value to be credited to reserves or liability accounts established in accordance with Rule 7.13.8, the Trustees may determine that any debit, credit or adjustment to an Accrued Benefit, Reserve Account or account that impacts on Member's Accrued Benefit, Reserve Accounts or accounts, expenses or financial position of the Fund is to be included or excluded as the case may be in the discretion of the Trustees from such determination, attribution or identification and the Trustees shall not be bound to either explain or give reasons unless required by the Regulations.

APPLICATION FOR MEMBERSHIP

OF

Full Name:

Address:

Date of Birth: Sex:

I make application to become a member of the ("The Fund")

*I hereby authorise my current Employer to deduct from my salary such amounts (if any) as are from time to time agreed upon by myself and my employer as contributions to be made by me to the abovementioned Fund.

* The Applicant hereby applies to make contributions to the Fund and agrees to be bound by the Deed and Rules governing the Fund.

Pursuant to the authorisations for the collection of Tax File Numbers ("TFN") contained in the taxation laws, the Superannuation Industry (Supervision) Act 1993 and the Privacy Act 1988, I hereby agree to provide my TFN as follows:

My Tax File Number is: _____ and I hereby authorise the trustees to use this tax file number.

NOMINATION OF BENEFICIARIES

Whilst I acknowledge the discretion the Trustees have to determine who the benefit is paid to, I hereby nominate the following persons to receive the benefit payable by the Trustees of the fund in the event of my death:

Name and Address	Relationship to member	Proportion of benefit
_____	_____	_____ %
_____	_____	_____ %

Dated this _____ day of _____ 20 .

Signature of Applicant: _____

Witness: _____

Witness: _____

* Delete this clause if applicable