

**SUPERANNUATION FUND TRUST DEED**  
**OF**  
**R & A ANGOVE SUPERANNUATION FUND**

*- Executed 19-01-2004 -*

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**SUPERANNUATION FUND TRUST DEED** dated in item 1 of the schedule

**BETWEEN**

The person named in item 2 of the schedule ("**the Principal**")

**AND**

The person named in item 3 of the schedule ("**the Trustee**")

RevenueSA - Stamp Duty - ABN 19 040 349 865 ©	
RevNetID/PRA Bundle No.:	<u>102286884</u>
Orig/Copy	<u>1</u> of with <u>1</u> copies
Consideration/Value/Security:	\$ _____
SA Proportion (if applicable):	\$ _____
SD:	\$ <u>10.00</u> LFO Fees: \$ _____
Int:	\$ _____ Pen/Add Tax: \$ _____
Signature:	<u>[Signature]</u> Date: <u>27/1/04</u>

**INTRODUCTION**

- A. The Principal intends to establish a superannuation fund on the date specified in item 5 of the schedule.
- B. The Trustee agrees to act as trustee of the fund.

**TERMS**

**PART 1 - PRELIMINARY**

**1. Dictionary**

In this deed:

- ✕ "Allocated Pension" means a Pension that complies with subregulation 1.06(4) of the SIS Regulations;
- "Auditor" means any approved auditor of the Fund appointed under this deed;
- "Beneficiary" means a person (including a Member or former Member) beneficially entitled to a Benefit from the Fund;
- "Benefit" means any amount paid or payable by the Trustee from the Fund to a Beneficiary;
- "Commissioner" means the Commissioner of Taxation;
- "Complying Superannuation Fund" means a superannuation fund that complies with sections 42 and 45 of the SIS Act;
- "Constitutional Corporation" has the same meaning as in section 10 of the SIS Act;
- "Corporation" means a body corporate wherever incorporated and includes a Constitutional Corporation;
- "Dependant" of a Member or former Member includes a Spouse and any child of that Member or former Member on or after the date of this deed. The Trustee may:
  - (a) deem one or more qualifying person(s) to be the only Dependant(s);
  - (b) decide how to divide a Benefit among Dependents;
- ✕ "Defined Benefit Pension" has the same meaning as in subregulation 1.03(1) of the SIS Regulations;
- "Eligible Person" means a person who is, under Superannuation Law, eligible to become a Member of the Fund;
- "Employer" means any person, partnership or corporation who employs a Member and contributes to the Fund;
- "Financial Year" means:
  - (a) the period beginning on the establishment of the Fund and ending on the next 30 June;
  - (b) after the first financial year, each period of 12 months ending on 30 June;

- (c) the period beginning on 1 July immediately before the end of the Fund and ending when the Fund ends;

"Fund" means the superannuation fund established under this deed with the name in item 4 of the schedule;

"Fund Expense" means an expense of establishing, operating, managing, administering or investing the Fund;

"Member" means:

- (a) the Principal; and  
 (b) any current member of the Fund;

"Normal Retirement Age" means:

- (a) 65 years; or  
 (b) subject to Superannuation Law, any other age chosen by the Trustee in respect of a particular Member;

"Minimum Benefit" has the same meaning as in Division 5.2 of the SIS Regulations.

"Officer" of a body corporate means an officer within the meaning of section 82A of the Corporations Act of that body corporate;

"Old-Age Pension" has the same meaning as in section 10 of the SIS Act;

"Pension" has the same meaning as in section 10 of the SIS Act;

"Pension Standards" means:

- (a) for a Defined Benefit Pension – the standards in subregulation 1.06(2), 1.06(6) or 1.06(7) of the SIS Regulations (whichever is applicable); or  
 (b) for an Allocated Pension – the standards in subregulation 1.06(4) of the SIS Regulations;

"Policy" means any policy of insurance on the life or health of a Member;

"Principal" means the person named in item 2 of the schedule unless that person:

- (a) becomes an insolvent under administration (within the meaning of section 9 of the Corporations Act);  
 (b) dies; or  
 (c) resigns by notice in writing to the Trustee;

"Securities" includes the securities specified in section 92(1)(a)-(e) of the Corporations Act and a unit in a unit trust;

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

"SIS Regulations" means the Superannuation Industry (Supervision) Regulations 1994;

"Spouse" includes a person who, although not legally married to the Member, lives with the Member on a genuine domestic basis as the husband or wife of the Member. The Trustee may:

- (a) deem one or more qualifying person(s) to be the only Spouse(s);  
 (b) decide how to divide a Benefit among Spouses;

**"Superannuation Law"** means any requirements under any law (including the SIS Act):

- (a) imposed on the Trustee; or
- (b) which the Fund must satisfy for the most favourable taxation treatment available to superannuation funds;

**"Total and Permanent Disability"** means:

- (a) incapacity (in the opinion of the Trustee) to an extent that a Member is unlikely ever to be able to work in a job for which the Member is reasonably qualified by education, training or experience;
- (b) if the Trustee took out a Policy in respect of the Member's total and permanent disablement and the Trustee so decides - incapacity on which the insurer must pay an amount under the Policy;

**"Transfer"** includes assign, convey or otherwise assure;

**"Trustee"** means any original, additional or substituted trustee of the Fund.

## 2. Interpretation

In this deed:

- 2.1 neuter includes masculine and feminine, singular includes plural and vice versa and reference to a person includes a corporation and partnership and vice versa;
- 2.2 headings do not affect interpretation;
- 2.3 no rule of construction applies to the disadvantage of a party because that party put forward this deed or any portion of it;
- 2.4 if a provision of this deed would, but for this clause, be unenforceable:
  - 2.4.1 the provision must be read down to the extent necessary to avoid that result;
  - 2.4.2 if the provision cannot be read down to that extent, it must be severed without affecting the validity and enforceability of the remainder of this deed;
- 2.5 reference to a person:
  - 2.5.1 if more than one means each of them jointly and severally;
  - 2.5.2 includes a successor to the rights or obligations of that person under this deed;
- 2.6 reference to a statute includes:
  - 2.6.1 the statute as amended;
  - 2.6.2 any substituted statute;
  - 2.6.3 any regulations, standards, determinations, rulings or guidelines under the statute;
  - 2.6.4 any of those regulations, standards, determinations, rulings or guidelines as amended;
  - 2.6.5 any substituted regulations, standards, determinations, rulings or guidelines;
- 2.7 an expression used or defined in any Superannuation Law has the same meaning in this deed;
- 2.8 another grammatical form of a defined expression has a corresponding meaning.

## PART 2 – MAINTENANCE OF FUND

### 3. Nature

The Trustee must maintain the Fund as an indefinitely continuing Complying Superannuation Fund in accordance with this deed and Superannuation Law.

### 4. Purpose

The Trustee must maintain the Fund solely for the purposes in section 62 of the SIS Act.

### 5. Assets

The Fund consists of all the cash, investments and other property held by or on account of the Trustee under this deed and all increases and accumulations thereto.

## PART 3 - SUPERANNUATION LAW

### 6. Inclusion of superannuation law

- 6.1 Each Superannuation Law that applies to this Fund is deemed to be included in this Deed.
- 6.2 A Superannuation Law prevails over any other provision of this deed to the extent of any inconsistency.

## PART 4 - THE TRUSTEE

### 7. The trustee

Either of the following must apply:

- 7.1 the Trustee must be a Constitutional Corporation;
- 7.2 the sole or primary purpose of the Fund is the provision of Old-Age Pensions.

### 8. Appointment and removal of trustees

- 8.1 The Principal may by written notice:
  - 8.1.1 appoint a new or additional Trustee;
  - 8.1.2 remove any Trustee;

provided that the appointment or removal complies with Superannuation Law.
- 8.2 If there is no Principal in office, a majority of Members may exercise the power in sub-clause 1.
- 8.3 If:
  - 8.3.1 the Principal is insolvent under administration (within the meaning of section 9 of the Corporations Act) or dies; and
  - 8.3.2 there are no Members,

the next of kin of full legal capacity of an insolvent under administration Principal or the legal personal representative of a dead Principal may exercise the power in sub-clause 1.
- 8.4 A Trustee vacates office if:
  - 8.4.1 removed under sub-clause 1, 2 or 3;



- 8.4.2 it gives 1 month's written notice (or any shorter period the majority of Members accepts) to the Members of the Trustee's intention to retire and that notice period expires;
  - 8.4.3 a Trustee being a natural person becomes an insolvent under administration (within the meaning of section 9 of the Corporations Act) or dies;
  - 8.4.4 a Trustee being a corporation becomes an externally-administered body corporate (within the meaning of section 9 of the Corporations Act); or
  - 8.4.5 prohibited from acting as a trustee of a superannuation fund under Superannuation Law.
- 8.5 If the Trustee vacates office, the Principal (or failing the Principal, the Members) must if necessary appoint a new Trustee provided the appointment complies with Superannuation Law.
  - 8.6 A new or additional Trustee must by the same or other deed agree to be bound by and perform the obligations of a Trustee under this deed and accept liability for the proper obligations of any outgoing Trustee (in that capacity).
  - 8.7 An Employer or a Beneficiary may be a Trustee or an Officer of the Trustee.
  - 8.8 The Trustee must act continuously as trustee of the Fund until:
    - 8.8.1 the Fund ends; or
    - 8.8.2 the Trustee vacates office.
  - 8.9 An outgoing Trustee must immediately deliver all documents, records, money and property and execute all instruments and do everything necessary to vest the Fund in the new or continuing Trustee.
  - 8.10 The Fund bears all charges and expenses (including any stamp duty) of the retirement, removal and appointment of a Trustee.

## 9. Trustee's remuneration

The Trustee is not entitled to remuneration from the Fund.

## PART 5 - INDEMNITIES

### 10. Indemnity

- 10.1 The Trustee and a director of the Trustee may be indemnified from the Fund for any liability incurred while acting as Trustee or director of the Trustee, unless:
  - 10.1.1 the liability arises because the Trustee or director:
    - (a) fails to act honestly in a matter concerning the Fund; or
    - (b) intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the director is required to exercise; or
  - 10.1.2 the liability is for a monetary penalty under a civil penalty order.
- 10.2 Neither the Principal nor any Employer nor any Beneficiary (in that capacity) is personally liable to indemnify the Trustee or any creditor of the Trustee or other person claiming against or through the Trustee.
- 10.3 A request, approval or direction by a person to the Trustee to enter a transaction does not entitle the Trustee to indemnity from that person.

**11. Trustee not liable for loss**

- 11.1 A Trustee or an Officer of a corporate Trustee acting in good faith is not liable to compensate the Fund for loss incurred in executing, not executing or trying to execute any of the Trustee's trusts or powers.
- 11.2 A Trustee is not obliged to take proceedings against a former Trustee or a co-Trustee for breach of trust.

**PART 6 - TRUSTEE POWERS**

**12. General administration**

- 12.1 The Trustee may do anything it thinks fit to administer the Fund.
- 12.2 The Trustee must comply with Superannuation Law.

**13. Elect to be bound**

The Trustee may elect to be bound by any legislation (including the SIS Act).

**14. Investment**

- 14.1 The Trustee may use or invest all or any part of the Fund:
- 14.1.1 in any estate or interest in land;
- 14.1.2 in personal property including choses in possession, choses in action, Securities, statutory rights and licences, and the assets liabilities and goodwill of any business or undertaking;
- 14.1.3 in the currency of any country.
- 14.2 Fund property may be anywhere in the world, of a hazardous, wasting or speculative nature, tangible or intangible, present or future, expectant or in reversion, actual or contingent.
- 14.3 The Trustee may acquire property currently owned by any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary) to the extent permitted by section 66 of the SIS Act.
- 14.4 To avoid doubt, the Trustee may use or invest all or any part of the Fund in any manner or thing approved in writing by a majority of Members before or after the use or investment is made.
- 14.5 The Trustee may change any use or investment of the Fund.

**15. Business**

The Trustee may use or invest any part of the Fund to conduct any business, scheme, undertaking or transaction anywhere in the world for any period and under any name.

**16. Partnership**

The Trustee may amalgamate or enter into any partnership or any arrangement for sharing profits, union of interest, co-operation, joint venture or otherwise with any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary).

**17. Deal with property**

The Trustee may purchase, take on lease, hire or licence, subscribe for or otherwise acquire, exchange, hold, use, work, build, construct, demolish, maintain, repair, renovate, replace, alter, extend, add to, develop, decorate, furnish, equip, improve, manage, partition (including pay money for equality of partition), subdivide, transfer, convey, assign, surrender, lease, hire, license, take and grant options or rights in, pay

premiums for, deal in, divide, consolidate, sell, dispose, alienate, mortgage, charge, pledge, release, discharge, turn to account or otherwise deal with any Fund property or any other property.

## 18. Securities

- 18.1 The Trustee may acquire Securities.
- 18.2 The Trustee may choose whether to exercise any right attached to those Securities, including whether to:
- 18.2.1 attend any meeting of Security holders personally or by proxy, attorney or representative;
- 18.2.2 vote on a resolution.
- 18.3 The Trustee is responsible only for those Securities and any dividends, income or other benefits from them actually transferred or paid to or vested in the Trustee.
- 18.4 The Trustee is not obliged to enquire into the accounts, management, dealings or control of the body that issued the Securities, even if the Trustee holds a controlling interest.

## 19. Intellectual property

- 19.1 The Trustee may acquire any patent, right, copyright, trademark, design, formula, licence, concession and secret or other information.
- 19.2 The Trustee may use, exercise, develop and grant licences with respect to that property or information.

## 20. Government concessions

The Trustee may:

- 20.1 tender for and enter into any arrangements with any government or authority;
- 20.2 obtain from any government or authority any rights, privileges and concessions;
- 20.3 perform any such arrangements, rights, privileges and concessions.

## 21. Licences

The Trustee may acquire and use any charter, licence, power, permit, approval, authority, franchise, concession, right or privilege from any court, government authority, tribunal or other public body or from any Corporation.

## 22. Bank accounts

- 22.1 By itself or with another person, the Trustee may open in the name of the Trustee or of the Fund any account at any bank, authorised short term money market dealer, building society, credit union or other financial institution ("the institution") chosen by the Trustee.
- 22.2 The Trustee may operate that account as the Trustee decides in accordance with the customs, usages and practices of the institution. This includes the Trustee:
- 22.2.1 drawing, making, accepting, endorsing or discounting cheques, drafts, bills of exchange, promissory notes, bills of lading and other financial or negotiable instruments and documents;
- 22.2.2 overdrawing any account;
- 22.2.3 authorising the institution to debit any account with all usual charges and duties;

- 22.2.4 applying for letters of credit (including documentary letters of credit and authorities to negotiate).

### 23. Borrowing

- 23.1 By itself or with another person, the Trustee may borrow or raise money or obtain credit or accommodation:
- 23.1.1 from any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary) to the extent permitted by section 67 of the SIS Act;
  - 23.1.2 upon any terms (including repayment of principal and payment of interest);
  - 23.1.3 whether or not the Fund is already wholly invested or applied;
  - 23.1.4 whether or not the money borrowed or credit raised exceeds the value of the Fund.
- 23.2 The Trustee may use that money like income or capital of the Fund.
- 23.3 A person lending money or giving credit or accommodation to the Trustee need not enquire as to:
- 23.3.1 whether the borrowing, credit or accommodation is necessary;
  - 23.3.2 the purpose of the borrowing, credit or accommodation;
  - 23.3.3 the use by the Trustee of the money, credit or accommodation.

### 24. Guarantees and indemnities

By itself or with another person, the Trustee may guarantee, indemnify and become liable for (contingently or otherwise) the performance of any obligation of any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary):

- 24.1 with or without security;
- 24.2 with or without remuneration;
- 24.3 upon any terms.

### 25. Security interests

By itself or with another person, the Trustee may secure the repayment of money, credit or accommodation and interest thereon and any guarantee or indemnity or other obligation (actual or contingent) of the Trustee:

- 25.1 by granting a mortgage, bill of sale, lien, hypothecation, pledge or charge (fixed, floating, legal, equitable or otherwise) over all or any assets (both present and future) of the Fund, with or without any other security, acknowledgment or collateral agreement; and
- 25.2 if the Trustee is a company, by granting a charge (fixed, floating, legal, equitable or otherwise) over all or any assets (both present and future) of the company and all or any assets (both present and future) of the Fund, and any other charge or security registrable under the Corporations Act.

### 26. Lending

By itself or with another person, the Trustee may lend money and give credit or accommodation:

- 26.1 to any person (including a Trustee in its personal capacity or as trustee of another trust, an Employer and a Beneficiary) to the extent permitted by section 65 of the SIS Act;
- 26.2 upon any terms (including repayment of principal and payment of interest);

26.3 with or without security, guarantee or collateral agreement.

The Trustee may take a mortgage, lien or charge (fixed, floating, legal, equitable or otherwise) to secure payment to the Trustee by any purchaser of any Fund property.

**27. Custody of property**

The Trustee may permit any Beneficiary to occupy or have custody of or use any real or personal property forming part of the Fund on any terms the Trustee decides.

**28. Agents and attorneys**

28.1 The Trustee may appoint an agent or attorney to exercise any trust or power:

28.1.1 if more than one agent or attorney, jointly or severally or jointly and severally;

28.1.2 upon any terms not inconsistent with this deed as the Trustee decides.

28.2 The Trustee may delegate the exercise of any trust or power to any person including a custodian or investment manager (within the meaning of section 10 of the SIS Act), Officer, employee, consultant, professional adviser, bank, Beneficiary or Trustee.

28.3 The Trustee may:

28.3.1 remove that agent or attorney;

28.3.2 stop that delegation.

28.4 The Trustee may remunerate that agent, attorney or delegate as the Trustee decides. Such remuneration to a Beneficiary is not payment of a Benefit. Such remuneration is a Fund Expense.

**29. Nominees**

The Trustee may permit any property in the Fund to be held or registered in the name of some other person.

**30. Receipts**

The Trustee may give receipts and discharges for any money or property received by or on behalf of the Fund or otherwise relating to the administration of the Fund.

**31. Insurance**

31.1 The Trustee may acquire (including by purchase, gift or will), keep up, renew, amend, vary, exchange, forfeit, surrender, redeem, sell or assign:

31.1.1 any Policy;

31.1.2 any policy of insurance against any risk or liability in respect of the property or administration of the Fund.

31.2 The Trustee may pay out of the income or capital of the Fund all premiums or other payments:

31.2.1 to effect or keep up a policy (whether or not owned by the Trustee);

31.2.2 to exercise or enjoy any option, right or benefit under a policy.

**32. Contracts**

The Trustee may enter any contracts, deeds, instruments or undertakings the Trustee decides.

**33. Legal advice**

- 33.1 The Trustee may act upon the advice or opinion of a legal practitioner about this deed or any other instrument or any law affecting the Fund.
- 33.2 The Trustee or a Beneficiary may still apply to any court for directions about the Fund.
- 33.3 The Trustee may conduct or settle legal proceedings affecting the Trustee or the Fund.
- 33.4 The Trustee may refer any dispute affecting the Trustee or the Fund to arbitration and abide by the arbitrator's decision or resolve any such dispute by mediation.

**34. Deposit instruments**

The Trustee may deposit as security or for safe custody any instrument of the Fund with any person, including any bank.

**35. Additions to the fund**

The Trustee may accept any gift of money or property from any person as an addition to the Fund.

**36. Reserve**

The Trustee may set aside and accumulate from the capital or income of the Fund any money the Trustee decides for depreciation or amortisation or any future Fund Expense (actual or contingent).

**37. Valuations**

- 37.1 The Trustee may estimate the value of any Fund property or employ any person to do so.
- 37.2 That valuation binds all Beneficiaries.

**38. Characterise income and capital**

The Trustee may:

- 38.1 treat as income or capital:
- 38.1.1 any property;
  - 38.1.2 any change in the amount, number or value of any property;
  - 38.1.3 any payment with respect to any property;
- 38.2 allocate receipts, expenses, losses and distributions between separate funds and separate parts of the Fund.

**39. Debts**

The Trustee may:

- 39.1 pay a debt or allow a claim on evidence that the Trustee thinks sufficient;
- 39.2 accept a composition or security for a debt or claim;
- 39.3 allow time for payment of debt;
- 39.4 compound, abandon, or settle a debt, account, claim or other thing with respect to the Fund;
- 39.5 waive a right under a contract or deed or other instrument.

40. **Expenses**

The Trustee may pay any Fund Expense and any taxation, duty or other government impost.

41. **Determine disputes**

The Trustee may decide any question about the exercise of a trust or power of the Trustee. The Trustee's decision binds all persons.

42. **Accounting**

The Trustee may make rules about calculating and rounding-off contributions, Benefits, income and Fund Expenses.

43. **Rollover**

The Trustee may pay benefits to an eligible rollover fund under Part 24 of the SIS Act.

44. **Superannuation law**

The Trustee may do anything to comply with any Superannuation Law.

45. **General law powers**

The Trustee has all the powers given to trustees by law, equity or statute and not necessarily inconsistent with this deed.

46. **Incidental powers**

The Trustee may do all things incidental to the exercise of any trust or power of the Trustee.

47. **Powers independent**

A power of the Trustee must not be limited or read down by reference to any other power.

48. **Trustee interested in dealings**

48.1 A Trustee and any Officer or shareholder of a corporate Trustee may exercise or concur in exercising a trust or power even if it or any Beneficiary is personally interested.

48.2 A Trustee, the partner of a Trustee or an Officer or shareholder of a corporate Trustee may be directly or indirectly interested in any use or investment of the Fund. This includes being an Officer or shareholder of a Corporation, or a partner in a business, in which the Fund is used or invested.

48.3 No contract, deed, instrument or undertaking of the Trustee is voidable just because a Trustee, the partner of a Trustee or any Officer or shareholder of a corporate Trustee is so interested.

48.4 The Trustee, the partner of a Trustee or any Officer or shareholder of a corporate Trustee need not account to the Fund for any benefit from that interest.

48.5 The Trustee may deal with itself in its personal capacity or as trustee of any other trust as if there were 2 separate persons to such dealing.

**49. Exercise of powers**

- 49.1 The Trustee may exercise each power as it decides as if it were the sole beneficial owner of the Fund.
- 49.2 A trust or power of the Trustee may be exercised:
- 49.2.1 where the Trustee is a company, by a resolution of its board of directors in accordance with its articles of association;
- 49.2.2 where there are 2 or more trustees, in writing signed by a majority, or by a resolution passed by a majority at a meeting of the Trustees.
- 49.3 If the Trustee is a company, the board of directors of the company may:
- 49.3.1 resolve that its own minute book of meetings be the Trustee's minute book;
- 49.3.2 have the Trustee's business recorded in any other way the board decides.

**50. Validity of dealings and securities**

- 50.1 A person dealing with the Trustee need not enquire as to:
- 50.1.1 whether the powers of the Trustee are adequate;
- 50.1.2 whether the trusts or powers of the Trustee are properly exercised;
- 50.1.3 whether any transaction affecting any part of the Fund is proper;
- 50.1.4 the use of any money paid or property transferred to the Trustee or the Trustee's nominee.
- 50.2 If a person dealing with the Trustee acts in good faith, so far as that person is concerned:
- 50.2.1 the dealing is deemed to be within the Trustee's powers and valid;
- 50.2.2 the receipt of the Trustee or the Trustee's nominee discharges that person from all liability with respect to the dealing.
- 50.3 No mortgage, pledge, bill of sale, lien, hypothecation, charge or other security by the Trustee over any of the Fund is invalid just because of:
- 50.3.1 any error or omission (of law or fact) by the Trustee or its advisers;
- 50.3.2 any breach of duty or trust unless the Trustee is fraudulent to the actual knowledge of the person taking the benefit of the security.

**PART 7 – INVESTMENT PORTFOLIOS****51. Selection of investment portfolios**

- 51.1 Subject to Superannuation Law, the Trustee may permit a Member to select the investments for that Member's Investment Portfolio and the proportions of those investments.
- 51.2 The Trustee may restrict or impose conditions on that selection.

**52. No selection**

If a Member does not select an Investment Portfolio, the Trustee must invest the balance of that Member's Account as permitted under this deed.



**53. Variation or redemption**

- 53.1 A Member may request the Trustee to vary or redeem that Member's Investment Portfolio or part thereof as permitted by Superannuation Law.
- 53.2 In its absolute discretion (whether or not requested to do so), the Trustee may vary or redeem an Investment Portfolio or part thereof.

**54. Delay or refusal**

- 54.1 In its absolute discretion, the Trustee may:
- 54.1.1 delay in establishing, varying or redeeming an Investment Portfolio or part thereof;
- 54.1.2 refuse to establish, vary or redeem an Investment Portfolio or part thereof.
- 54.2 If the Trustee delays in establishing or refuses to establish an Investment Portfolio or part thereof, the Trustee must invest the balance of the Member's Account as permitted under this deed.

**55. Trustee may cease investment portfolio**

- 55.1 In its absolute discretion, the Trustee may cease the Investment Portfolio of any Member. The Trustee must notify that Member in writing.
- 55.2 The Trustee must invest the balance of the Member's Account as permitted under this deed.

**56. No liability**

The Trustee is not liable to compensate a Member for loss incurred in exercising or not exercising any of its powers under this Part.

**57. No separate trust funds**

Investment Portfolios are not separate trust funds.

**PART 8 - MEMBERS****58. Members**

A Member is bound by this deed and is entitled to the benefits of this deed.

**59. Admission of other members**

- 59.1 An Eligible Person may apply in writing to become a Member of the Fund, in any form and with any information the Trustee requires.
- 59.2 The Trustee:
- 59.2.1 may accept the application;
- 59.2.2 may refuse the application;
- 59.2.3 is deemed to accept the application if it does not refuse it within 28 days of receipt.
- 59.3 A successful applicant becomes a Member:
- 59.3.1 on a date set by the Trustee;
- 59.3.2 if the Trustee does not set a date, the date the Trustee receives the completed application.

59.4 As soon as practicable, the Trustee must provide to a new Member the written statement and any other information required by Superannuation Law. Failure to do so does not affect Membership.

**60. Membership ceases**

A person ceases to be a Member when:

60.1 all entitlements of that Member are paid or transferred;

60.2 that Member dies; or

60.3 required by Superannuation Law.

**61. Consent of members**

61.1 The consent of Members is sufficiently evidenced (unless proved incorrect) by:

61.1.1 a minute signed by the chairperson of a meeting of Members that, at a duly called meeting of Members, a resolution was duly passed in favour of that consent by a requisite majority of Members voting; or

61.1.2 a written resolution in favour of that consent executed by the requisite number of Members. The resolution may consist of several documents in the same form, each executed by 1 or more Members.

61.2 Except where this deed or Superannuation Law requires the consent of Members, Members must not interfere with the exercise of a trust or power by the Trustee.

**62. Meetings of members**

62.1 The Trustee may convene and conduct meetings of Members.

62.2 The Trustee may establish rules, not inconsistent with this deed and Superannuation Law, for convening and conducting meetings of Members.

**PART 9 - EMPLOYERS**

**63. Employers**

This deed binds an Employer.

**64. Employer's contributions**

With the consent of the Trustee and the relevant Member ("Employee Member"), the Employer of that Employee Member may contribute to the Fund:

64.1 in respect of that Employee Member;

64.2 in respect of a Dependant of that Employee Member, if that Dependant is a Member of the Fund.

**PART 10 - ACCOUNTS**

**65. Member accounts**

The Trustee must keep a Member Account for each Member.

**66. Operation of member accounts**

66.1 The Trustee must credit a Member's Account with:

66.1.1 any amount transferred into the Fund on account of that Member;

- 66.1.2 any contributions on account of that Member;
  - 66.1.3 any payment under a Policy taken out by the Trustee in respect of that Member or a Beneficiary on account of that Member;
  - 66.1.4 any amounts transferred by the Trustee from the Fund Account;
  - 66.1.5 any amounts transferred by the Trustee from the Reserve Account;
  - 66.1.6 any amounts transferred by the Trustee from the Forfeiture Account;
  - 66.1.7 the positive earnings of the Member's Investment Portfolio, as determined by the Trustee; and
  - 66.1.8 unrealised gains on valuation of the Member's Investment Portfolio, as determined by the Trustee.
- 66.2 The Trustee must debit a Member's Account with:
- 66.2.1 any amount transferred out of the Fund on account of that Member;
  - 66.2.2 any Benefit paid to or in respect of that Member or a Beneficiary on account of that Member;
  - 66.2.3 the costs of any Policy taken out by the Trustee in respect of the Member or a Beneficiary on account of that Member;
  - 66.2.4 any taxation payable (or which might become payable, if the Trustee thinks fit) on income or profits of the Member's Investment Portfolio;
  - 66.2.5 any portion the Trustee decides of taxation payable (or which might become payable if the Trustee thinks fit) on contributions, transfers or income and profits of the Fund credited to that Member's Account;
  - 66.2.6 any Fund Expense attributable to the Member Investment Portfolio and any portion of other Fund Expenses the Trustee decides;
  - 66.2.7 any amount transferred by the Trustee to the Forfeiture Account;
  - 66.2.8 any negative earnings transferred by the Trustee from the Fund Account;
  - 66.2.9 any negative earnings of the Member's Investment Portfolio, as determined by the Trustee;
  - 66.2.10 costs and penalties incurred by the Trustee in establishing, varying or redeeming the Member's Investment Portfolio or part thereof; and
  - 66.2.11 unrealised losses on valuation of the Member's Investment Portfolio, as determined by the Trustee.
67. **Fund account**
- The Trustee may keep a Fund Account.
68. **Operation of fund account**
- If the Trustee keeps a Fund Account:
- 68.1 the Trustee must credit to the Fund Account all income and profits of the Fund, except those amounts credited directly to a Member Account or Reserve Account;

68.2 the Trustee must debit to the Fund Account:

68.2.1 any loss on the disposal or other negative earnings of any investment of the Fund or any other negative earnings of the Fund, not debited directly to a Member Account;

68.2.2 any Fund Expenses, not debited directly to a Member Account; and

68.2.3 any taxation payable or which might become payable in respect of contributions or income or profits of the Fund, not debited directly to a Member Account;

68.3 at the end of each Financial Year, the Trustee must:

68.3.1 credit and debit the Fund Account as above;

68.3.2 take into account any provision or reserve for future contingencies as the Trustee thinks reasonable; and

68.3.3 determine the net earnings of the Fund (which may be negative) for that Financial Year;

68.4 with effect on the last day of the Financial Year, the Trustee must:

68.4.1 debit the Fund Account with those net earnings; and

68.4.2 credit those net earnings to the Member Accounts in proportion to the amounts credited to them at the beginning of that Financial Year. The Trustee must make an appropriate adjustment for any amounts credited or debited to the Member Account since the beginning of the Financial Year;

68.5 if a person ceases to be a Member during a Financial Year, the Trustee must allot to the former Member's Account a reasonable share of the estimated net earnings of the Fund for the period from the beginning of the Financial Year to the end of Membership (both inclusive).

#### 69. Reserve account

Subject to Superannuation Law, the Trustee may keep a Reserve Account for such purposes as the Trustee considers appropriate.

#### 70. Operation of reserve account

If the Trustee keeps a Reserve Account:

70.1 the Trustee must maintain that account in accordance with Superannuation Law;

70.2 subject to Superannuation Law:

70.2.1 the Trustee may apply amounts in the Reserve Account to such Members or Beneficiaries and in such proportions as the Trustee determines;

70.2.2 if there is an amount in the Reserve Account upon the death of the last remaining member of the Fund, the Trustee may pay that amount to the legal personal representative of that deceased Member.

#### 71. Forfeiture account

Subject to Superannuation Law, the Trustee may keep a Forfeiture Account for such purposes as the Trustee considers appropriate.

**72. Operation of forfeiture account**

If the Trustee keeps a Forfeiture Account:

- 72.1 the Trustee must maintain that account in accordance with Superannuation Law;
- 72.2 subject to Superannuation Law;
- 72.3 the Trustee may apply amounts in the Forfeiture Account to such Members or Beneficiaries and in such proportions as the Trustee determines;
- 72.4 if there is an amount in the Forfeiture Account upon the death of the last remaining member of the Fund, the Trustee may pay that amount to the legal personal representative of that deceased Member.

**73. Accounting records**

The Trustee must keep accounting records required by Superannuation Law.

**74. Audit**

The Auditor must audit the accounts.

**75. Income and expenses**

- 75.1 The Trustee must collect all gross income and profits of the Fund.
- 75.2 The Trustee must pay from that gross income and profits all Fund Expenses.

**76. Taxation**

- 76.1 The Trustee must arrange payment (within the required time) of all taxation payable by the Fund:
  - 76.1.1 by the Trustee from the gross income of the Fund; or
  - 76.1.2 by an appropriate organisation including an insurance company.
- 76.2 The Trustee (or appropriate organisation with the Trustee's agreement) must deduct from any Benefit the taxation required in the Trustee's opinion by the Income Tax Assessment Act.
- 76.3 The Beneficiary is entitled to only the net Benefit after deduction of taxation.

**PART 11 - CONTRIBUTIONS****77. Source**

Subject to this deed, any person may contribute to the Fund on behalf of a Member if Superannuation Law permits.

**78. No obligation to contribute**

Unless otherwise agreed in writing or required by statute, neither a Member nor an Employer is obliged to contribute in any Financial Year. Failure to contribute does not affect Membership.

**79. Timing of contributions**

A contribution on behalf of a Member is deemed to be made in the Financial Year in which the money is paid or the assets are transferred to the Trustee.

**80. Amount of contributions**

Subject to this deed, a contribution may be of any amount.

**81. Manner of contribution**

A contribution may be:

81.1 cash;

81.2 assets of the kind in which the Trustee may invest. The value attributed to those assets is the fair market value determined by the Trustee.

**82. Allotment of employer contributions**

When an Employer makes a contribution, it:

82.1 must specify which Members benefit;

82.2 may allocate the contribution between those Members. If it does not do so, the Trustee must allocate the contribution between those Members equally.

**83. Overriding restriction on contributions**

Despite any other provision of this deed, the Trustee must refuse any contribution if necessary (in the Trustee's opinion) to comply with Superannuation Law.

**84. Refund of ineligible contributions**

If the Trustee accepts a contribution or portion of a contribution in breach of this deed, the Trustee must:

84.1 refund that contribution or portion, less a reasonable share of expenses in respect of any group life insurance which the Trustee took out in respect of the relevant Member; and

84.2 reduce the relevant Benefit as if that contribution or portion had not been paid.

**PART 12 - BENEFITS****85. Benefits generally**

85.1 A Beneficiary holds a Benefit subject to this deed.

85.2 Beneficiaries hold their Benefits in the Fund as tenants in common.

85.3 A Beneficiary or other claimant may require payment from the Fund only as expressly provided in this deed.

85.4 A Benefit must be preserved where and to the extent required by Superannuation Law.

**86. Type of benefit**

86.1 While the Trustee is a Constitutional Corporation, the Trustee may pay a Benefit as permitted by Superannuation Law.

86.2 While the Trustee is not a Constitutional Corporation, the Trustee must pay a Benefit by Pension.

**87. Retirement benefit**

Subject to this deed, the Trustee must pay the balance of a Member's Account to a Member who:

87.1 retires at or after Normal Retirement Age; or

87.2 fulfils the criteria of Superannuation Law for the payment of retirement Benefits.

**88. Total and permanent disablement benefit**

Subject to this deed and any Policy, the Trustee must pay the balance of a Member's Account to a Totally and Permanently Disabled Member.

**89. Death benefit**

89.1 Subject to this deed and any Policy, if a Member dies, the Trustee must pay the balance of the deceased's Member Account:

89.1.1 to the Dependant or Dependants of the deceased Member;

89.1.2 to the legal personal representative of the deceased Member;

89.1.3 if the deceased Member was in receipt of a Pension from the Fund at the date of death in respect of which there is a reversionary pensioner, to the reversionary pensioner in the form of a Pension; or

89.1.4 to such person or persons as permitted by Superannuation Law.

89.2 A Member may, by written notice signed by the Member to the Trustee:

89.2.1 nominate one or more Dependants or the Member's legal personal representative ("a **Nominated Beneficiary**") to receive the Benefit payable on that Member's death;

89.2.2 revoke or change that nomination.

89.3 A nomination is revoked if the Nominated Beneficiary ceases to be a Dependant or legal personal representative of the Member.

89.4 Unless the Member specifically states in the nomination that it is binding on the Trustee in the manner required by Superannuation Law, the Trustee must consider a nomination but is not obliged to follow it.

**90. Other benefits**

90.1 Despite any other provision, a Member may ask the Trustee for a Benefit at any time the Member fulfils any relevant requirements of Superannuation Law or the Commissioner.

90.2 That Member must provide to the Trustee any information required by the Trustee or Superannuation Law.

90.3 The Trustee may pay a Benefit or a part of a Benefit to the Member on any terms the Trustee decides.

**91. Commutation of lump sum to pension**

The Trustee may commute to a Pension the whole or portion of a lump sum Benefit payable to a Beneficiary:

91.1 if the Beneficiary so applies in writing;

91.2 if in the opinion of the Trustee, the commutation would not disadvantage the Fund, any Employer or any Beneficiary; and

91.3 in accordance with the relevant Pension Standards.

**92. Commutation of pension to lump sum**

The Trustee may commute to a lump sum the whole or portion of a Pension Benefit payable to a Beneficiary if:

- 92.1 that Beneficiary so applies in writing;
- 92.2 in the opinion of the Trustee, the commutation would not disadvantage the Fund, any Employer or any Beneficiary; and
- 92.3 the relevant Pension Standards permit.

**93. Pension rules**

93.1 The Trustee must pay a Pension Benefit to a Beneficiary in the form of:

- 93.1.1 a Defined Benefit Pension;
- 93.1.2 an Allocated Pension; or
- 93.1.3 a Pension wholly determined by reference to policies of life assurance purchased or obtained by the Trustee solely for the purpose of providing Pension Benefits to Members.

- 93.2 The Trustee and the Beneficiary may agree which form of Pension is to be paid.
- 93.3 A Pension Benefit is subject to and must be paid in accordance with the relevant Pension Standards.
- 93.4 The Trustee may alter the amount or frequency of a Beneficiary's Pension as permitted by the relevant Pension Standards.

**94. Payment of benefits**

Subject to this deed, the Trustee may pay a Benefit at any place, in any manner (including cash) and within any reasonable time the Trustee decides.

**95. Transfer in kind**

With the consent of the Beneficiary, the Trustee may pay a Benefit to a Beneficiary by transferring to that Beneficiary investments of the Fund (including any Policy) of equivalent value.

**96. Forfeiture of Benefits**

96.1 Subject to Superannuation Law, a Beneficiary who:

- 96.1.1 assigns, charges, conveys or attempts to assign or charge or convey any Benefit; or
- 96.1.2 does or attempts to do anything or if any event happens that results in the Beneficiary being deprived of the benefit of the Benefit on any part of it;

automatically forfeits entitlement to all his or her Benefits unless the Trustee otherwise determines.

96.2 A Member may forfeit any part of his or her Benefit that is in excess of the Member's Minimum Benefit to the extent permitted by Superannuation Law.

96.3 The Trustee must transfer amounts forfeited under this clause to the Forfeiture Account.



**97. Unclaimed money**

97.1 Unclaimed money is money payable to a Beneficiary:

97.1.1 who is old enough for an Old-Age Pension;

97.1.2 to whom a Benefit is payable under this deed;

97.1.3 who has not applied to the Trustee to have the Benefit paid; and

97.1.4 whom the Trustee has made reasonable efforts to find and cannot find.

97.2 Within 28 days after the end of each half year, the Trustee must provide such statements and pay such amounts required under Part 22 of the SIS Act.

**98. Transfers from other funds**

98.1 A Member ("a New Member") who was or is a beneficiary under another superannuation arrangement (including an approved deposit fund) ("the Old Fund") may in writing ask the Trustee to receive any assets of the Old Fund to preserve the New Member's entitlements under the Old Fund.

98.2 The Trustee may accept or decline the request.

98.3 Receipt by the Trustee of any assets of the Old Fund is subject to any relevant preservation requirement under Superannuation Law applying to the Old Fund.

98.4 On receipt of assets from the Prior Fund, the New Member is deemed to have become a Member of the Fund on the date he or she became a member of the Old Fund.

98.5 The Trustee must hold any assets received from the Old Fund as part of the Fund and reflect the New Member's entitlements in the New Member's Account as the Trustee decides.

**99. Transfers to other funds**

99.1 A Member who joins or is eligible to join another Complying Superannuation Fund or an approved deposit fund ("the New Fund") may in writing ask the Trustee to transfer the whole or a part of that Member's entitlement in the Fund to the New Fund.

99.2 The Trustee must transfer to the New Fund an amount (in cash or assets) equivalent to the whole or part of that Member's entitlement in the Fund at the time of the request.

99.3 The Trustee may:

99.3.1 require that Member to get a fair entitlement (as agreed by the Trustee and the trustee of the New Fund) in the New Fund;

99.3.2 fix the portion of the amount transferred that the New Fund attributes to contributions by that Member.

99.4 If Superannuation Law requires preservation of the Benefit transferred to a New Fund, the Trustee must ensure that that Benefit is preserved if the Member leaves the New Fund.

99.5 The Benefit of a Member is reduced by any amount transferred under this clause.

99.6 The receipt by the trustee of the New Fund for the amount transferred discharges the Trustee in respect thereof.

**100. Other benefits**

The Benefits to a Member under this deed are in addition to any other provision by the Member or an Employer for that Member by settlement or otherwise.

**101. Personal representatives may receive benefits**

If a person is entitled to a Benefit because of the death or disability of a Member and provides any evidence required by the Trustee:

- 101.1 the Trustee may pay that Benefit to that person;
- 101.2 that person may discharge the Trustee in respect of that Benefit.

**PART 13 - TERMINATION****102. Termination of the fund**

- 102.1 The Fund ends on the earliest of the following days:
  - 102.1.1 a day specified by all the Members in written notice to the Trustee;
  - 102.1.2 if there are no Members, a day specified by the Trustee by deed.
- 102.2 On and from the end of the Fund, the Trustee holds the Fund upon trust for the Members in proportion to the amounts credited to their respective Member Accounts at the end of the Fund.
- 102.3 There is no resulting trust to the Employer.
- 102.4 As soon as practicable after the end of the Fund, the Trustee must give notice of the end of the Fund to each Member.
- 102.5 After the Fund ends:
  - 102.5.1 no Members or Employers can be admitted;
  - 102.5.2 no contributions can be accepted.
- 102.6 When the Fund ends:
  - 102.6.1 if required by Superannuation Law, the Trustee must transfer Benefits to a Complying Superannuation Fund on account of the Members;
  - 102.6.2 if not so required, the Trustee must pay all Benefits in accordance with this deed.
- 102.7 Despite sub-clause 2:
  - 102.7.1 the Trustee may keep part of the Fund to satisfy Fund Expenses (actual or contingent);
  - 102.7.2 the Trustee must not keep any part of the Fund longer than the limitation period for those Fund Expenses;
  - 102.7.3 the Trustee must pay any surplus part of the Fund to the Members or their respective Dependants in accordance with this clause;
  - 102.7.4 before making a payment, the Trustee may require a discharge in any form the Trustee decides.
- 102.8 Unless the Trustee is fraudulent, distribution of the Fund under this clause (with or without a receipt) discharges the Trustee in respect of the Fund and each Beneficiary.

**PART 14 - MISCELLANEOUS****103. Information to parties**

When and as required by Superannuation Law, the Trustee must provide information to:

- 103.1 a Member;
- 103.2 an Employer;
- 103.3 the Commissioner;
- 103.4 the Australian Prudential Regulation Authority;
- 103.5 any other person.

**104. Information from parties**

- 104.1 Each Employer and Member must provide to the Trustee any information about their participation in the Fund that the Trustee requests.
- 104.2 The Trustee may act on that information without enquiry.

**105. Amendments**

- 105.1 The Trustee may by deed add to or vary this deed if the addition or variation is not contrary to Superannuation Law.
- 105.2 Section 35b of the Trustee Act 1936 does not apply to this deed.

**106. No agency**

- 106.1 The Trustee and any Member (in that capacity) are not principal and agent or partners.
- 106.2 The Beneficiaries (in that capacity) are not principal and agent or partners.
- 106.3 The Trustee must pay income to the Beneficiaries separately.
- 106.4 Income of the Fund is not received on behalf of the Beneficiaries jointly.

**107. Governing law**

- 107.1 The laws in South Australia govern this deed.
- 107.2 The courts of South Australia have exclusive jurisdiction in respect of this deed.

**108. Notice**

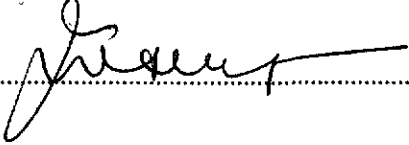
- 108.1 Notice can only be in writing signed by the party or its agent.
- 108.2 Notice can only be given to a party:
  - 108.2.1 personally;
  - 108.2.2 by registered post to the last known place of business or residence of the recipient or the registered office of the recipient. Notice by post is deemed to be received when the letter would be delivered in the ordinary course of post;
  - 108.2.3 by facsimile transmission at the last known facsimile number. Notice by facsimile transmission is deemed to be received when the sending machine confirms notice has been sent; or


108.2.4 as permitted by the Corporations Act or other statute.

108.3 A person entitled to a Benefit by operation of law is bound by every notice duly given to the Member from whom that person derived entitlement.

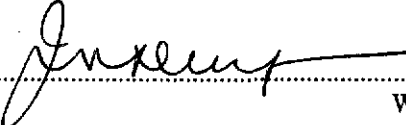
**EXECUTED** as a deed


**SIGNED** by Richard Clare Angove in the presence  
of:

  
.....  
Witness

)   
.....  
Richard Clare Angove

**SIGNED** by Ann Lindsay Angove in the presence  
of:

  
.....  
Witness

)   
.....  
Ann Lindsay Angove

**SCHEDULE**

<b>Item 1</b>	<b>Date</b> The <i>19<sup>th</sup></i> day of <i>January</i> 200 <i>4</i>
<b>Item 2</b>	<b>Principal</b> Richard Clare Angove and Ann Lindsay Angove of 44 Wootona Terrace St Georges 5064
<b>Item 3</b>	<b>Trustees</b> Richard Clare Angove of 44 Wootona Terrace St Georges 5064  Ann Lindsay Angove of 44 Wootona Terrace St Georges 5064
<b>Item 4</b>	<b>Name of Fund</b> R & A Angove Superannuation Fund
<b>Item 5</b>	<b>Establishment of Fund</b> The date of this deed