



**TRUST DEED**

**establishing**

**GENCON**

**SUPERANNUATION FUND**

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## GENCON SUPERANNUATION FUND

**THIS TRUST DEED** is dated on the date referred to in Schedule B by the Parties identified in Schedule B.

### **PURPOSE**

The purpose of the Fund is to provide superannuation and other related benefits for those persons who shall become members of the superannuation fund hereby created and for their Dependants and for such other purposes as the Commissioner may approve. The Trustee has agreed to be the initial trustee of the Fund.

### **NOW THIS DEED WITNESSES THAT :**

Upon signing this Trust Deed, the Trustee and the Principal hereby establish a Superannuation Fund in accordance with the provisions of Schedule A to commence on the date referred to in Schedule B, and which shall be so named as identified in Schedule B.

## SCHEDULE A THE DEED

### Interpretation

In this Trust Deed and in the rules and in all forms, documents and reports issued hereunder or in connection herewith:

- 1.1 "Acts" means:
- (a) the Superannuation Industry (Supervision) Act 1993 (the "SIS Act"),
  - (b) the Superannuation (Resolution of Complaints) Act 1993 (the "Complaints Act"),
  - (c) the Superannuation Guarantee (Administration) Act 1992 (the "Guarantee Act"),
  - (d) the Occupational Superannuation Standards Act 1987 ("OSSA") as maintained in force by the Superannuation Entities (Taxation) Act,
  - (e) the Income Tax Assessment Act 1936 (the "Tax Act"),
  - (f) Regulations issued under these Acts, (and a reference to any of these Acts include the Regulations issued under that Act) and
  - (g) all circulars, guidelines or rulings issued by the Commissioner in relation to occupational superannuation which the Trustee determines must be adhered to;
- 1.2 "Amend" includes alter, delete, extend, substitute for and modify, and "Amendment" has a corresponding meaning;
- 1.3 "Commissioner" means the Insurance and Superannuation Commissioner, the Commissioner of Taxation, or such other person as shall have responsibility for the regulation or taxation of occupational superannuation from time to time;
- 1.4 "Employer" means a party which agrees to contribute to the Fund and where the word Employer is used in relation to a Member, it means the Employer by which the Member is for the time being employed;
- 1.5 "Fund" or "Plan" means the superannuation fund hereby constituted and the investments, income, cash and property from time to time held by or on behalf of the Trustee upon the trusts hereof for the benefit of the Members and their Dependants;
- 1.6 "Member" means a person who has been accepted as a Member of the Fund and has not ceased to be a Member;
- 1.7 "Participant" means a Member and where the Member is superannuated under this Fund by the Principal or an Employer, includes the Principal or that Employer.
- 1.8 "Principal" means the party defined in Schedule B or a person who with the approval of the Trustee, and in accordance with any other procedures set out in the Rules, assumes this role as the successor of the Principal;
- 1.9 "Regulated Superannuation Fund" has the meaning set out in the SIS Act;

- 1.10 "Rules" means the rules and regulations (as amended from time to time) which govern the administration of the Fund;
- 1.11 "Trust Deed" or "Deed" means this Deed of Trust (as amended from time to time) together with the Rules (as amended from time to time); and
- 1.12 "Trustee" means the Trustee or Trustees for the time being of the Fund whether original additional or substituted.

### **Rules deemed to be part of Deed**

2. The Rules shall be deemed to form part of the Trust Deed.

### **Declaration of Trust**

3. The Trustee declares that it will hold all the assets and income of the Fund upon the trusts hereby created for the benefit of the Members of the Fund and that it will administer the Fund in accordance with the Rules and in accordance with the requirements of the Acts.

### **Trustee and Fund**

- 4.1 The Trustee may be removed as Trustee of the Fund in accordance with the procedure set out in Rule 17.
- 4.2 Either
- (a) the Trustee must be a Constitutional Corporation as defined in the SIS Act; or
  - (b) the sole or primary purpose of the Fund must be the provision of old age pensions, in which case individuals may act as trustees.

### **Amendment to Trust Deed and Rules**

- 5.1 The Trustee may at any time, with the agreement of the Principal, by deed or resolution Amend any of the provisions of the Trust Deed including this Rule 5.1, subject to any restrictions on Amendment of the governing rules of Regulated Superannuation Funds prescribed in the Acts and to clause 5.2.
- 5.2
- (a) Where the Trustee is a Constitutional Corporation as defined in the SIS Act, an Amendment must not permit an individual to be eligible for appointment as trustee unless this Deed provides, and will continue to provide after the Amendment is made, that the Fund has its sole or primary purpose the provision of old age pensions.
  - (b) Where the Trustee comprises individuals, an Amendment must not permit the sole or primary purpose of the Fund to be a purpose other than the provision of old age pensions unless this Deed provides, and will continue to provide after the Amendment

is made, that the Trustee must be a Constitutional Corporation as defined in the SIS Act.

### **Amalgamation**

- 6.1 The Trustee, with the approval of the Principal, shall have the power to amalgamate the Fund with another superannuation fund having a similar purpose and nature as this Fund, PROVIDED THAT:
- (a) there shall be no reduction in the value of the accrued benefits of any Member hereunder; and
  - (b) there shall be no costs charged to the Members hereunder in connection with the said amalgamation.
  - (c) any requirements of the Acts, and in particular, the SIS Act, are satisfied.
- 6.2 The Trustee shall provide each Member details of the amalgamation if and when required by the Acts.

### **Compliance**

- 7.1 (a) Notwithstanding anything express or implied to the contrary in any other provision of this Deed, if there is a conflict between this clause 7.1 and any other provision of this Deed this clause prevails.
- (b) The Trustee may comply with any operating standard prescribed under the SIS Act, notwithstanding that:
- (i) compliance with the operating standard conflicts with an express provision of this Deed; and
  - (ii) the operating standard is not required under the SIS Act or otherwise to be included in this Deed.
- (c) The Trustee has not taken to have committed any breach of trust by virtue of any act or thing done to comply with an operating standard prescribed under the SIS Act.
- 7.2 (a) If any provision of this Deed is void or voidable or unenforceable or illegal, but would not be void or voidable or unenforceable or illegal if it were read-down and it is capable of being read-down, it shall be read-down accordingly.
- (b) If notwithstanding clause 7.2(a) a provision of this Deed is void or voidable or unenforceable or illegal:
- (i) if the provision would not be void or voidable or unenforceable or illegal if a word or words were admitted, that word or those words are severed; and

(ii) in any other case, the whole provision is severed,

and the remainder of this Deed has full force and effect.

**SCHEDULE A  
THE RULES**

**Constitution**

1.1 The superannuation fund as hereunder constituted shall be administered by the Trustee as a Regulated Superannuation Fund.

**Interpretation**

In the Trust Deed and in the Rules and in all forms, documents and reports issued hereunder or in connection herewith:

- 2.1 "Accumulation Account" or "Account" means the account or accounts established and maintained under the Fund for or in respect of a Member.
- 2.2 "Annuity" means an annuity as defined in the SIS Act.
- 2.3 "Approved Deposit Fund" means a fund described as an approved deposit fund in the SIS Act.
- 2.4 "Auditor" means the Auditor for the time being appointed under Rule 16.2.
- 2.5 "Authorised Investments" means the investments described in Rule 6.1 or as permitted by the Acts.
- 2.6 "Beneficiary" means a person other than a Participant who has an interest in the Fund.
- 2.7 "Category" means, with respect to a Member, the category of membership (if any) designated by the Principal.
- 2.8 "Deferred Annuity" means a deferred annuity as defined in the SIS Act.
- 2.9 "Dependant" means the spouse and/or child of a Member, and any other person who, in the opinion of the Trustee, is or was prior to the Member's death or Total and Permanent Disablement in whole or in part dependent upon that Member for maintenance or support, and the terms "spouse" and "child" are as defined in the SIS Act.
- 2.10 "Financial Year" means a year ending on 30th June.
- 2.11 "Gainfully Employed" means, in relation to a Member, employed or self-employed for gain or reward in any business, trade, profession, vocation, calling, occupation or employment.
- 2.12 "Mandated Employer Contributions" has the meaning set out in the SIS Act.
- 2.13 "Member's Account" and "Account" mean, in relation to a Member, that Member's account within

the Fund as set out in Rule 5.

- 2.14 "Normal Retiring Age" means sixty-five (65) years of age.
- 2.15 "Pension" means a pension as defined in the SIS Act.
- 2.16 "Pooled Superannuation Trust" means a fund described as a pooled superannuation trust in the SIS Act.
- 2.17 "Preserved Benefit" means:
- (a) the amount of a benefit or part of a benefit; or
  - (b) the balance or part of the balance of a Member's Account, where the Member has not become entitled to a benefit,
- which comprises the amount of the Member's preserved benefits as calculated under the SIS Act, and which has not become unrestricted non-preserved benefits under the SIS Act.
- 2.18 "Register of Members" means the register maintained by the Trustee to record the names and addresses of the Members of the Fund.
- 2.19 "Total and Permanent Disablement" means in relation to a Member:
- (a) where the benefit payable on total and permanent disablement is insured, the definition of total and permanent disablement or a corresponding term in the policy of insurance; or
  - (b) otherwise, ill-health, whether physical or mental, such that the Trustee is satisfied that the Member is unlikely because of the ill-health ever again to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.
- 2.20 Words denoting any gender include all other genders; the singular includes the plural and vice versa; words implying persons shall include corporations.
- 2.21 Reference to a provision of the Acts, or any of them, is deemed to include any provision amending or replacing the same.

## **Membership**

### **Nomination for Membership**

- 3.1 The Principal may nominate any person to become a Member of the Fund. Membership of the Fund may consist of such Categories of membership as the Principal shall advise the Trustee. The Principal shall specify the Category of membership to which each nomination for membership

applies.

### **Admission of Nominated Person**

- 3.2 (a) The person so nominated may accept the offer of membership under the Category of membership specified by the Principal by applying to the Trustee to become a Member of the Fund and, upon acceptance of the application, the Trustee shall enter the Member's name in the Register of Members.
- (b) Notwithstanding paragraph 3.2(a) a person may be admitted by the Trustee to membership of the Fund without making any application for membership to the Trustee.

### **Refusal of Application**

- 3.3 The Trustee:
- (a) must decline an application for membership if the applicant is not a person for whom contributions can be accepted by a Regulated Superannuation Fund under the SIS Act;
- (b) may decline an application for membership without giving any reason.

### **Commencement of Membership**

- 3.4 Membership commences on the date of entry of Member's name in the Register of Members. The Trustee shall provide each new Member with such information as required by the Acts as relates to new membership of a fund.

### **Cessation of Membership**

- 3.5 A person shall cease to be a Member of the Fund immediately upon the earliest to occur of the following:
- (a) the date upon which payment of all the Member's benefits is made to the Member or otherwise in accordance with this Deed;
- (b) the Member's death;
- (c) there is no credit balance remaining in a Member's Account and the Trustee, as a consequence, has removed that Member's name from the Register of Members.

### **Trust Deed Binding**

- 3.6 Each Member and each Participant will be bound by the provisions of the Trust Deed, as amended from time to time.

### **Special Participation Arrangements**

- 3.7 A Participant may agree with the Trustee that the participation of the person is subject to, or is varied in accordance with, the conditions contained in the agreement, including the amount of contributions to be made or amounts to be paid in respect of a Participant. Such agreement is binding on all interested persons without the need to amend this Deed.

### **Contributions**

#### **Minimum Contributions**

- 4.1 (a) The Participant shall contribute to the Account of each Member, all contributions which the Participant has agreed to make to the Fund.

#### **Additional Contributions**

- (b) Notwithstanding Rule 4.1(a), the Trustee may from time to time in its absolute discretion accept such other contributions or such other amounts from a Participant or other person as it determines.

#### **In Specie Contributions**

- 4.2 The Trustee may, subject to any contrary provision of the Acts, accept contributions, transfers and roll-overs *in specie*.

#### **Payment to Administrator**

- 4.3 The Trustee may arrange for any contribution (including any transfer of assets or the proceeds of an insurance policy) to be paid directly to a person appointed as Administrator of the Fund as agent of the Trustee and any such contribution shall be deemed to be a contribution to the Trustee for the purposes of this Deed.

#### **Ineligible Contributions**

- 4.4 The Trustee shall not accept any contributions otherwise than in accordance with the Acts.

### **Member's Account**

#### **Account**

- 5.1 The Trustee shall establish within the Fund and in the name of each Member, a separate Account to receive all contributions and transfers made for the benefit of each Member under Rule 4 or Rule 12.

**Expenses**

- 5.2 The Trustee may pay out of the Fund or out of the Member's Account as the Trustee shall decide, those expenses relating directly to the investments and insurances of the Fund, including brokerage, service charges, stamp duties, income tax, capital gains tax and any other Governmental charges and the administration expenses of the Fund including but not limited to any fees paid to an Administrator appointed pursuant to Rule 17.2, or to any accounting, actuarial, legal, audit, record-keeping, reporting, management, consulting or other fees payable pursuant to the Trustee's exercise of its powers under Rule 17.3.

**Income**

- 5.3 The Trustee shall credit the Account of each Member such proportion of the net investment income of the Fund as the Trustee, in its absolute discretion considers equitable to all Members. For the purposes hereof, "net investment income" means all interest, dividends, rent and other income of the Fund, less the expenses applicable to the Fund as provided by Rule 5.2 and any allocation to reserves as provided by Rule 5.5.

**Capital Profits or Losses**

- 5.4 The Trustee shall credit or debit to the Account of each Member as the case requires such proportion of any capital profits or losses made on the investments of the Fund (whether realised or unrealised) as the Trustee, in its absolute discretion, considers equitable to all Members.

**Reserves**

- 5.5 The Trustee shall, subject to first formulating and giving effect to a suitable strategy for their prudential management as required by the SIS Act, have the power to create reserves within the Fund in order to avoid large fluctuations in investment returns to Members and to provide for any taxation payable by the Fund; for these purposes the Trustee shall have the power to appropriate, out of the investment income and capital profits (whether realised or unrealised) made on the investments of the Fund, such amounts as the Trustee, in its absolute discretion, determines. The Trustee shall have the power to appropriate from the said reserves such amounts at such times as the Trustee, in its absolute discretion, shall determine.

**Valuation**

- 5.6 The Trustee may at any time engage a suitably qualified person to value the Fund or any asset of the Fund.

## **Investments**

### **Authorised Investments**

- 6.1 (a) The Trustee shall invest the Fund only in Authorised Investments. The Trustee shall have the power, subject to this Deed and in particular Rule 6.2, to sell, vary, transpose and replace the investments held for the Fund from time to time. For the purposes of this Rule "Authorised Investments" means such investments as the Trustee would be entitled to make if it were absolutely entitled to the Fund beneficially and without limiting the generality of the foregoing includes:
- (i) Annuities, whether immediate or deferred, and including allocated annuities;
  - (ii) bills of exchange or other negotiable or transferable instruments issued accepted or endorsed by a bank or its subsidiary or any deposit of money fully secured by such a bill of exchange or other instrument;
  - (iii) bonds, notes, deposits, stock or other securities issued and/or guaranteed by the Government of the Commonwealth of Australia or of any State or Territory thereof or by any statutory body constituted by an Act of Parliament of the Commonwealth of Australia or any State or Territory thereof;
  - (iv) deposits with any bank or its subsidiary, or with any building society in Australia or with an authorised dealer in the official short term money market accredited as such by the Reserve Bank of Australia;
  - (v) land (including tenements and hereditaments, corporeal and incorporeal, and every estate and interest therein, whether vested or contingent, freehold or leasehold, and whether at law or in equity, in severalty or otherwise) and all improvements (if any) erected or to be erected thereon and all furniture carpets fittings machinery plant and other movables installed or to be installed therein and/or used in connection therewith or any interest therein, and the reconstruction, renovation, subdivision or development of any such land;
  - (vi) loans secured by mortgage, sub-mortgage, charge, transfer, assignment, lease or corporate hire purchase over any of the Authorised Investments whether ranking as a first or subsequent mortgage, sub-mortgage, charge, transfer, assignment, lease or corporate hire purchase and whether any such loan is made in the name of and is contributed by the Trustee alone or by the Trustee jointly with another or others or is held in the name of a nominee.
  - (vii) participation in any capacity in any synthetic investment, including a futures contract, hedge contract, swap contract or option contract, whether or not related to any other property forming part of the Fund;

- (viii) policies of life insurance including investment contracts constituted as a policies of life assurance;
  - (ix) policy or bond issued by a registered friendly society in any State or Territory in Australia;
  - (x) shares of any company including ordinary, preferred, deferred, contributing and other class of shares, stock or debenture (whether convertible or otherwise) unsecured notes (whether registered or not) option certificates, rights, letters of allotment and variable interest stock bonds or obligations; and
  - (xi) units, or other interests (however described) in any unit trust, mutual fund, bona fide pooled investment fund, Pooled Superannuation Trust or similar entity howsoever named and whether the investments thereof be in Australia or elsewhere, and whether or not the units, or other interests are traded on a stock exchange;
- (b) It is expressly declared that the Trustee is empowered to undertake any investment or activity which it would be capable of engaging as a natural person, including the carrying on or participation in a business, except where such investment or activity is not permitted by the Acts. Such investments or activities shall be Authorised Investments for the purposes of this Deed.

### **Investment Restrictions**

6.2 The Trustee shall not:

- (a) make any investment prohibited by the Act;
- (b) lend money of the Fund, or give any other financial assistance using the resources of the Fund, to a Member or a relative of a Member except as permitted by the Act;
- (c) borrow money, except as permitted by the Act;
- (d) acquire an asset from a member or relative of a member except as permitted by the Act.

6.3 The Trustee shall take reasonable steps to ensure that the proportion of the Fund's assets invested in in-house assets (as defined in the SIS Act) does not exceed the proportion permitted under the SIS Act.

### **Insurance**

7.1 (a) The Trustee may arrange and maintain an insurance policy for the benefit of a Member and/or the Dependants of the Member in the event of the Member's death or Total and Permanent Disablement. The Trustee shall be responsible for (but not liable for)

determining the type, the amount and the terms of this policy and for appointing the insurance company. A Member may be included in a group insurance policy. For the purposes of effecting, increasing or otherwise varying any such policy, the Trustee may from time to time require any Member or applicant to:

- (i) be medically examined, or
  - (ii) submit other evidence of health, habits or pastimes, or
  - (iii) provide proof of age to the satisfaction of the insurer, or
  - (iv) take such other actions as may reasonably be required by the Trustee or the insurer.
- (b) If, after an application for membership has been accepted, any statement made or evidence submitted to the Trustee is found to contain any mis-statement, error, mistake or suppression the Trustee may make such adjustments as it, in its absolute discretion, considers appropriate to the benefits to be provided for that Member and/or the contributions (if any) to be paid by that Member.
- (c) If any Member or applicant refuses to undergo such medical examination or to undertake any other action which may reasonably be required for the aforesaid purposes, or does or omits to do anything that would or might vitiate the policy, or result in the policy monies or any part thereof not becoming payable, the Trustee may adjust the benefits to be provided in respect of that Member or applicant in such manner as the Trustee considers appropriate.
- (d) Where the Trustee applies or has applied for insurance of any part of the benefit of a Member, that Member's benefit shall not include the amount of any such insurance or part thereof which the insurer refuses (or refuses to grant on terms acceptable to the Trustee) or the amount of any such insurance or part thereof which having been effected the insurer declares void or otherwise restricts for any reason.

7.2 Where the Trustee arranges a policy to provide benefits for a Member in the event of accident to, or sickness or disablement of the Member, the terms and conditions pertaining to such benefits shall be as set out in, and subject to the said policy, notwithstanding the definition of Total and Permanent Disablement in Rule 2.19.

7.3 The premiums for any policy held for a Member shall be paid out of that Member's Account or out of the Fund as determined by the Principal with the consent of the Trustee. The Trustee shall retain custody and control of the policy and may in its discretion make any decision or exercise any right in respect of it. The Trustee shall receive all moneys payable under the policy and shall credit the relevant Member's Account with that Member's proportion of the proceeds.

7.4 The Trustee shall not be liable to maintain any insurance policy, in particular, but without limiting the generality of this Rule, where the amount standing to the credit of the relevant Member's Account is insufficient to pay the premiums, or where contributions to the Member's Account have ceased or where for any reason the Trustee determines to discontinue the insurance. In such

circumstances, the Trustee is empowered to transfer the policy to the Member in respect of whom it was effected.

### **Retirement Benefit of Member**

#### **Benefit Due**

- 8.1 A benefit becomes payable to a Member:
- (a) upon the Member ceasing Gainful Employment on or after the Normal Retiring Age;
  - (b) on the Member attaining such an age in such circumstances that the Trustee is required under the SIS Act to pay a benefit to the Member;
  - (c) on the Member attaining the Normal Retiring Age and requesting that a benefit be paid;
  - (d) where the Member is in the service of an Employer, the Member ceases to be employed by that Employer.

#### **Benefit Value**

- 8.2 The value of the benefit payable under Rule 8.1(d) is the sum of:
- (a) the amount representing benefits which are required to be fully vested under Rule 11.1; and
  - (b) the amount of the Member's Vested Benefit calculated on the basis of the Member's Category as provided in Appendix "I".
- 8.3
- (a) The value of a benefit payable under Rule 8.1(a), (b) or (c) is the amount standing to the credit of the Member's Account, subject to Rule 8.3(b).
  - (b) The Trustee may, at the request of a Member entitled to a benefit under Rule 8.1(a), (b) or (c), reduce the amount of the benefit by any amount the Member requests, but the benefit paid must not be less than the amount required under Rule 11.1 to be fully vested.

#### **Payment Mode**

- 8.4
- (a) Subject to the Acts:
    - (i) where the Trustee is a Constitutional Corporation, benefits (other than death benefits) shall be paid as a lump sum unless an election has been made by the Member and agreed to by the Trustee to have the benefit paid as a Pension or Annuity.

- (ii) where the Trustee(s) are individuals, benefits (other than death benefits) shall be paid as a Pension or Annuity unless an election has been made by the Member and agreed to by the Trustee to have the benefit paid in whole or in

part by way of lump sum (or by instalments of a lump sum) or by transfer in specie.

- (b) Where any part of the balance in a Member's Account comprises unrestricted non-preserved benefits as defined in the SIS Act, the Trustee may pay any part of that amount at the Member's request at any time.
- (c) The Trustee may pay any benefit payable on the death of a Member in such manner as the Trustee determines, which may include payment of a lump sum or a Pension, the purchase of an Annuity or by any combination of those methods.

### **Pension**

- 8.5
- (a) The Trustee shall apply that part of the capital value of a Member's benefit, which is to be paid as a Pension or Annuity, to pay or purchase such Pension or Annuity. If the Member and the Trustee do not agree on the Member's selection of the Pension or Annuity, the Trustee, in its sole discretion, shall select the Pension and/or Annuity, and purchase or provide same on the Member's behalf;
  - (b) A Pension paid from the Fund must comply with any standards prescribed under the Acts for the payment of allocated Pensions. The Trustee must ensure that the terms of any Annuity purchased for a Member are in accordance with any standards prescribed under the Acts for the payment of Annuities.
  - (c) The Trustee may vary the amount of and frequency of the instalments of a Pension, and the terms on which payment is made, from time to time in accordance with any applicable standards prescribed under the Acts.
  - (d) A Member entitled to or in receipt of a Pension may apply to the Trustee in writing to commute to a lump sum any part or all of the capital value of the Pension. The Trustee may:
    - (i) approve the commutation and pay the lump sum to the Member unless the standards prescribed under the Acts do not permit the commutation; and
    - (ii) adjust the terms of payment of the Pension and the amount of the annual instalments of the Pension to take account of the amount commuted.

### **Lump Sum Benefit**

- 8.6 Where a benefit is payable as a lump sum, the Trustee:

- (a) must pay the benefit as soon as practicable after it becomes payable;
- (b) may pay the benefit in more than one instalment unless the standards prescribed under the Acts require that the benefit be paid in a single lump sum.

### **Lump Sum Paid as Pension**

8.7 A Member entitled to a benefit payable as a lump sum may apply to the Trustee in writing to commute any part or all of the benefit to a Pension. The Trustee may approve the commutation and:

- (a) pay a Pension from the Fund from the amount specified by the Member as the amount to be commuted to a Pension, in accordance with Rule 8.5; or
- (b) purchase an Annuity using the amount specified by the Member as the amount to be commuted to a Pension.

### **Transfer or Benefit in Specie**

8.8 (a) Policy of Insurance

Where a Member or the Dependant of that Member is entitled to receive benefits from the Member's Account and the same includes any interest in an insurance policy on the life of the Member, the Trustee may, in its absolute discretion, assign the policy to the Member or to the Dependents in lieu of paying the cash value thereof. Upon assignment, neither the Trustee nor the Employer shall be liable to pay any further premiums under the said policy.

(b) Transfer of Investments

The Trustee may, with the consent of a Member or a Dependant to whom a benefit is payable, transfer investments of the Fund of equivalent value to the Member or Dependant instead of paying the whole or part of the amount otherwise payable pursuant to the provisions of the Deed.

### **Release**

8.9 Upon the payment of a benefit hereunder, whether in cash or by the transfer of investments, the following shall constitute a good and valid discharge to the Trustee of the Trustee's liabilities and obligations in respect of the payment of benefits:

- (a) with respect to a single lump sum benefit, the encashment of the Trustee's cheque for the benefit;
- (b) with respect to a lump sum benefit payable by instalments or a Pension, the encashment of the Trustee's final cheque for the benefit;
- (c) with respect to an Annuity, the payment by the Trustee of the purchase price for that

Annuity;

- (d) with respect to the transfer of a Member's benefits, the encashment by the trustee, manager or administrator of the recipient fund of the cheque representing the transfer of the cash benefit, and the valid transfer to the recipient trustee for such investments as are being transferred in specie;
- (e) with respect to the payment of all or part of a Member's benefit in specie, the valid transfer to the Member of such insurance policies or investments as are being transferred in specie.

### **Death Benefit**

- 9.1 If a Member dies prior to becoming entitled to receive his or her retirement benefit and while there is a credit balance in his or her Account, the Trustee shall pay a death benefit under this Rule 9. The capital value of the death benefit shall, subject to Rule 9.6, be the amount accumulated in the Member's Account and calculated in accordance with Rule 8.3, including the proceeds of any insurance carried by the Trustee on the life of the Member.
- 9.2 If the Member dies after becoming entitled to receive his or her retirement benefit but before that benefit has been paid, the Trustee shall pay a death benefit under this Rule 9. The capital value of the death benefit shall be the amount accumulated in the Member's Account and calculated in accordance with Rule 8.3.
- 9.3 The Member may, by notice in writing to the Trustee from time to time, nominate which of his or her Dependants the Member would prefer to receive the death benefit payable under this Rule 9, and the proportion payable to each such nominated Dependant.
- 9.4 The Trustee may take into consideration a Member's nomination under Rule 9.3, however the Trustee alone shall have the power to decide which of the Member's Dependants (if any) shall be paid the death benefit and the proportion payable to each such Dependant, notwithstanding the Member's nomination.
- 9.5 If the Member has no Dependants living at the date of payment of the Member's death benefit hereunder, or if the Trustee in its sole discretion so decides, the Trustee shall pay the death benefit to the Member's legal personal representative, or to such other person permitted by the Acts.
- 9.6 The Trustee and a Member may agree in writing that, upon that Member's later death while a Member of the Fund, the Member's death benefit shall be any insurance carried by the Trustee on the life of the Member and that the amount accumulated in the Member's Account shall be dealt with in accordance with Rule 15 provided that neither the Member or any person claiming through the Member shall have any interest in or right to that accumulated amount except as required by the Acts.

### **Disablement Benefit**

#### **Total and Permanent Disablement**

- 10.1 In the event that a Member establishes Total and Permanent Disablement to the satisfaction of the Trustee, the Member shall be paid a Total and Permanent Disablement Benefit. The capital value

of the Total and Permanent Disablement Benefit shall be the amount calculated in accordance with Rule 8.3 including the proceeds of any total and permanent disablement insurance carried by the Trustee on the life of the Member.

### **Sickness and Accident Benefit**

- 10.2 If a Member satisfies the Trustee that he or she is absent from work and is unable to perform the normal duties of his or her occupation due to sickness or accident, the Trustee at the request of the Member may apply all or part of the Member's Account in payment of an income to the Member during such period of absence, even though the Member (if an Employee) may remain in the service of the Employer. In determining the amount of such income the Trustee shall have regard to any benefit payment received on a policy effected pursuant to Rule 7.2, and any other requirements of the Acts or the Commissioner.

### **Vesting**

- 11.1 Subject to Rule 11.3 and the Acts, the following benefits shall be fully vested:
- (a) benefits arising from Mandated Employer Contributions;
  - (b) benefits arising from contributions made by the Member; and
  - (c) vested Member financed benefits transferred to the Fund for the credit of the Member as determined pursuant to Rule 12.4(a).
- 11.2 With respect to an Employer's contributions to a Member's Account which are in excess of Mandated Employer Contributions, the Principal may instruct the Trustee, in the form and to the effect of Appendix "I" hereto (or in such other form as the Trustee may agree to accept), as to the vesting which is to apply to those contributions.
- In default of an instruction under this Rule, the Trustee shall be entitled to assume the relevant contributions are, fully vested immediately they are received by the Trustee.
- 11.3 Clause 11.1 does not prevent the Trustee from deducting from any contribution amounts for taxation, administration expenses or life insurance premiums or any other amounts that may be deducted from the contribution in accordance with this Deed and the Acts.

### **Portability and Preservation of Benefits**

#### **Preservation**

- 12.1 Any benefit or part of a benefit which comprises a Preserved Benefit can only be paid:
- (a) to the Member in the form of a non-commutable life pension or non-commutable life annuity; or
  - (b) by way of transfer or rollover for the benefit of the Member to a Regulated Superannuation Fund or Approved Deposit Fund or Deferred Annuity.

### **Transfer from Another Fund**

- 12.2 (a) Where a Member is or was a member of, or beneficiary under any other Regulated Superannuation Fund or Approved Deposit Fund or is or was entitled to payments of an Annuity ("the Other Fund"), and wishes to transfer the whole or part of his or her accrued benefits in the Other Fund to this Fund, the Trustee may accept into the Fund cash or Authorised Investments from the Other Fund to the value of the Member's benefits being transferred, and shall credit the Member's Account accordingly.
- (b) If the Trustee so determines, the Member shall be deemed to have become a Member of the Fund on the date he or she became a Member of the Other Fund.
- (c) The Trustee may, in its discretion, accept the liability to pay any taxation that may have accrued in relation to the benefits so transferred, and shall be entitled to make such provision for taxation as it deems necessary out of the cash or Authorised Investments transferred.
- (d) The Trustee may, in its discretion, accept into the Fund for the benefit of a particular Member the transfer from a person (other than a Member and other than where prohibited by the Acts) any insurance policy on the life of that Member which had been effected to provide superannuation, retirement or death benefits for the Member. The Member shall be liable for any costs incurred in respect of the transfer.

### **Transfer to Another Fund**

- 12.3 (a) Where a Member joins another Regulated Superannuation Fund or an Approved Deposit Fund or wishes to acquire a Deferred Annuity and the Member requests that the whole or part of his or her benefit in the Fund be transferred to such other fund ("the Transferee Fund"), or applied to purchase the Deferred Annuity, the Trustee, with the approval of the Principal, may transfer to the trustee of the Transferee Fund or life insurance company issuing the Deferred Annuity cash or Authorised Investments (as determined by the Trustee) representing the benefits to be transferred.
- (b) When all or any part of the benefit of the Member has been transferred to the Transferee Fund, the benefit of the Member in this Fund shall be reduced by the amount so transferred, and without limitation to clause 8.9(d), the receipt therefor duly signed by the proper officer of the Transferee Fund shall be a completed discharge to the Trustee of all liabilities in respect thereof. The Trustee shall have no responsibility with respect to the application of transferred benefits.

### **Credit for Member and Employer Contributions**

- 12.4 (a) The Trustee shall be entitled to rely upon any certification from the trustee of any transferor fund for the purpose of determining the proportion of a Member's benefits that shall be regarded as Employer financed and that proportion that shall be regarded as Member financed and consequently fully vested for the purposes of Rule 11.1. In the

absence of such certification, the Trustee shall, in its sole discretion, but subject to the Acts, make such determination.

- (b) The Trustee shall advise the trustee, manager or administrator of any transferee fund the proportion of any transferred benefits which are to be regarded as attributable to contributions by the Member and contributions by the Employer.

### **Power to Sign Documents**

- 12.5 The Trustee and the relevant Member shall have the power to sign all such documents and to transfer all such cash and Authorised Investments as may be required to give effect to this Rule 12.

### **Tax on Benefits**

- 13.1 The Trustee shall deduct from any benefit payable to a Member pursuant to this Deed any taxation required to be deducted and shall pay the said taxation to the relevant authority.
- 13.2 The Member or Beneficiary shall be entitled to receive only the net benefit or payment after the deduction of taxation PROVIDED THAT if as a result of a Member's electing to take a Qualifying Eligible Termination Payment (as defined in the Tax Act) the Australian Taxation Office refunds to the Trustee the taxation paid pursuant to Section 221H(5A) of the Tax Act, the Trustee shall pay the full amount of such refund to the payee of such Qualifying Eligible Termination Payment.

### **Benefits not Assignable**

- 14.1 A Member's benefit in the Fund is not assignable.
- 14.2 A benefit other than a Preserved Benefit or a benefit payable on a Member's death must be paid to the Member, unless the Acts permit payment of the benefit to another person for the benefit of that Member.

### **Application of Benefits Forgone**

- 15.1 If for any reason there is a credit balance remaining in the Account of a Member after all benefits due to that Member have been paid, the Trustee shall apply this balance, in accordance with Rules 15.2 and 15.3.
- 15.2 The Trustee may at the direction of the Principal apply the credit balance remaining in the Account of a Member after all benefits due to that Member have been paid, to the extent that the balance does not represent amounts required under Clause 11.1 or otherwise by the Acts to be vested in the Member, in any of the following ways and in whatever proportion the Trustee may decide, where the Trustee is permitted under the Acts to so apply that amount:
- (a) to credit the Account of any one or more of the other Members for whose benefit a Participant is also contributing to the Fund, either in lieu of contributions the

Participant had agreed to make, or to provide additional benefits;

- (b) to credit the amount to the Fund's reserves;
- (c) to provide additional benefits to any former Member or Dependant of a former Member; or
- (d) in any other matter permitted under the Acts or by the Commissioner.

15.3 The Trustee shall apply the remaining credit balance as required by the Commissioner and the Acts, which may include any of the ways provided in Rule 15.2.

## **Accounts and Audit**

### **Records**

16.1 The Trustee shall keep:

- (a) a Register of Members (which may be kept in electronic form);
- (b) a separate Account for each Member together with such details as to contributions from the Employer and the Member as the Trustee deems necessary;
- (c) details of any amount transferred into a Member's Account from another Regulated Superannuation Fund, Approved Deposit Fund or Annuity;
- (d) such details of contribution and transfers into a Member's Account as are necessary to comply with the Preservation Standards;
- (e) such records as are required to be kept for the period, and containing all the information as is required by the Acts and the Tax Act;
- (f) such other records as the Trustee may consider necessary for the proper administration of the Fund or for compliance with the Acts and the Tax Act.

### **Audit**

16.2 The Trustee shall prepare accounts for the Fund as at the end of each Financial Year and shall appoint an auditor, who is an approved auditor as defined in the SIS Act, to audit the accounts, books and other relevant records of the Fund and to report upon such other matters relating to the Fund and to give such certificates as may be required by the Commissioner or the Acts. The Trustee shall make available all books, accounts and records relating to the Fund which may be required by the Auditor.

The Trustee shall have the power to dismiss the Auditor on thirty (30) days' notice and appoint a new Auditor.

### **Annual Reports to Members**

- 16.3 The Trustee shall provide each Member with a statement of his or her Account, including all the information required pursuant to the financial reports and disclosure of information standards under the Acts, within the period prescribed under the SIS Act.

**Report on Benefit Payment**

- 16.4 The Trustee shall provide each Member to whom a benefit is paid a statement in writing setting out such information as may be required pursuant to the financial reports and disclosure of information standards under the Acts.

**Returns**

- 16.5 The Trustee shall furnish all returns, audit reports and other information required under the Acts.

**Trustee**

**Covenants**

- 17.1 The Trustee hereby agrees with the Members that it will carry out the statutory covenants required by the Acts.

**Appointment of Administrator**

- 17.2 The Trustee may employ any agent to transact any business or do any thing which is required by these Rules and may appoint any professional person or party to perform any function relating to the administration of, or the management of the investments of, the Fund or valuation thereof, and to pay out of the Fund all expenses of and incidental to any such appointment; without limiting the generality of the foregoing, the Trustee may appoint a person or company ("the Administrator") specifically to perform the following:

- (a) to accept or reject applications for membership of the Fund and to maintain the Register of Members;
- (b) to operate a bank account for the Fund in the name of the Fund or of the Administrator and to authorise and action the cash movement into and out of such account;
- (c) to collect contributions to the Fund;
- (d) to exercise the powers of investment conferred on the Trustee by Rule 6 of the Rules and to arrange for the management of the investments of the Fund in accordance with instructions with respect thereto given from time to time by the Trustee to the Administrator;
- (e) to hold any cash or investment of the Fund in the name of the Administrator or of the Fund either alone or co-mingled with the cash or investments of any other superannuation fund or trust fund administered by the Administrator subject to the provisions of the Acts;

- (f) to effect and maintain insurances as provided by Rule 7 of the Rules;
- (g) to pay benefits to Members and their Dependants and to exercise such discretionary powers of the Trustee with respect thereto as are set out in the Rules;
- (h) to account for the Fund and to prepare its financial statements, submit returns to the Commissioner and to comply with all the other requirements of the Commissioner or the Acts in relation to the Fund;
- (i) to report to the Members of the Fund and the Employers hereunder according to Rule 16.3 of the Rules and the Acts;
- (j) such other duties as the Trustee and the Administrator agree.

#### **Additional Powers of the Trustee**

17.3 (a) The Trustee shall have the power:

- (i) to appoint and at its discretion remove or suspend the Auditor, Administrator, managers, secretaries, clerks, agents and other servants, and advisers (including but not limited to barristers, solicitors, accountants, investment advisers, actuaries, valuers, insurance brokers, and share brokers), to appoint them for permanent, temporary or special services as it from time to time sees fit, to determine their powers and duties and fix their remuneration, to require security in such instances and to such amount as it sees fit, to rely upon and act upon the advice of such advisers, to delegate to advisers such powers as it sees fit, and any person so employed shall be deemed for the purposes of this Deed to be employed by the Trustee;
  - (ii) 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, to compound and allow time for payments or satisfaction of any debts and allow time for payments or satisfaction of any debts due and of any claims or demands by or against the Fund, PROVIDED THAT the Trustee shall not be obliged to take action under this Rule unless the Trustee is indemnified to its satisfaction in respect of all costs, damages, losses or liabilities arising from such action, and the Trustee shall have the power to charge the Account of a Member or of a group of Members with the proportion of any associated costs as it sees fit;
  - (iii) to pay all commission, brokerage, fees or otherwise that are necessary and incidental to the Trustee performing its obligations under this Deed.
- (b) The Trustee shall have the power to adopt procedures and make rules for the administration and operation of the Fund, including rules and procedures relating to:
- (i) dealing with inquiries and complaints; and

- (ii) the nomination of and/or election of representatives of Employers and Members on the board of the Trustee

### **Accountability**

- 17.4 Subject to Rule 4.4, the Trustee shall be accountable only for contributions actually received by it and shall not be liable to account for moneys paid by a Member or any Employer to any agent, broker or other person or company which acts or purports to act as agent of the Trustee unless these moneys are actually received by the Trustee.

### **Indemnity**

- 17.5 (a) Subject to Rule 17.5(b), the Trustee:
- (i) is not liable for any loss to the Fund arising from any act or omission by the Trustee;
  - (ii) is entitled to be indemnified out of the assets of the Fund for any liability or loss incurred by it while acting as Trustee.
- (b) Rule 17.5(b) does not exempt the Trustee from liability for or indemnify the Trustee against:
- (i) a breach of trust where the Trustee:
    - (A) failed to act honestly in a matter concerning the Fund; or
    - (B) intentionally or recklessly failed to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee is required to exercise; or
  - (ii) a monetary penalty under a civil penalty order imposed under the SIS Act.
- (c) References in this rule to the "Trustee" include directors of the Trustee acting in that capacity.

### **Trustee's Discretion**

- 17.6 The Trustee shall have the complete management and control of the Fund and shall have a full and absolute discretion in the exercise of its powers, authorities and discretions.

### **Fees and Remuneration**

- 17.7 (a) The Trustee (or a company related to the Trustee) shall be entitled to charge and retain for its own use and benefit in relation to the Fund or to each Member's Account hereunder (as appropriate) the following:

- (i) administration and management charges pursuant to the scale of such charges as levied by the Trustee (or company related to the Trustee) from time to time;
- (ii) any commissions or similar payment arising from insurance effected pursuant to Rule 7;
- (iii) any commissions or similar payment arising from any other transaction undertaken on behalf of the Fund or service provided to the Fund;

PROVIDED HOWEVER THAT the Trustee shall, when requested by a Member in respect of whose Account a transaction pursuant to sub-clause (iii) above has been undertaken, declare to the Member the nature and amount of any such payments or commissions.

- (b) The Trustee hereby covenants that it will:
  - (i) advise the Principal and each Member at the time of joining the Fund, the standard administration and management charge for the Fund;
  - (ii) not increase the said charges unless it has given at least one months' notice of any such increase to the Principal.

#### **Retirement, Removal and Replacement of Trustee**

- 17.8 (a) The Trustee may retire as Trustee of the Fund upon giving written notice to the Principal of its intention to retire, and the Principal shall appoint a new Trustee to take its place.
- (b) The Trustee may be removed by the Principal, or by the Members of the Fund, where permitted by the Acts, and the Principal shall appoint a new Trustee to take its place.
- 17.9 The Principal may appoint any person to act as a Trustee of the Fund, whether as an additional or substituted Trustee.
- 17.10 Where the Trustee is an individual and that individual retires as trustee or dies, or where the Trustee is a number of individuals and one of those individuals retires as trustee or dies, the Principal shall appoint a replacement Trustee, and the Principal may act as Trustee where permitted by this Deed and the Acts until the replacement Trustee has been appointed.
- 17.11 If the Trustee goes into liquidation (except for the purpose of amalgamation or reconstruction) or if a receiver is appointed to manage the affairs of the Trustee, or the Trustee otherwise cannot continue to act due to the requirements of the Acts, the Trustee shall forthwith cease to act as Trustee of the Fund whereupon the Principal shall appoint a new Trustee.
- 17.12 Upon the appointment of a new Trustee, the retiring Trustee shall do all things and execute all documents necessary to vest the investments, cash, property, records and documents of the Fund in the new Trustee; thereafter the new Trustee shall exercise all the powers, enjoy all the rights and be subject to all the obligations and liabilities of the Trustee as fully as if the new Trustee had been originally named as the Trustee party to the Trust Deed. From the date of the appointment of the

new Trustee, the retiring Trustee shall, subject to Rule 17.5, be released from all further obligations and liabilities with respect to the Fund and the Members.

### **No Guarantee**

- 17.13 Neither the Trustee, nor the Employer, nor the Administrator guarantees any estimation or projection of the amount of benefit to which a Member shall be entitled. Any projection of the amount of benefit made by the Trustee or the Employer or the Administrator or any of their respective directors, officers or agents is given solely for the purpose of illustrating the potential of the Fund, based upon assumptions as to the amount of contributions, the earnings rate of the Fund and other relevant factors and may not be held by a Member or that Member's Dependants as a representation or as an inducement to become or to remain a Member of the Fund.

### **Request Information**

- 17.14 Every Member and every person in receipt of or claiming a benefit from the Fund shall give to the Trustee such information and produce such documents as the Trustee reasonably may require to discharge its duties as Trustee of the Fund, in default of which the Trustee may refuse to pay or to continue to pay the benefit of the Member or other person or to accept any further contributions from the Member and/or the Employer.
- 17.15 A Participant shall, as and when requested by the Trustee, give to the Trustee all information in its power or possession which may in the opinion of the Trustee be necessary or expedient for the management and administration of the Fund. The Trustee may act upon any information given to it by the Participant pursuant to this Deed and shall not be required to verify same.
- 17.16 The Trustee shall make available and supply in accordance with the Acts all such information required by the Acts to be made available respectively to beneficiaries of the Fund and others.

### **Winding up the Fund**

- 18.1 If at any time the benefits of all the Members of the Fund have been paid in full, or all Member's Account balances have been transferred and there are no assets remaining in the Fund after the Fund has met all its liabilities, the Trustee may wind up the Fund.
- 18.2 If at any time the benefits of all the Members of the Fund have been paid in full, and there are assets remaining in the Fund after the Fund has met all its liabilities, the assets shall be dealt with by the Trustee in any of the following ways permitted under the Acts or approved by the Commissioner, whereupon the Trustee may wind up the Fund:
- (a) by payments to any Members or former Members;
  - (b) by payments to any Dependants or the legal personal representatives of any Member or former Member;
  - (c) by payments to any Employer or former Employer.

### **Employer - Merger, Sale or Winding Up**

- 19.1 In the event of an Employer being reconstructed, amalgamated with another employer, or wound up, or if it disposes of its business, the Trustee may, in its discretion:
- (a) enter into a Deed with the successor (if any) of the Employer wherein the successor will continue to be the Employer of the relevant Members for the purposes of this Fund; or
  - (b) transfer to a Regulated Superannuation Fund conducted by the successor employer the balances standing to the credit of the relevant Member's Accounts of those Members employed or formerly employed by the Employer for the benefit of those Members, and if the Employer employs all the Members, wind up the Fund in accordance with Rules 18.1 and 18.2.

### **Miscellaneous**

- 20.1 If any dispute or doubt whatsoever arises as to the interpretation of the Trust Deed or these Rules or as to the rights of a Member, the Employer or any other person hereunder, subject to any competent court which may acquire jurisdiction, to the Acts and in particular to the Complaints Act, the decision of the Trustee is final and conclusive against all parties PROVIDED THAT if the Trustee so determines, the question or dispute shall be submitted to arbitration administered by the Australian Commercial Disputes Centres Limited ("ACDC") conducted at Brisbane or Sydney (as chosen by the Trustee). The arbitrator shall be a person agreed between the parties chosen from a panel suggested by ACDC and, failing agreement, shall be a person nominated by the Secretary-General of ACDC.
- 20.2 Whenever it is necessary for the Trustee to decide questions of fact, whether for the purpose of Rule 20.1 or otherwise, it may act upon such proofs or presumptions as it thinks fit whether they are legal proofs or presumptions or not.

### **Employers**

- 21.1 A person, partnership, trust, corporation or any other entity permitted under the Acts may become an Employer, with the consent of, and subject to any conditions imposed by, the Trustee and the Principal, by executing an application to participate in the Fund in the form approved by the Trustee from time to time.
- 21.2 An Employer may at any time cease to be an Employer by so notifying the Trustee in writing.
- 21.3 In the event that an Employer ceases to be an Employer, any Member in respect of whom the Employer was the Employer shall, unless the Trustee otherwise determines, cease to be a Member of the Fund, and any amount held in the Account of that Member shall be dealt with in accordance with Rule 12.3.

### **Unclaimed Benefits**

- 22.1 If the Acts so require or permit, a benefit due but unclaimed may be rolled over to an eligible rollover fund (as defined in the Acts) or paid to the Commissioner.

### **New Principal**

- 23.1 (a) If at any time, the Principal of the Fund as named herein wishes to retire as Principal for any reason whatsoever, the Trustee shall appoint a new Principal nominated by the retiring Principal.
- (b) Where more than one person is named as the Principal, on the death of any of those persons the survivor or survivors shall act as Principal. Where only one person acts as Principal, on the death of that person the person's legal personal representative shall act as Principal.
- (c) Where the Principal is a corporation, if goes into liquidation (except for the purpose of amalgamation or reconstruction) or if a receiver is appointed to manage the affairs of the Principal, the Trustee shall appoint a new Principal.

### **Proper Law**

- 24.1 The Trust Deed and Rules shall be governed and construed in accordance with the laws of the State or Territory of the Commonwealth of Australia in which the Deed is executed, and the Employer, the Trustee, Members and beneficiaries hereunder agree to accept the jurisdiction of the Courts of that State or Territory.
- 24.2 The provisions of Section 35b of the Trustee Act 1936 of South Australia shall not apply to this Deed.

## **APPENDIX "1"**

The Principal, identified in Schedule B, hereby authorises and instructs the Trustee of the Fund to apply the Member Benefit Category, with respect to the Members of the Fund, as selected in the Principal Section of the Application for Membership to the Fund, and as designated hereunder.

**CATEGORIES OF MEMBERSHIP  
VESTING CATEGORIES**

In this Designation:

**"Vested Benefit"** means, in relation to the benefit of a Member of the Fund, that part of the value of the Member's Account which is attributable to Employer contributions other than Mandated Employer Contributions to which the Member shall be entitled upon leaving service of the Employer prior to the attainment by the Member of the Normal Retiring Age.

**"Qualifying Service"** means, in relation to a Member of the Fund, that period during which the Member has been in the service of the Employer as advised by the Employer to the Trustee and as shall be counted for the purposes of determining the Vesting Benefit hereunder.

**Category A: "Full Vesting"** means a Vested Benefit of 100% at all times.

**Category B: "Three Year Vesting"** means a Vested Benefit which shall be 34% after one complete year of Qualifying Service increasing to 67% for a second year of Qualifying Service and attaining 100% after three years of Qualifying Service.

**Category C: "Five Year Vesting"** means a Vested Benefit which shall be 20% after one complete year of Qualifying Service increasing by 20% for each further year of Qualifying Service and attaining 100% after five years of Qualifying Service.

**Category D: "Ten Year Vesting"** means a Vested Benefit which shall be 10% after one complete year of Qualifying Service increasing by 10% for each further year of Qualifying Service and attaining 100% after ten years of Qualifying Service.

**Category E: (to be set by Principal)** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Note:** Where the Principal does not give an instruction to the Trustee, within 30 days of the date of admission to membership of the relevant Member, with respect to the Vesting Benefit applicable to that Member (or category of membership if appropriate), the Trustee shall be entitled to assume that the relevant contributions qualify for Full Vesting.

**SCHEDULE B  
THE PARTICULARS**

- (a) **Date of Deed of Trust:** 17 JUNE 1996
- (b) **Parties:** Gencon Pty Ltd A.C.N: 009 624 962 registered address being, Suite 6 Confederation House, 2 Shepherd Street, DARWIN NT 0801 (the "Trustee"); and,  
  
Gencon Pty Ltd A.C.N: 009 624 962 registered address being, Suite 6 Confederation House, 2 Shepherd Street, DARWIN NT 0801 (the "Principal")
- (c) **Name of Fund:** Gencon Superannuation Fund  
  
or such other name as the Trustee and Principal agree in writing.

**THE EXECUTION PAGE**

**EXECUTED** as a deed by the Principal and by the Trustee(s):

**THE COMMON SEAL** of  
the **PRINCIPAL GENCON PTY LTD**  
was affixed to this deed  
in the presence of:

*S E Foote*  
Secretary/Director

*G Foote*  
Director



S.E. FOOTE.  
Name (please print)

G FOOTE  
Name (please print)

**THE COMMON SEAL** of  
the **TRUSTEE GENCON PTY LTD**  
was affixed to this deed  
in the presence of:

*S E Foote*  
Secretary/Director

*G Foote*  
Director



S.E. FOOTE.  
Name (please print)

G FOOTE  
Name (please print)