

**KELLY
& CO**

BARRISTERS AND SOLICITORS

Telephone (08) 205 0800
GPO Box 286 Adelaide 5001
DX Box 301
Facsimile (08) 205 0805

Levels 14, 16 & 17
Adelaide House
55 Waymouth Street
Adelaide South Australia 5000

ASKFIVE SUPER FUND

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NORTHERN TERRITORY	
Assessment	9207133
Stamp Duty Paid	\$50.00
Late Lodgement Penalty	\$20.00
Late Payment Penalty	\$
Initials	W
Date	27/8/92

SUP39

THIS DEED is made on the date specified in Schedule A as the Date of Deed

BETWEEN the person named and described in Schedule A as the Principal Employer ("Principal Employer") AND the person named and described in Schedule A as the Trustee ("the Trustee")

WHEREAS:

- A. It is the desire of the Principal Employer to establish and maintain a superannuation fund for the purpose of providing retiring allowances and other benefits for such of the present and future employees of the Principal Employer (and of any Participating Employer) as shall be eligible to and shall elect to become members of the Fund and obtain the benefits of membership for themselves and, in the event of their death, for their Dependants.
- B. The Trustee has agreed to act as Trustee of the Fund in accordance with the provisions of this Deed.
- C. The Fund is established and maintained solely for the purpose of providing superannuation benefits for Members in the event of their retirement or in other circumstances acceptable to the Commissioner or for the Dependants of Members in the event of the death of a Member.
- D. The Fund shall be conducted so as to attract the concessional rate of Taxation which is applicable to superannuation funds.

NOW THIS DEED WITNESSES:

ESTABLISHMENT

1. The Principal Employer establishes a fund ("the Fund") which is known by the name described in Schedule A and which

commences on the Date of Establishment of the Fund specified in Schedule A.

DIVISIONS

2. This Deed is divided into Division A and Division B. Division A shall govern the management and administration of the Fund and Division B shall govern the amount of the Contributions payable to and the Benefits payable from the Fund.

COVENANTS

3. The Principal Employer covenants with the Trustee, and the Trustee for itself, its successors and assigns covenants with the Principal Employer, mutually to perform and observe the covenants, trusts, and conditions of this Deed so far as the same are or ought to be observed by each of them respectively.

- DIVISION A -

MANAGEMENT AND ADMINISTRATION

INTERPRETATION - DEFINITIONS

4. In this Deed unless the context otherwise requires:

"A" Class Accumulation Account" means the Accumulation Account of a Member for the period that person was a Member of the "A" Class;

"Accumulation Account" means the account established on behalf of each Member or Beneficiary as described in Clause 12 hereof;

"Act" means the Occupational Superannuation Standards Act 1987 and any Regulations issued pursuant to the Occupational Superannuation Standards Act 1987;

"Actuary" means the actuary (if any) for the time being appointed pursuant to this Deed;

"Administration Manager" means a person appointed as Administration Manager of the Fund in accordance with sub-clause 20(b);

"Annuity" means an eligible annuity as defined in Section 27A(1) of the Tax Act;

"Approved Benefit Arrangement" means a fund or benefit arrangement other than the Fund including without limitation

another Complying Superannuation Fund, an Approved Deposit Fund and an Annuity arrangement into which or from which assets can be transferred into or from the Fund without causing the Fund to be in breach of or fail to comply with any requirement of the Commissioner;

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

"Auditor" means the auditor for the time being appointed pursuant to this Deed;

"B" Class Accumulation Account" means the Accumulation Account of a Member for the period that person was a Member of the "B" Class;

"Beneficiary" means a person presently and absolutely entitled to receive a Benefit at the relevant time but does not include a person who is a Member at that time;

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

"C" Class Accumulation Account" means the Accumulation Account of a Member for the period that person was a Member of the "C" Class;

"Class" means Membership Class;

"Commissioner" means the Commissioner of Taxation or the Insurance and Superannuation Commissioner or such other regulatory body as shall have responsibility for the administration of occupational superannuation from time to time;

"Complying Superannuation Fund" in relation to a year of income means a fund which is a Complying Superannuation Fund pursuant to the Tax Act;

"Contributions" means gross payments to the Fund by Members and Employers in accordance with the provisions of this Deed prior to the payment of any Taxation payable in respect of those Contributions;

"Deed" means these presents and any authorised alterations, additions, amendments, modifications or variations to it;

"Dependant" in relation to a Member or former Member means:

- (i) the Spouse of a former Member or the widow or widower of a deceased Member; or

- (ii) any child of a Member including any person who, in the opinion of the Trustee, is or was actually maintained by the Member as the child of the Member; or
- (iii) any other person who, in the opinion of the Trustee, was substantially dependent on the Member at the relevant time;

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

"Eligible Company" means a company which satisfies the definition contained in Clause 14(a);

"Eligible Person" means any person who is engaged in Part-Time Gainful Employment or Full-Time Gainful Employment;

"Eligible Termination Payment" has the same meaning as contained in Section 27A of the Tax Act;

"Employee" means a person in the employment of an Employer;

"Employer" means the Principal Employer and any Participating Employer and in relation to an Employee or Member means the Employer of such Employee or Member;

"Equalisation Account" means the account established pursuant to sub-clause 12(e);

"Financial Year" means a period of twelve months ending on 30 June;

"Forfeiture Account" means the account established pursuant to sub-clause 26(c);

"Full-Time Gainful Employment" in relation to a Member means a Member who is Gainfully Employed on a full-time basis within the meaning of the Regulations;

"Fund" means the Fund established by this Deed the name of which is set out in Schedule A;

"Fund Earning Rate" means the earning rate for the Fund (which may be negative) determined pursuant to paragraph (iii) of sub-clause 12(d) after taking into account such provisions or reserves for future contingencies as the Trustee shall consider reasonable;

"Fund Year" means a period of twelve months ending on 30 June, or such other period ending on such other date as the Trustee from time to time may determine;

"Gainful Employment" in relation to a Member means engagement in any business, trade, profession, vocation, calling, occupation or employment for gain to the extent required by the Commissioner;

"Independent Trustee" means a Trustee appointed pursuant to sub-clause 14(a);

"Individual Trustee" means an individual person who is one of the Trustees;

"Insurer" means any insurer with whom the Trustee effects a Policy or Policies in accordance with Clause 34 hereof;

"Investment Manager" means a person appointed as an Investment Manager of the Fund in accordance with sub-clause 18(c);

"Member" means an Eligible Person and has been accepted as a Member of the Fund pursuant to Clause 8 of this Deed and who has not ceased to be a Member pursuant to sub-clause 8(f) and "Membership" shall mean Membership of the Fund;

"Member's Contributions" means the amounts contributed pursuant to Clause 45 or deemed to have been contributed by a Member pursuant to paragraph (iii) of sub-clause 23(e);

"Member's Vested Contributions" means those Contributions, plus Net Earnings, which are required to be vested in the Member by the Act reduced by:

- (i) the cost of effecting any Policy on behalf of a Member where the Trustee determines that the premium should be wholly or partially debited against Member's Vested Contributions in accordance with sub-clause 34(c); or
- (ii) any costs debited against Member's vested Contributions in accordance with sub-clause 19(a);

"Membership Class" means the Class or Classes of Membership of a Member as determined pursuant to Clause 43;

"Nominated Dependant" means a person nominated by a Member as the Nominated Dependant;

"Normal Retirement Age" means the age of 65 years or such other age being not less than 55 years as is acceptable to or required by the Commissioner and as the Trustee with the consent of the Employer of the Member shall determine;

"Participating Employer" means any employer that by agreement with the Principal Employer and the Trustee is admitted to participation in the Fund pursuant to Clause 35;

"Part-Time Gainful Employment" in relation to a Member means a Member who is employed for at least 520 hours per annum or a Member who fulfils any such other requirements as may be specified under the Regulations;

"Pension" means a Benefit payable at a yearly rate by instalments, and "Pensioner" means a person receiving a Pension;

"Policy" means any policy of assurance including a policy on the life of a Member for endowment, term, disablement, accident or sickness insurance, effected either as an individual policy or as a group policy and includes any policy covering any two or more of the foregoing risks and it further includes any policy which provides that Benefits shall be payable to the Trustee on the death or disablement of a Member;

"Preserved Payment" means a payment made to the Fund by an Employer or a Member or by transfer from an Approved Benefit Arrangement which is to be preserved as provided for in this Deed in order for the Fund to obtain the maximum income tax concessions and "Preserved Payment Benefit" means a Benefit arising from a Preserved Payment;

"Principal Employer" means the Employer described as such in Schedule A or any Employer carrying on business in succession to or in amalgamation with the Principal Employer which elects to assume by deed the obligations of the Principal Employer under this Deed in accordance with Clause 39;

"Regulation" means a Regulation prescribed pursuant to the Act;

"Relative", in relation to a Member or former Member means any of the following, namely:

- (i) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of that Member or former Member or of the Spouse of the Member; and
- (ii) the Spouse of any person specified in paragraph (i);

"Retires from Gainful Employment" means actual retirement by a Member from Gainful Employment or retirement as accepted by the Commissioner for the payment of Benefits;

"Roll Over Payment" means any payment made by or received by the Trustee at the request of a Member or former Member or in other circumstances acceptable to the Commissioner to or from any Approved Benefit Arrangement and shall include an Eligible Termination Payment by an Employer in consequence of the termination of the employment of a Member;

"Spouse" in the definition of "Dependant" and "Relative" means:

- (i) a person legally married to a Member at any time; or
- (ii) a person who, although not legally married to the Member, in the opinion of the Trustee lives with a Member on a bona fide domestic basis as the husband or wife of the Member and is financially dependent on the Member and in relation to a deceased Member the term "widow" or "widower" includes such a person;

PROVIDED THAT where there is more than one such person the Trustee shall determine which one or more of them shall be deemed to be the Spouse, and, if more than one person is so deemed to be the Spouse, the Trustee shall determine the proportions in which a Benefit payable to the Spouse is to be divided between them;

"Tax Act" means the Income Tax Assessment Act (1936) and any regulations pursuant to it;

"Taxation" includes income tax, capital gains tax, tax on Eligible Termination Payments, payroll tax, land tax, stamp duty and any other taxes or duties paid or payable by the Trustee on behalf of the Fund or, where applicable, by any Member, former Member, Dependant or Beneficiary;

"Total and Permanent Disablement":

- (i) has the same meaning as contained in any Policy effected by the Trustee with an Insurer in respect of the Member in force at the time of the Total and Permanent Disablement of the Member; or
- (ii) if there is a no Policy containing such a term effected in respect of a Member then Total and Permanent Disablement in relation to a Member shall mean physical or mental incapacity of such a degree that two registered medical practitioners have certified that in their opinion the Member is incapable of continuing to engage in current employment with that Member's Employer,

and the expression "Totally and Permanently Disabled" has a corresponding meaning;

"Trustee" means the Trustee or Trustees for the time being of the Fund whether original, additional or substituted appointed in accordance with Clause 14 of this Deed;

"Vested Benefit" means any part of the Benefit of a Member arising from Contributions to the Fund or earnings of the Fund or arising from a Roll Over Payment to the Fund from an

Approved Benefit Arrangement which is required by the Commissioner to be vested in and payable to a Member on cessation of Gainful Employment by that Member.

INTERPRETATION - GENERAL

5. (a) Plural and Gender of Words

In this Deed, unless inconsistent with the subject matter or context, words importing one gender shall include the other gender and words importing the singular number shall include the plural number and vice versa.

(b) Headings to Clauses

The headings in this Deed are for convenience of reference only and shall not affect the interpretation of this Deed.

(c) Defined Words

For convenience, the first letters of words and expressions defined in this Deed are indicated by capital letters, but the absence of a capital letter shall not alone imply that the word or phrase is used with a meaning different from that given by its definition.

(d) Statutory Enactments

References to any statutory enactment shall be construed as references to that enactment as amended, modified or re-enacted from time to time and shall include any enactment in substitution or replacement for such statutory enactment. Any reference in this Deed to a provision of an enactment shall include the relevant provision of the enactment as amended, modified or re-enacted or of any enactment in substitution for that provision.

(e) Fund Subject to Regulations

This Deed shall be read and construed on the basis that the provisions of the Act are incorporated in the Deed to the extent that they impose obligations on the Trustee in order for the Fund to obtain concessional Taxation status and this Deed shall be further read and construed on the basis that where there is any inconsistency between a provision in this Deed and a provision in the Act the latter shall prevail PROVIDED THAT this Deed shall not be so read or construed and no such provision or Regulation shall be so

incorporated if to do so would constitute a breach of the power granted by Clause 40 to add to, amend, alter, modify, rescind or vary the provisions of this Deed.

(f) Requirements of Commissioner

Any references to any requirements, consents or approvals being required to be given by the Commissioner shall mean requirements, consents or approvals of the Commissioner or the Act in order to enable the Fund to obtain concessional Taxation status under the Tax Act.

(g) Rights of Members

The provisions of this Deed shall not in any way affect the right of a Member or the personal representative of a Member or any other person to claim compensation or damages under any Act of Parliament or at common law or in circumstances where the Member is injured or dies as a result of an event arising out of or in the course of the employment of the Member.

(h) Other Division Subject to Division A

The provisions of Division B shall, unless the context otherwise requires, be subject to the provisions of Division A.

GENERAL PROVISIONS

6. (a) Employer's Powers not Prejudiced

Nothing in this Deed shall affect the powers of an Employer with regard to the remuneration, terms of employment or dismissal of an Employee or any other dealings between the Employer and its Employee. The existence or cessation of any actual or prospective or possible Benefit under the Fund shall not be grounds for claiming or increasing damages in any action brought against the Employer in respect of any termination of employment or otherwise.

(b) Exercise of Employer's and Trustee's Rights

All powers, rights, decisions, discretions, appointments and other authorisations of whatsoever nature or kind granted to or conferred on the Employer or the Trustee by, under or for the purposes of this Deed may be fully and effectively exercised, made, done or performed by or on behalf of the Employer or Trustee:

- (i) where the Employer or Trustee is a company then by resolution of its Directors or by any person or persons having the authorisation of such Directors to so act on their behalf; or
- (ii) where the Trustee consists of Individual Trustees then by unanimous resolution of those persons or at a meeting of such persons where decisions are to be made by a majority of such persons holding the office of Trustee PROVIDED THAT during such time as there are at least 200 Members such majority must be at least two-thirds of the number of such persons holding the office of Trustee; or
- (iii) where the Employer consists of individuals then by a majority of such individuals.

PROPER LAW

- 7. This Deed shall be governed and construed and shall take effect in accordance with the laws of the State or Territory of the Commonwealth of Australia in which the Deed is executed. The Employers, the Trustee, Members and Beneficiaries shall accept the jurisdiction of the Courts of that State or Territory. The provisions of Section 35b of the Trustee Act 1936 of South Australia shall not apply to this Deed.

MEMBERSHIP OF FUND

- 8. (a) Application for Membership
 - (i) The Employer shall nominate such persons who are defined as Employees pursuant to Clause 4 as it shall in its absolute discretion determine for Membership of the Fund. Such nomination shall be made to the Trustee.
 - (ii) Where the nominated Employee agrees to do so, a completed application for Membership in the form of Schedule B or in such other form as the Trustee shall from time to time determine shall be provided to the Trustee either at the same time as the nomination is made or within such time as the Trustee may determine.
 - (iii) Where a completed application for Membership is not provided in accordance with paragraph (ii) above, the payment of a Contribution by an Employer in respect of an Employee shall be deemed to constitute an application for Membership of the fund by that Employee.

(b) Admission to Membership

- (i) Upon actual or deemed receipt of an application for Membership the Trustee may determine to admit the applicant to Membership of the Fund.
- (ii) The Member shall be deemed to have joined the Fund on a date determined by the Trustee or, where the Trustee makes no such determination, on the date on which the completed application for Membership is received or deemed to have been received PROVIDED THAT the Employer may instruct the Trustee to grant such additional period of Membership as it may determine which additional period of Membership shall, unless the Employer determines otherwise, be taken into account for the purposes of the Class which the Member joins on admission to the Fund.
- (iii) Subject to any other conditions which may be applied pursuant to the provisions of this Deed, the Trustee may impose conditions on an applicant's admission and the rights and duties of the applicant as a Member as it shall determine and may limit and impose conditions upon Benefits as it sees fit and the Trustee may remove or vary all or any of the aforesaid conditions at any time.
- (iv) Upon admission of the Member to Membership of the Fund the Member shall be bound by this Trust Deed in all respects as if the Member were an original party to the Deed.

(c) Members and Beneficiaries to Provide Information

Each applicant for Membership and any Beneficiary shall when requested by the Trustee furnish such information as the Trustee deems necessary for the purposes of any investigation or otherwise in connection with the Fund, and shall submit to medical examinations as required by the Trustee by a registered medical practitioner who is acceptable to the Trustee.

Where a Member or Beneficiary fails to comply with the provisions of this Clause the Trustee may suspend the collection of any Contributions in respect of that Member or withhold any Benefits in respect of that Member or Beneficiary or impose such other conditions on the continued Membership of that Member or on the Beneficiary as the Trustee shall deem appropriate.

(d) Incorrect or Misleading Information

Where a Member or Beneficiary furnishes information required by the Trustee which affects or is likely to affect the Benefits payable to or in respect of a Member or Beneficiary and the information supplied is incorrect or misleading or any relevant information is deliberately withheld the Trustee may in its absolute discretion alter or amend the Benefits to amounts that would have applied had full and accurate information been supplied.

(e) Information re Age

A Member shall inform the Trustee as soon as practicable after the Member ceases Part-Time Gainful Employment or Full-Time Gainful Employment after age 65 years.

(f) Cessation of Membership

A person shall cease to be a Member of the Fund upon the earliest to occur of the following:

- (i) the date upon which payment of all the Member's Benefits is made to the Member or an Approved Benefit Arrangement on behalf of the Member;
- (ii) the death of the Member;
- (iii) the commencement of the payment to the Member of a Pension or the purchase from the Member of an Annuity;
- (iv) such date as the Trustee shall reasonably determine,

PROVIDED THAT where a Policy providing disablement benefits has been effected in respect of the Member that Member shall remain a Member for such period following resignation, dismissal or retirement from Gainful Employment as the Trustee shall determine.

MEMBERSHIP NOTIFICATION REQUIREMENTS9. (a) Notice to New Members

As soon as practicable after the admission of a person as a Member of the Fund, the Trustee shall give to such Member a written statement containing such information and details relating to the Fund as the Commissioner shall require.

(b) Disclosure and Reporting Requirements

The Trustee shall provide to Members, former Members, Beneficiaries and the Commissioner on an annual basis and on other occasions as shall be required by the Act such information in writing in relation to:

- (i) the conduct of the Fund;
- (ii) the rights and entitlements of Members of the Fund;
- (iii) the Taxation and complying status of the Fund;
- (iv) the Contributions made or owing to the Fund;
- (v) Benefit entitlements and payments from the Fund;
- (vi) advisers to the Fund; and

such other matters as shall be required by the Act from time to time.

(c) Inappropriate Disclosure

No Member or Dependant of a Member shall be entitled to obtain information in respect of any details of the operation of the Fund or on any matter which may relate to the conduct of the Fund which in the opinion of the Trustee would be inappropriate to disclose other than as is provided for by this sub-clause.

(d) Benefits Secured

The rights of the Members and their Dependents to receive Benefits payable pursuant to this Deed shall be fully secured within the meaning of the Act.

MEETINGS OF MEMBERS

10. The following provisions shall apply in relation to meetings of Members of the Fund:

(a) Notice

to call a meeting of Members shall require a notice to be served on the Trustee signed by 20 Members or at least one-half of the number of Members in the Fund whichever is the lesser which notice shall request a meeting of Members;

(b) Meeting Date

the Trustee shall convene a meeting of Members within 14 days of receiving the request and shall send a notice of meeting to each Member specifying that a meeting will be held within 14 days of that notice being issued;

(c) Trustee Convening Meeting

the Trustee may at any time convene a meeting of Members by notice in writing;

(d) Contents of Notice

every notice of meeting shall:

- (i) be posted or given at least 10 days before the meeting;
- (ii) advise the place and time of the meeting;
- (iii) advise the Member that a proxy may be appointed to vote on behalf of the Member at the meeting PROVIDED THAT the Member lodges the form of proxy with the Trustee not later than 24 hours before the meeting;
- (iv) be accompanied by a form of proxy approved by the Trustee;
- (v) set out the matters including any resolutions to be considered at the meeting;

(e) Deemed Service

Every notice served shall be deemed to have been validly given if it is given personally to the Member or if posted by prepaid ordinary mail addressed to the Member at the last known address of the Member and when so posted the notice shall be deemed to have been given 3 days after the date of posting;

(f) Chairperson

the Trustee shall appoint a chairperson of the meeting and shall make such regulations concerning the conduct of the meeting as it may decide;

(g) Quorum

a quorum for the meeting shall be 10 Members present in person or at least 25% of the Members of the Fund which ever is the lesser PROVIDED THAT if a quorum is

not present within 30 minutes of the time appointed for the meeting the chairperson of the meeting shall adjourn the meeting to the same time and place in the following week and a quorum shall be the Members present in person or by proxy at the adjourned meeting;

(h) Voting

each Member shall be entitled to one vote with the chairperson being given a casting vote in the event of an equality of votes.

FUND ASSETS

11. The gross assets of the Fund shall consist of all the cash, investments and other property for the time being held by or on account of the Trustee upon the trusts of this Deed and shall include:

(a) Transfers

the amount, if any, standing or transferred to the credit of the Fund at or after the date from which this Deed comes into effect;

(b) Member Contributions

such Contributions (if any) as the Members shall make to the Fund at any time;

(c) Employer Contributions

such contributions as an Employer makes to the Fund at any time;

(d) Earnings

interest, dividends and distributions of income arising from any investment and the accumulation of that income;

(e) Profits

profits and other benefits arising from any investment and the accumulation of those profits;

(f) Policy

the proceeds (including bonuses) of any Policy held by the Fund; and

(g) Roll Over Payments

moneys, investments and other property transferred to the Fund as a Roll Over Payment.

ACCUMULATION ACCOUNT12. (a) Separate Member Accounts

The Trustee shall establish an Accumulation Account in respect of each Member or Beneficiary for each Class which is applicable.

(b) Credits

The following amounts shall be credited to the appropriate Accumulation Account according to the Class to which they relate:

- (i) any amount paid into the Fund in respect of the Member as a Roll Over Payment;
- (ii) any Contributions made by the Member;
- (iii) any Contributions made in respect of the Member or Beneficiary by the Employer;
- (iv) the proceeds of any Policy or Annuity effected by the Trustee in respect of the Member or Beneficiary and paid to the Trustee;
- (v) such positive earnings as are determined by the Trustee in accordance with sub-clauses (d), (f) or (g) below;
- (vi) such forfeited amounts as are allocated to but not paid directly to the Member or Beneficiary pursuant to sub-clause 26(d);
- (vii) such other amounts as the Trustee shall from time to time determine.

(c) Debits

The following amounts shall be debited to the appropriate Accumulation Account according to the Class to which they relate:

- (i) any amount paid out of the Fund in respect of the Member or Beneficiary as a Roll Over Payment;

- (ii) any other Benefit payments made to or in respect of the Member or Beneficiary;
- (iii) the costs of any Policy or Annuity effected by the Trustee in respect of the Member or Beneficiary subject to paragraph (d)(ii)D below;
- (iv) such proportion of any amount payable by way of Taxation in respect of Contributions to the Fund or earnings of the Fund credited to the Accumulation Account or arising as a result of a Roll Over Payment as the Trustee may determine;
- (v) such of the costs, charges and expenses incurred pursuant to Clause 19 or an appropriate portion thereof as the Trustee may determine;
- (vi) the amount of any lien exercised pursuant to Clauses 18 or 25;
- (vii) such amount as is forfeited pursuant to sub-clauses 26(a), 26(b) or 31(b);
- (ix) any moneys paid in respect of the Trustee indemnity set out in Clause 18;
- (x) such other amounts as the Trustee shall from time to time determine.

(d) Income Account

- (i) The Trustee shall establish an Income Account for the Fund to which shall, subject to sub-clause (g) below, be credited the following:
 - A. all income and profits of the Fund each year;
 - B. credits arising out of adjustments pursuant to sub-clause (f) below;
 - C. any amount transferred from the Equalisation Account pursuant to sub-clause (e) below;
 - D. the proceeds of any Policy effected by the Trustee where the Trustee determines that it should not be credited to an Accumulation Account,

and profits of the Fund shall include any surplus arising from a valuation undertaken at any time during the year in accordance with sub-clause (h) below.

- (ii) The Income Account shall, subject to sub-clause (g) below, be debited with the following:
 - A. any loss sustained on the disposal of any investments of the Fund;
 - B. any costs or charges incurred pursuant to Clause 19 which are not debited to an Accumulation Account;
 - C. any debits arising out of adjustments pursuant to sub-clause (f) below,
 - D. the cost of any Policy effected by the Trustee where the trustee determines that it should not be debited to an Accumulation Account;
 - E. any deficiency arising from a valuation undertaken in accordance with sub-clause (h) below;
 - F. any amount payable or which may become payable by way of Taxation in respect of the Contributions and the income and profits of the Fund which are not debited to an Accumulation Account as the Trustee determines to be equitable.
- (iii) Following the debiting of the Income Account as specified in paragraph (d)(ii) above, at the end of each Fund Year the Trustee shall determine the Fund Earning Rate and shall allocate to each Accumulation Account the earnings due calculated equitably in accordance with the Fund Earning Rate. The Trustee shall when required by the Commissioner or the Act notify the Member of the basis of the calculation of the Fund Earning Rate and of the reserving policy of the Fund.
- (iv) The amount distributed as the earnings of the Fund pursuant to paragraph (d)(iii) above shall be allocated to each Accumulation Account in proportion to the amount standing to the credit of that Accumulation Account at the beginning of the Fund Year in respect of which the distribution is being made, an appropriate adjustment being made for amounts (if any)

credited or debited to the Accumulation Account since that date.

- (v) Any amount remaining in the Income Account after distribution of earnings pursuant to paragraph (d)(iv) above shall be transferred to the Equalisation Account established pursuant to sub-clause (e) below.
- (vi) In the event that the Trustee is required to establish a Fund Earning Rate in respect of a portion of a Fund Year then such Fund Earning Rate for that period shall be determined by the Trustee in accordance with the requirements of the Commissioner on a basis which the Trustee considers to be equitable. The Trustee shall when required by the Commissioner or the Act notify the Member of the basis of the calculation of the interim Fund Earning Rate.

(e) Equalisation Account

The Trustee shall have power at any time to establish an Equalisation Account of the Fund and may transfer to the credit of the Equalisation Account any amount remaining in the Income Account pursuant to sub-clause (d) above.

Whilst any moneys are held in the Equalisation Account they shall not form part of any Accumulation Account and any income derived by the Fund on the moneys held in the Equalisation Account shall be credited back to the Equalisation Account.

The Equalisation Account is to be used by the Trustee to stabilise the investments earnings of the Fund in accordance with its reserving policy and to provide for such future contingencies as the Trustee shall determine and the Trustee shall have the discretion to deal with the assets of the Equalisation Account as it shall see fit in the supplementation of the Fund Earning Rate and the Trustee shall additionally have power to debit the Equalisation Account with any Taxation payable in respect of any income derived by the Fund.

(f) Adjustment

In determining the amount standing to the credit of an Accumulation Account at the time a Benefit is calculated or becomes payable, the Trustee shall make such adjustment (up to the date of payment) reflecting the Fund Earning Rate then applying as it shall at its discretion consider equitable and in accordance with

the requirements of the Commissioner or the Act and the Income Account shall be debited or credited accordingly.

(g) Specific Investments

The Trustee may undertake to invest separately in respect of certain Members or Beneficiaries or certain Classes of Members or Beneficiaries of the Fund or in respect of different Classes for certain Members or Beneficiaries as determined by the Trustee from time to time. The Trustee shall record on whose behalf such specific investments are made for the purposes of determining Accumulation Accounts for each Class of Membership. In such an event the income and profits (less losses) arising from such specific investments and any costs or charges applicable to such specific investments which are incurred pursuant to Clause 19 and any Taxation which is payable or may become payable in respect of such specific investments shall not be allocated to the Income Account. The income and profits (less losses) arising from specific investments applicable to any particular Accumulation Account shall be allocated directly to that Accumulation Account which shall also be debited directly with the appropriate proportion of any costs or charges applicable to such investments which are incurred pursuant to Clause 19 and any Taxation which is payable or may become payable in respect of such specific investments.

(h) Valuation

At the end of each Fund Year or at such other time as the Trustee considers it appropriate or as the Commissioner shall require (including but without limiting the generality of the foregoing at the time of the payment of a Benefit to a Member) the Trustee shall make a valuation of all assets of the Fund (including the value of any Policy held by the Fund) at that date and shall determine whether there is a surplus or deficiency which it is equitable to transfer to the Income Account and the value so determined in respect of each asset shall then be reflected in the balance sheet and other accounts of the Fund.

FUND RECORDS

13. (a) Receipt and Payment of Moneys

All moneys of the Fund shall be lodged as soon as practicable to the credit of an account in the name of

the Fund kept with a bank, friendly society, building society or similar body as determined from time to time by the Trustee or to the credit of an Insurer for the payment of premiums or into the trust account of a Solicitor, Accountant or Investment Manager appointed pursuant to this Deed.

(b) Issue of Receipts

A receipt given on behalf of the Fund by the Trustee or by the secretary (if any) of the Fund or by the Secretary or by any other person who may from time to time be authorised by the Trustee in writing to receive any moneys of the Fund shall be a sufficient discharge to the person by whom the moneys are paid.

(c) Records and Accounts to be Kept

The Trustee shall:

- (i) keep account of all moneys received for and disbursed from the Fund and of all dealings in connection with such moneys;
- (ii) collect, and pay promptly into an authorised account of the Fund or otherwise deal with all moneys from time to time due to the Fund;
- (iii) keep appropriate records, books and accounts in proper order, and make suitable arrangements for their custody and for custody of documents relating to the investments of the Fund as the Commissioner or the Act shall require and retain such records, books, accounts and documents for a period of at least five (5) years or such other time as required by the Act; and
- (iv) prepare an annual balance sheet of the Fund as at the end of the Fund Year, together with a statement of income and expenditure for that Fund Year.

(d) Audit

Each annual balance sheet and statement as referred to above and other accounts, books and relevant records shall be audited by the Auditor annually or at such other time or times as shall be required by the Commissioner or the Act. If the Auditor is satisfied that the annual return prepared for the Fund for that particular year of income is in accordance with the requirements of the Commissioner, an audit certificate shall be executed by the Auditor in the form

prescribed under the Act which shall then be lodged with the Commissioner.

(e) Trust Deed

A copy of this Deed shall be made available for inspection by any Member on the request of that Member and it shall be sufficient for the purposes of this sub-clause to make a copy of this Deed available to the Member for inspection at the office of the Trustee or at the place of business of an Individual Trustee during hours when that office or business is open.

(f) Information for Trustee

When requested by the Trustee the Employer shall give to the Trustee all information in its power or possession which may in the opinion of the Trustee be necessary or expedient for the management and administration of the Fund. The Trustee may act upon any information given to it by an Employer pursuant to this Deed and shall not be required to verify that information.

(g) Disclosure and Reporting Requirements

The Trustee shall provide to Members and former Members of the Fund and the Commissioner in writing such information in relation to the conduct of the Fund, the investments of the Fund, Contributions made to the Fund and Benefits payable from the Fund as shall be required by the Commissioner or the Act from time to time.

FUND TRUSTEE - APPOINTMENT, VACANCY AND REMOVAL

14. (a) Definitions

For the purposes of this Clause unless the context otherwise requires:

- (i) as to one-half owned by or held on trust for the Employer beneficially; and
- (ii) as to one-half held on trust by a company (including an Employer) or an individual or individuals representing the Members of the Fund,

or has the issued capital held in such other manner as shall comply with the requirements of the Act PROVIDED THAT during such period as there are at least 200 members of the Fund, unless otherwise acceptable to

the Commissioner, the Articles of Association of the company shall specify that the decisions of the Directors shall be carried by not less than a two-thirds majority of the Directors with no casting vote being given to the chairman of the Eligible Company.

"Independent Trustee" means:

- (i) for a Fund with less than 200 Members an individual or company appointed by the Employer following nomination by agreement between a majority of the Members and a majority of the Employers;
- (ii) for a Fund with 200 Members or more an individual or company nominated by the Employers or the Members of the Fund and acceptable to both who is independent of both Employers' and Members' interests, and the Independent Trustee shall certify its independence from the Employers and Members as may be required by the Commissioner from time to time PROVIDED HOWEVER that the individual or company shall cease to be an Independent Trustee if it ceases to be acceptable as an Independent Trustee by either a majority of the Employers or a majority of the Members.

Individuals representing the Members shall where appropriate encompass individuals representing trade unions.

Individuals representing the Employers shall where appropriate encompass individuals representing employer organisations.

(b) Fund Vested in Trustee

The Fund shall be vested in the Trustee and managed by the Trustee upon the terms and conditions and subject to the trusts, powers, authorities and discretions contained in this Deed.

(c) Trustee Criteria

The appointment, removal and composition of the Trustee of the Fund shall be governed by the criteria specified in this Deed unless the requirements under the Act otherwise provide in which case those requirements shall prevail.

An Employer may seek approval in writing from the Commissioner for a different basis of appointment, removal and composition of the Trustee of the Fund and

in the event of that written approval being granted an Employer may adopt such different basis of appointment, removal and composition in the place of the relevant provisions of this Clause.

(d) Eligibility for Trustee

The Trustee of the Fund shall be one or more the following:

- (i) the Trustee specified in this Deed;
- (ii) an Independent Trustee as defined in this Deed;
- (iii) an Eligible Company the Directors of which shall consist as to one-half their number of persons nominated by or representing the Members and as to one-half their number of persons nominated by or representing the Employers;
- (iv) Individual Trustees of which one-half shall consist of individuals nominated by or representing the Members and of which one-half shall consist of individuals nominated by or representing the Employers; or
- (v) such other Trustee as shall be approved by the Commissioner,

PROVIDED HOWEVER that within 90 days of the membership of the Fund exceeding 200 Members if the Trustee consists solely of an Independent Trustee the Employers shall ensure that the Trustee shall not consist solely of an Independent Trustee but shall take such action as is necessary to ensure that a Trustee is appointed pursuant to paragraphs (d)(iii) or (d)(iv) above together with, if desired by a majority of the Employers or a majority of the Members, an Independent Trustee PROVIDED FURTHER that if Trustees are appointed pursuant to paragraph (d)(iv) the Independent Trustee shall not have a casting vote and PROVIDED FURTHER that in the event of the membership of the Fund exceeding 200 Members and the first proviso to this sub-clause not being complied with within the 90 day period then the person or group of persons who make up the Trustee at that time shall determine whether there shall be a change of Trustee in accordance with the requirements for trustee representation specified by the Commissioner from time to time and shall be empowered to act upon such determination.

(e) Appointment of Trustee

The Principal Employer shall, subject to the other provisions of this Clause, determine who shall act as the Trustee and, in particular:

- (i) for a Fund with less than 200 Members the Principal Employer may appoint an Independent Trustee;
- (ii) for a Fund with 200 Members or more and where the Principal Employer has determined that the Trustee shall be an Eligible Company, the Eligible Company shall be appointed by the Principal Employer.

(f) Committee of Management

In circumstances where the Fund has 200 Members or more and the Commissioner has approved that the Trustee of the Fund need not be comprised of equal numbers of Member representatives and Employer representatives then each Employer which is contributing in respect of more than 200 Members shall establish a committee of management which shall be constituted with equal numbers of Member representatives and Employer representatives.

The committee of management shall, where applicable, be elected, dismissed and shall conduct its meetings in accordance with the provisions of this Clause as though it was acting as Trustee of the Fund and the committee of management shall be responsible for all day to day administrative operations affecting the Members in respect of whom the particular Employer contributes and such other matters as the Trustee shall delegate or the Commissioner shall from time to time require and all decisions of the committee of management shall be transmitted to the Trustee for implementation by the Trustee.

(g) Member Directors or Trustees

The Members of the Fund shall whenever necessary nominate for appointment a person or persons to represent Members;

- (i) if the Trustee is an Eligible Company - as a Director; or
- (ii) if the Trustees are individuals - to be an Individual Trustee,

and the number of persons to be so nominated for appointment shall be the same number of persons as are appointed pursuant to sub-clause (h) by the Employers.

The procedure for nomination and appointment of individuals representing the Members shall be determined by the Members but if no procedure is so determined by them then it shall be determined by the Principal Employer.

(h) Employer Directors or Trustees

The Employers shall whenever necessary appoint a person or persons to represent them:

- (i) if the Trustee is an Eligible Company - as a Director; or
- (ii) if the Trustees are individuals - to be an Individual Trustee,

and the number of persons to be so appointed shall be the same number of persons nominated and appointed pursuant to sub-clause (g) by the Members.

(i) Appointment of Member Representatives

Upon determination by the Members of the person or persons who shall represent them or cease to represent them in accordance with sub-clauses (g) or (m) such decision shall be notified to the existing Trustee (if any) and the Employers within 7 days of the appointment or removal of the relevant person and the Trustee and the representatives of the Employers shall take such steps as are necessary to appoint or remove the person to or from the relevant position.

(j) Appointment and Removal of Employer Representatives

A majority of Employers shall determine which person or persons will represent them or cease to represent them in accordance with sub-clauses (h) or (n) and such decision shall be notified to the existing Trustee (if any) and the representatives of the Members within 7 days of the appointment or removal of the relevant person and the Trustee and the representatives of the Members shall take such steps as are necessary to appoint or remove the person to or from the relevant position.

(k) Independent Trustee where Fund has less than 200 Members

Where an Independent Trustee is appointed or nominated to be the Trustee of a Fund at a time when the Fund has less than 200 Members and that Independent Trustee ceases to be a Trustee pursuant to sub-clause (o) below, a majority of Employers shall:

- (i) nominate by notice in writing to the Members another person or group of persons to act as an Independent Trustee which Independent Trustee shall be appointed 30 days after the date of such notice of nomination unless a majority of Members object to such appointment within that time; or
- (ii) request all Members of the Fund to nominate for appointment Member Directors or Individual Trustees pursuant to sub-clause (g) above, and nominate Employer Directors or Independent Trustees in accordance with sub-clause (h) above.

Any Trustee who has ceased to be an Independent Trustee shall continue to act as Trustee of the Fund only for such additional time as is required to enable a new Trustee to be appointed.

(l) Independent Trustee where Fund has 200 Members or more

Where either the Employers or the Members wish to appoint an Independent Trustee to be a Trustee of the Fund at a time when it has 200 Members or more or where an Independent Trustee who has been appointed by the Employers and the Members ceases to be a Trustee pursuant to sub-clause (o) below, the Employers and the Members shall determine whether they wish to appoint an Independent Trustee and if they do so:

- (i) the Principal Employer on behalf of the Employers shall nominate by notice in writing to the Members a person independent of the Employers whom the Employers believe will be acceptable to the Members;
- (ii) the Members shall within 14 days of receiving such nomination advise the Principal Employer in writing whether the nomination is acceptable and if it is so acceptable the nominee shall become the Independent Trustee PROVIDED HOWEVER that in the event that it is not acceptable to the Members they shall nominate in writing to the Principal Employer a person independent of

the Members whom they believe will be acceptable to the Employers;

- (iii) the Principal Employer shall within 14 days of receiving such nomination advise the Members in writing whether the nomination is acceptable to the Employers in which case the nominee shall become the Independent Trustee PROVIDED HOWEVER that if it is not acceptable to the Employers the Principal Employer shall make a further nomination pursuant to the procedure contained in paragraph (i) above,

and the process of nomination by the respective groups shall continue until such time as an acceptable Independent Trustee is determined when that person shall become the Independent Trustee in accordance with the terms and conditions set out in this Deed.

(m) Vacancy in Member Representation

A person appointed pursuant to sub-clause (g) to represent Members as a Director or an Individual Trustee shall immediately cease to be a person representing the Members.

- (i) in the event that majority of all Members resolve either by written resolution or in a meeting of Members that the person should cease to act in that person's representative capacity;
- (ii) if that person resigns their office as a Director or an Individual Trustee by notice in writing to the Members or to the Principal Employer;
- (iii) if the person is a Director of an Eligible Company or is an Individual Trustee and is disqualified from office by operation of law;
- (iv) if the person dies; or
- (v) if the Trustee is an Eligible Company, it is wound up.

(n) Vacancy in Employer Representation

A person appointed pursuant to sub-clause (h) to represent the Employers as a Director or an Individual Trustee shall immediately cease to be a representative of the Employers:

- (i) when the Employers revoke the appointment of the representative in writing;
- (ii) if the person resigns their office as a Director or Individual Trustee by notice in writing to the Principal Employer;
- (iii) if the person is a Director of an Eligible Company or is an Individual Trustee and the person is disqualified from office by operation of law;
- (iv) if the person dies; or
- (v) if the Trustee is an Eligible Company, it is wound up.

(o) Change of Trustee

A person shall immediately cease to act as a Trustee of the Fund:

- (i) if it is an Independent Trustee and it ceases to be an Independent Trustee as defined in this Deed;
- (ii) if a resignation by notice in writing as a Trustee of the Fund is given to the Members or to the Principal Employer;
- (iii) if the Trustee is disqualified from holding office by operation of law;
- (iv) if being an Individual Trustee, the person dies;
- (v) if being an Eligible Company, it is wound up; or
- (vi) if the person ceases to be a person representing the Members or the Employers in accordance with sub-clauses (m) or (n) above.

(p) Continuity of Office

Any person who acts as a Trustee shall on ceasing to be a Trustee pursuant to this Clause do everything necessary to vest the Fund in the remaining or new Trustee and shall deliver all records and other books to the remaining or new Trustee.

(q) Office of Trustee

The office of Trustee shall be filled at all times and in the event of a vacancy occurring other than in the case of an Independent Trustee who is not the sole Trustee of the Fund, a new Trustee shall be appointed within 60 days of such vacancy occurring in accordance with the provisions of this Deed.

If for any reason there is no Trustee of the Fund at any time the Principal Employer shall undertake the dues of the Trustee to the extent that it is necessary to appoint a new Trustee in accordance with the provisions of this Deed.

(r) Numbers of Trustees

Where the Trustees are Individual Trustees there shall be such numbers of persons as shall be agreed between the Employers and the Members but in the absence of any such agreement the number of Trustees shall not be less than two.

(s) Member may be Trustee

No Individual Trustee, Director, officer or employee of an Employer shall by virtue of their office or of powers being delegated by the Trustee to them be disqualified from being a Member of the Fund or from exercising rights or deriving any Benefits as a Member of the Fund.

(t) Two Hundred or More Members

In the event of Membership of the Fund exceeding 200 Members and in the event that it is a requirement of the Commissioner for there to be Member Trustee representation the Trustee and the Employer shall within ninety (90) days of such event occurring take such steps as shall be necessary to ensure that the Trustee meets all the appropriate representation criteria and requirements of the Commissioner as set out in the Regulations and the Act.

TRUSTEE'S INVESTMENT POWERS15. (a) Investment Policy and Strategy

The Trustee shall determine the investment policy and strategy of the Fund from time to time and shall set general investment objectives. The statement of the investment policy and strategy for the Fund shall incorporate at least those matters which are required

in order for the Fund to qualify as a Complying Superannuation Fund.

(b) Authorised Investments

So much of the moneys forming part of the Fund from time to time as shall not be required immediately for the payment of Benefits or other amounts authorised by this Deed shall be invested in accordance with the investment policy and strategy of the Fund as determined in accordance with sub-clause (a) above in any of the following investments:

- (i) any investment for the time being authorised by the laws of the Commonwealth of Australia or any State or Territory for the investment of trust funds;
- (ii) the purchase or acquisition in any way of shares, stocks, debentures, notes, bonds, mortgages, options or other like security in any company incorporated in any part of the world whether or not carrying on business in Australia and whether the shares or stock be fully or partly paid up and whether secured or unsecured, registered or unregistered;
- (iii) on deposit with any bank, building society, credit co-operative, trustee company or other registered financial institution in any type of account, whether secured or unsecured and on such terms as the Trustee shall determine;
- (iv) on deposit with or on loan to any Employer or any other person or organisation whatsoever with or without security and at such rate of interest and upon such terms as the Trustee may deem reasonable notwithstanding that the Trustee may have a direct or indirect interest in the borrowing or may benefit directly or indirectly from it;
- (v) any Policy or Annuity whether by proposal, purchase or otherwise, and any choses in action, interests for life or any lesser term or in reversion or otherwise arising;
- (vi) the purchase or acquisition of any real or personal property and the improvement or extension of that property;
- (vii) the purchase or acquisition of or subscription for any unit or sub-unit in any unit trust established or situated anywhere in the world

whether individually or jointly and whether such units or sub-units are fully paid up or whether their issue involves any contingent or reserve liability;

- (viii) any other investments which the Trustee considers appropriate and which are acceptable to the Commissioner,

PROVIDED THAT that the Trustee is not authorised to make a loan to any Member of the Fund for any reason whatsoever and PROVIDED FURTHER THAT the Trustee shall use its best endeavours to ensure that no investment undertaken shall be in contravention of the investment criteria specified by the Act.

(c) Power to Sell and Vary Investments

The Trustee shall have power as it sees fit to sell any investments and to vary and transpose any investments into other investments authorised by this Deed.

TRUSTEE'S POWERS OF MANAGEMENT

16. (a) Additional Powers

In addition to the powers which it might have by law and which are otherwise granted to it by this Deed, the Trustee shall have the following powers:

- (i) to settle, compromise or submit to arbitration any claims, matters or things relating to this Deed or to the rights of Members, former Members or Beneficiaries;
- (ii) to commence, carry on or defend proceedings relating to the Fund or to the rights of Members, former Members or Beneficiaries and to commence, carry on or defend legal proceedings in order to recover damages against any person arising out of any loss suffered by any Member or former Member or Beneficiary as a result of any negligence, default, omission, breach of duty or breach of the terms of this Deed and the Trustee may abandon, settle, compromise or release any such legal proceedings as it may consider desirable;
- (iii) to borrow money and to secure the repayment of it in any manner and upon any terms (including with or without security) which the Trustee may deem advisable in order to secure temporary

finance from a source and for such other purpose as is acceptable to the Commissioner;

- (iv) to insure or reinsure any risks, contingencies or liabilities of the Fund with any Insurer, mortgage insurance company, reinsurance company or superannuation fund;
- (v) to underwrite or sub-underwrite any risks, contingencies or liabilities under any superannuation arrangement conducted by an Employer where there is an agreement for a transfer of Employees to the Fund;
- (vi) to purchase an Annuity to provide all or a part of the Pension payable in respect of a Member and any such Annuity shall be in the name of the Trustee or, if the Trustee shall so determine, in the name of the former Member;
- (vii) to retain the services of and to appoint professional or other advisers in relation to the management or administration of the Fund and to pay the fee or remuneration for any professional or other advisers to appointed;
- (viii) to pay and advance out of the Fund all costs, expenses and outgoings including Taxation of and incidental to the management and administration of the Fund and to pay and advance out of the Fund the professional fees (if any) in respect of the provision of its services as Trustee of the Fund;
- (ix) to indemnify or undertake to indemnify any person, company, government or institution in respect of any claims, matters or things relating to the Fund or to the rights of Members, former Members or Beneficiaries in respect of the Fund;
- (x) to provide a full or partial release to any person, company, government or institution in respect of any matters which have arisen or may arise as a result of an association, involvement or Membership of the fund by that person;
- (xi) to appoint a person who shall be responsible for the chairing of meetings of the Trustee and any other obligations which the trustee vests in the person and, if required, to pay a fee or remuneration to such person in respect of such position;

- (xii) to insure and keep insured as it sees fit any liability of the Trustee or any Directors or officers of the Trustee or the liability of the Fund to indemnify or reimburse the Trustee or its Directors or officers pursuant to Clause 18; and
- (xiii) generally to do all acts and things as the Trustee may consider necessary or expedient for the administration, maintenance and preservation of the Fund and in the performance of its obligations under this Deed.

(b) Trustee Discretion

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

LIABILITY OF TRUSTEE

17. Neither the Trustee nor any of its Directors or officers shall be liable for anything done or omitted to be done in relation to the Fund except in the case of fraud or other wilful neglect on its part. Without limiting the generality of this exemption from liability the Trustee shall not incur any liability for:

(a) Loss

any loss suffered by the Fund or suffered by any Member or any person having at any time an interest in the Fund;

(b) Default

any act or default of any former Trustee or any Director or officer of a former Trustee or of any Member;

(c) Default of Agent

the neglect or default of any agent employed in good faith by the Trustee;

(d) Bona Fide Acts

any act or acts done or omitted to be done which the Trustee believed to be in conformity with any decisions of the Trustee;

(e) Mistake

any mistake or determination or erroneous decision that potentially exposes the Trustee to any claim, action, suit or demand at the instance of any Member or of any person having an interest in the Fund at any time.

INDEMNITY OF TRUSTEE18. (a) Indemnity and Lien

The Trustee and where applicable its Directors and officers shall be indemnified out of the Fund against all liabilities incurred by it or them in the exercise or purported exercise or attempted exercise of the trusts, powers, authorities and discretions vested in it or them pursuant to this Deed or at law and the Trustee shall be lien on and may use the moneys representing the assets of the Fund for the purposes of this indemnity PROVIDED HOWEVER that the exercise of any lien shall not contravene the requirements of the Act.

(b) Payments in Good Faith

This indemnity shall extend to any payments made in good faith to any person whom the Trustee bona fide believes to be entitled thereto although it may be subsequently found that the person was not in fact so entitled.

(c) Opinion or Advice

This indemnity shall extend to the circumstances where the Trustee acts upon the opinion or advice of or statement of barristers or solicitors who are instructed by the Trustee or any bankers, accountants, brokers, investment advisers or other persons believed by the Trustee in good faith and upon reasonable grounds to be expert in relation to the matters upon which they are consulted.

(d) Failure to Carry Out Agreement

This indemnity shall extend to the circumstances of the failure of any person or corporation to carry out

any agreement made with the Trustee and to the circumstances of any act or omission on the part of such person or corporation.

REMUNERATION OF TRUSTEE

19. (a) Costs and Disbursements

The Trustee shall be entitled to charge professional fees and to recover costs and disbursements incurred in respect of the provision of its services as Trustee of the Fund which fees may be charged for both new Members and existing Members of the Fund in respect of:

- (i) Contributions made to the Fund;
- (ii) income earned by the Fund;
- (iii) revaluation of assets of the Fund; and
- (iv) Roll Over Payments received by the Fund,

which fees, costs and disbursements will be debited to the Income Account or directly to the Accumulation Account of a Member as determined by the Trustee which fees, costs and disbursements may reduce the Member's Vested Contributions.

(b) Fees Determined Annually

The fees charged (if any) by the Trustee shall be determined by consultation between the Trustee and the Principal Employer at the commencement of each Fund Year. Notice of any changes which are made to the fees chargeable shall be provided by the Trustee to the Members and any other Employers by the Trustee.

(c) Reimbursement

The Trustee shall be entitled to be reimbursed from the Fund for and in respect of the following expenses:

- (i) all costs, charges and expenses incurred or to be incurred in connection with the acquisition, registration, custody, disposal of or other dealings with investments of the Fund (including commissions, brokerage, bank charges, financial institutions and stamp duties and bank accounts debits tax but excluding any incidental expenses which are not out-of-pocket expenses or disbursements incurred by deduction or otherwise) by or on behalf of the Trustee;

- (ii) such fees and expenses of the Auditor as the Trustee shall consider reasonable;
- (iii) all and any Taxation paid or payable by the Trustee in connection with the Fund on any account whatsoever;
- (iv) all fees, wages and expenses of any barrister, solicitor, accountant, actuary, fund manager, Administration Manager, Investment Manager, agent, consultant or expert from time to time employed by the Trustee in the discharge of its duties under this Deed;
- (v) all costs, charges and expenses incurred or to be incurred in relation to the preparation and distribution of any periodic or other report or document in relation to the Fund;
- (vi) all and any administrative costs in respect of postage, telephone and like disbursements charged or to be charged in relation to the Fund;
- (vii) all and any expenses in connection with the maintenance of accounting records and the preparation of any accounting, taxation or other returns or advices.

APPOINTMENT OF ACTUARY, AUDITOR AND MANAGERS

20. (a) Actuary and Auditor

The Trustee shall if necessary appoint a person or firm to the following offices on such conditions as it shall determine:

- (i) an Actuary who is a Fellow of the Institute of Actuaries of Australia or a firm or company of Actuaries of which at least one member or director (as the case requires) is such a Fellow;
- (ii) an Auditor who is both appropriately qualified and is independent according to the criteria specified by the Commissioner or the Regulations made under the Act from time to time.

(b) Administration Manager

The Trustee may appoint in writing on such terms as it sees fit, including the granting of any indemnity

reasonably required, one or more companies, persons or organisations to act as the Administration Manager of the Fund to carry out some or all of the administration of the Fund which appointment shall be made on such terms and conditions as the Trustee considers appropriate.

(c) Investment Manager

The Trustee may appoint in writing on such terms as it sees fit, including the granting of any indemnity reasonably required, one or more companies, persons or organisations to act as the Investment Manager or Investment Managers of the Fund on behalf of the Trustee in regard to the purchase, sale, management, investment, administration or retention of the investments of the Fund PROVIDED THAT the Investment Manager undertakes in writing to hold the investments of the Fund together with income from those investments in trust for and on behalf of the Trustee.

(d) Consultants and Officers

In addition, the Trustee from time to time may appoint such other consultants and officers as it considers desirable for the property management and administration of the Fund.

(e) Removal

The Trustee may remove from office any person appointed pursuant to this Clause.

(f) Full-Time Officer

Any person appointed as a full-time officer pursuant to this Clause may, if the Trustee so recommends and the Principal Employer agrees, be deemed, for the purposes of this Deed, to be employed by the Principal Employer.

ACTUARIAL INVESTIGATIONS

21. In the event that an Actuary has been appointed, both the Principal Employer and the Trustee may ask the Actuary for information or advice from time to time in accordance with the provisions of this Deed but they shall be under no obligation to be bound by or to act upon the advice so provided.

CONTRIBUTIONS TO FUND22. (a) Members' Contributions

Unless the Principal Employer otherwise determines or the law does not so allow, the Contributions payable by a Member may, with the Member's consent, be deducted by the Member's Employer from each wage or salary payment and shall be paid by the Employer to the Fund as directed by the Trustee PROVIDED THAT if no such deduction is made the Member shall pay Contributions to the Fund in such manner and at such times as shall be agreed upon between the Trustee and that Member.

(b) Employer's Contributions

Contributions payable by an Employer shall be paid to the Trustee in such manner and at such times as shall be agreed upon between the Trustee and that particular Employer.

(c) Designation of Class Entitlements

Where an Employer makes a Contribution in respect of a Member and the Member is a Member of more than one Membership Class the Employer shall designate in relation to that particular Contribution (or in respect of all future Contributions) which membership Class or Classes each Contribution is being made to and the specific amounts to be allocated by the Trustee to the appropriate Accumulation Account or Accounts applicable to that Class or those Membership Classes.

(d) Interest on Contributions

The Trustee may require an Employer to pay interest at a rate determined by the Trustee on any of its Contributions which are in arrears or may require the Employer or Member, as appropriate, to pay interest on any Member's Contributions which are in arrears.

(e) Contributions in Cash or Assets

Any Contributions made by a Member or an Employer shall be made to the Trustee within the Fund Year or within such further period as the Commissioner may allow in respect of which it is paid either in cash or by transfer of an asset or assets PROVIDED THAT the assets transferred must be authorised investments as set out in sub-clause 15(b) of this Deed.

(f) No Obligation to Contribute

In the absence of any agreement to the contrary neither a Member nor an Employer shall be under any obligation to make a Contribution to the Fund in respect of any Fund Year and a Member may remain a Member of the Fund notwithstanding a Contribution is not made in respect of that Member in respect of any Fund Year.

(g) Limitation on Commencing Contributions

The Trustee shall refuse to commence to accept Contributions to the Fund by or in respect of a Member if the Member is not in Part-Time Gainful Employment or Full-Time Gainful Employment.

(h) Two Year Period

The Trustee shall refuse to accept Contributions to the Fund by or in respect of a Member:

(i) if the Member:

A. has ceased for a continuous period of two years to be in Full-Time Gainful Employment or Part-Time Gainful Employment; but

B. has not retired from the workforce; or

(ii) if the Member has retired from the workforce.

(i) Level of Contributions

No Contribution to the Fund shall be accepted by the Trustee from an Employer in respect of a Member or from a Member where the Contribution made to the Fund would prevent the Fund from qualifying as a Complying Superannuation Fund.

(j) Ineligible Contributions

If the Trustee shall at any time ascertain that Contributions have been accepted from a Member in breach of the provisions of sub-clauses (g), (h) or (i) above, the Trustee shall refund such Contributions, less any charge which an Insurer may have made in respect of any extra cover which it has provided in relation to those Contributions, and reduce the Benefits held for the Member in the Fund to those which would have been held if such Contribution had not been made.

TRANSFERS TO AND FROM OTHER APPROVED BENEFIT ARRANGEMENTS23. (a) Transfers to Approved Benefit Arrangements

Where a Member joins or is eligible to join any Approved Benefit Arrangement (the "Other Fund") and the Member requests that the whole or a part of the entitlement of the Member in the Fund be transferred to the Other Fund the Trustee, with the approval of the Employer, may pay to the trustee of the Other Fund an amount or transfer investments of the Fund of equivalent value to such amount (the "Transferred Amount") as determined by the Trustee which amount reflects the whole or such part of the entitlement of the particular Member in the Fund at the time of the request for the transfer as the Trustee has determined be transferred.

(b) Effect and Method of Transfer Out

- (i) The receipt of the Transferred Amount by the proper officer of the Other Fund shall be a complete discharge to the Trustee of all liabilities in respect of the Transferred Amount and the Trustee shall have no responsibility to see to the application of the Transferred Amount.
- (ii) Upon the Completion of a payment or transfer in respect of a Member or Beneficiary under this Clause all of the rights and interests of that Member or Beneficiary under this Deed (and all of the rights and interests of any person otherwise entitled to claim in respect of the Member or Beneficiary or on the occurrence of any event or circumstances affecting the Member or Beneficiary) in respect of the Transferred Amount shall be entirely extinguished.

(c) Roll Over

Where a Member or former Member wishes to effect a Roll Over Payment in respect of all or any of the entitlement of the Member in the Fund, the Member shall:

- (i) make a request to the Trustee in writing nominating the Approved Benefit Arrangement to which the Roll Over Payment is to be made and the amount to be applied as the Roll Over Payment or the percentage of the Member's Accumulation Account to be applied as the Roll Over Payment; and

- (ii) complete and execute a notification of the Roll Over Payment or such other documentation as shall be required by the Tax Act to enable the Roll Over Payment to be effected to the Approved Benefit Arrangement in accordance with the requirements of the Commissioner.

(d) Preserved Payment Transfers

Where a Member or former Member has Preserved Payment Benefits in the Fund which form part of the Transferred Amount to be paid to the Other Fund the Trustee shall ensure that the provisions of the Other Fund provide that if the Member wishes to leave the Other Fund the amount of the Preserved Payment Benefit must be preserved and vested in accordance with the requirements of the Commissioner.

(e) Transfers from Approved Benefit Arrangements

- (i) Where a Member is or was a member of or is or was the beneficiary under any other Approved Benefit Arrangement the Trustee may by resolution take over or acquire by transfer from the trustee of the other Approved Benefit Arrangement the whole or any part of the assets of such Approved Benefit Arrangement or the interest of any person who is a participant or former participant of that Approved Benefit Arrangement with the intent of preserving the rights, entitlements and interests of any of the existing members of such Approved Benefit Arrangement at the time of takeover or acquisition.
- (ii) The Trustee shall hold any such amounts transferred in accordance with paragraph (i) above as part of the Fund and reflect such equivalent rights, entitlements and interests in the particular Member's Accumulation Account as existed in the other Approved Benefit Arrangement and, if the Trustee so determines, the Member shall be deemed to have become a Member of the Fund on the date the Member became a member of the Approved Benefit Arrangement from which the Benefit was transferred.
- (iii) On any transfer from an Approved Benefit Arrangement in accordance with this sub-clause, the amount of the transfer which represents Members' Contributions for the purposes of determining the Member's Contribution under Clause 45 shall be such amount as the trustee

of the Approved Benefit Arrangement from which the Member has transferred certifies as having been contributed by that Member or deemed to have been contributed by that Member for the purposes of the Act or failing a certification by that trustee shall be such amount as the trustee of such Approved Benefit Arrangement considers to be fairly attributable to the contributions of that Member to such Approved Benefit Arrangement together with accrued earnings to the date of transfer to the Fund.

(f) Over-riding Conditions on Portability

Notwithstanding anything expressed or implied to the contrary in this Deed:

- (i) no payment or transfer shall be accepted from or made to another Approved Benefit Arrangement pursuant to any provision of this Deed if, in the opinion of the Trustee, to do so would cause the Fund to be in breach of any applicable requirement under the Act regarding the provision, portability or preservation of Benefits; and
- (ii) in relation to any payment or transfer which is accepted or made pursuant to this Deed, the Trustee:
 - A. shall impose such conditions as it considers necessary in order to ensure compliance with any applicable requirement under the Act;
 - B. may impose such other conditions as it thinks fit.

LIMITATION ON BENEFITS

24. Notwithstanding any other provision of this Deed the Trustee shall not pay out any Benefits to Members, the Dependants of Members or Beneficiaries where such payment would prevent the Fund from qualifying as a Complying Superannuation Fund.

MONEYS OWING TO FUND OR AN EMPLOYER

25. Where a Member owes any moneys to the Fund or to an Employer (including costs of any prosecution or civil proceedings together with interest on those moneys at a rate determined by the Trustee) or if the Member has committed any fraud upon an Employer or is guilty of dishonesty, defalcation or

serious misconduct such that moneys are owing to the Employer, the Trustee may debit the Accumulation Account of the Member for a sum equivalent to the said moneys owing from that part of the Benefit of the Member which would otherwise be payable and which does not represent Member's Vested Contributions or a Preserved Payment Benefit and the Trustee shall:

(a) Fund

if the said moneys are owed to the Fund, retain them in the Fund; or

(b) Employer

if the said moneys are owed to the Employer, retain those moneys in the Fund or pay them to the Employer or as the Employer directs,

PROVIDED HOWEVER that the exercise of the lien by the Trustee in this manner is in accordance with the requirements of the Act.

FORFEITURE OF BENEFITS

26. (a) Conditions of Forfeiture

Any Member, former Member or Beneficiary or after the death of a Member, any of the Dependants of the Member or the legal personal representative of the Member:

- (i) who assigns or charges or attempts to assign or charge any Benefit;
- (ii) whose Benefits whether by the Member's own act, operation of law, an order of any Court or otherwise become payable to or vested in any other person, company, government or other public authority;
- (iii) who commits an act of bankruptcy;
- (iv) who for any reason is unable personally to receive or enjoy the whole or any portion of the Member's Benefit or, in the opinion of the Trustee, the Member is incapable of managing the Member's affairs;
- (v) who is a former Member who cannot be located and whose Dependants cannot be located by the Trustee during a period of 2 years and after the Trustee has made all reasonable enquiries within that time as to the whereabouts of the Member or the Dependants of the Member; or

- (vi) who in the opinion of the Trustee commits any fraud or is guilty of dishonesty, defalcation or serious misconduct,

shall forfeit entitlement to all Benefits at the discretion of the Trustee.

(b) Accumulation Account Residue

Any Member, former Member or Beneficiary who has been paid all Benefits which the Trustee considers should be paid pursuant to the provisions of this Deed and who still has a residual amount standing to the credit of their Accumulation Account shall forfeit such amount and such amount shall be dealt with as a forfeited Benefit.

(c) Forfeiture Account

The Trustee shall have power at any time to establish a Forfeiture Account of the Fund and shall transfer to the credit of the Forfeiture Account any amounts forfeited pursuant to the provisions of sub-clauses (a) and (b) above.

Whilst any moneys are held in the Forfeiture Account they shall not form part of any Accumulation Account and any income derived by the Fund on the moneys held in the Forfeiture Account shall be credited back to the Forfeiture Account.

The Forfeiture Account shall be applied in accordance with the remaining provisions of this Clause.

(d) Application of Forfeited Benefits

The Trustee shall subject to Clause 25 hold upon trust and pay or apply any Benefits which have been forfeited and are held in the Forfeiture Account in any one or more of the following ways:

- (i) to or for the benefit of the former Member or Beneficiary (as the case requires) or to the Dependants of the former Member or any one or more of them in such proportions between them and on such terms as the Trustee may from time to time in its absolute discretion determine;
- (ii) to the trustee of the estate of the former Member;
- (iii) to or for the benefit of the former Member or Beneficiary (as the case requires) or to the Dependants of the former Member to assist in

- the event of financial hardship, sickness, accident or other misfortune causing hardship;
- (iv) to or for the benefit of other Members or their Dependants who have rights to receive Benefits from the Fund;
 - (v) for the provision to other Members of the Fund or their Dependants of additional Benefits on a basis that the Commissioner is satisfied is reasonable having regard to all the circumstances;
 - (vi) payment to such of the Employers as the Trustee in its absolute discretion considers appropriate;
 - (vii) for any other purpose approved in writing by the Commissioner,

PROVIDED THAT where a Member or former Member remains in the employment of an Employer any payments made to that Member or former Member shall be limited to the relief of hardship of the Member or former Member or of the Dependants of the Member or former Member and PROVIDED FURTHER THAT the Trustee shall only apply forfeited Benefits in such manner and at such time as is in accordance with the requirements of the Act.

CONVERSION OF LUMP SUM TO PENSION

27. (a) Application to Convert

On the written application of a Member the Trustee may pay to the Member from the Fund a Pension in accordance with the provisions of Clause 28 in lieu of the whole or a portion of any lump sum Benefit which is otherwise payable to the Member.

(b) Amount of Pension

The amount of any Pension payable pursuant to this Clause shall be determined by the Trustee after obtaining the advice of the Actuary.

(c) Trustee Decision Final

The decision of the Trustee as to whether or not any Pension shall be paid or provided shall be final and binding and accepted without question.

PENSION PAYMENT CONDITIONS28. (a) Method of Payment

Where any Benefit payable from the Fund is payable in the form of a Pension, the Pension shall be payable in such manner and on such conditions as the Trustee shall determine, and as shall be acceptable to the Commissioner, and on such dates as the Trustee determines after consultation with the Member or Beneficiary.

(b) Total of Member Accumulation Account

Where a Benefit payable in respect of a Member, former Member or to a Beneficiary is payable in the form of a Pension, or where the Trustee purchases an Annuity on behalf of a Member, then the instalments of such Pension or the purchase price of such Annuity shall, subject to Clause 24, be equal to such amount as the Trustee considers appropriate taking into account the credit of such Member's Accumulation Account (or the amount represented by the proportion of such Accumulation Account to which the Member is entitled, if less) PROVIDED THAT any Pension payable or the purchase price of an Annuity shall not exceed the amount of the credit in the particular Accumulation Account of the Member, former Member or Beneficiary.

(c) Pension Increase

Any Pension payable pursuant to the provisions of this Deed shall, if required by the Act and agreed to by the Trustee, be increased in the course of payment from time to time by such amount as the Trustee in its absolute discretion considers appropriate to compensate the Beneficiary for cost of living increases PROVIDED HOWEVER that the increase shall be at least the minimum required by the Act in respect of the type of pension being paid.

(d) Pension for Life

Any Pension payable hereunder shall, subject to sub-clause (e) below, be paid for the life of the Member and after the death of the Member for the life of the Spouse of the Member PROVIDED THAT if it is acceptable to the Commissioner, the Trustee may pay a Pension for any period or periods certain.

(e) Dependant Pension

After the death of a former Member who was at the time of death still in receipt of a Pension pursuant to the

provisions of this Deed, the Trustee may unless specifically requested to the contrary by the Spouse of the former Member, pay to the Spouse a Pension which Pension shall not exceed an amount which is acceptable to the Commissioner.

(f) Death of Beneficiary

In the event that the Beneficiaries to whom Pensions are being paid die whilst there is still an amount standing to the credit of the particular Accumulation Account, the balance of such Accumulation Account shall be dealt with in accordance with the provisions of Clause 31 PROVIDED HOWEVER that in the event that this is unacceptable to the Commissioner the balance of such Accumulation Account shall be dealt with in accordance with sub-clause 26(c) as though it was a forfeited benefit or as otherwise required by the Commissioner.

COMMUTATION OF PENSION

29. (a) Conditions of Commutation

On the written application of a Member or Beneficiary the Trustee shall commute to a lump sum Benefit the whole or any part of a Pension payable from the Fund to a Member, former Member or Beneficiary, as applicable, PROVIDED THAT:

- (i) the commutation of the Benefit is acceptable to the Commissioner;
- (ii) the amount of the commuted Benefit including the value of any remaining Pension shall be subject to the provisions of Clause 24;
- (iii) where any amount remains in the Fund after all Member's entitlements have been paid out the amount so remaining shall be dealt with in accordance with sub-clause 26(d) as though it was a forfeited Benefit,

PROVIDED FURTHER that in the opinion of the Trustee the commutation would not be to the disadvantage of the Fund, the Employers, or the remaining Members or Beneficiaries.

(b) Amount of Lump Sum Benefit

The Trustee shall determine the amount of the lump sum payable in respect of the Pension being commuted in accordance with the provisions of Division B of this Deed.

TRANSFER IN SPECIE30. (a) Transfer of Policy

Where a Member and/or the Dependants are entitled to be paid a Benefit or the Trustee in its discretion determines to pay a Benefit to the Member or the Dependants of the Member and the same includes any interest in a Policy of any kind on the life of the Member the Trustee may in its absolute discretion and in lieu of surrendering such Policy assign the same to such Member or to the Dependants or to such one or more of them to the exclusion of the other or others as the Trustee in its discretion may determine and the value of such Policy as at the date of assignment shall be debited as a payment to the Member in the assessment of any entitlement as reflected by the Member's Accumulation Account, and neither the Trustee nor the Employer shall be liable to pay any further premiums which may become due and owing under the Policy as from the date of such assignment.

(b) Transfer of Investments

The Trustee may with the consent of a Member or the Dependants of a Member to whom a Benefit is payable transfer investments of the Fund of equivalent value to such Member or Dependant in lieu of paying the whole or part of the amount otherwise payable pursuant to the provisions of this Deed PROVIDED HOWEVER that the Trustee is satisfied that such transfer will not cause the Fund to fail to satisfy the requirements of a Complying Superannuation Fund.

(c) No Beneficial Interest

With the exception of the provisions of this Clause and sub-clause 12(g), no Member or Beneficiary shall have or acquire any beneficial or other interest in a specific asset of the Fund or the assets of the Fund as a whole whilst such asset or assets remain subject to the provisions of this Deed.

PAYMENT OF BENEFITS ON DEATH31. (a) Benefit Payable on the Death of a Member Leaving Dependants

Where this Deed provides for the payment of a Benefit on the death of a Member, former Member or Beneficiary leaving Dependants, the Trustee may pay or apply the Benefit to or for the benefit of the Nominated

Dependant of the former Member but in the event that there is no Nominated Dependant or the Trustee considers in its absolute discretion that it is inappropriate or inequitable to pay the Benefit to any Nominated Dependant the Trustee shall pay or apply the Benefit to or for the benefit of such one or more of the former Member's Dependents in the form of a lump sum in the manner, at the times, and in such proportions between them, if more than one, as the Trustee may from time to time in its discretion determine.

(b) Benefit Payable on the Death of a Member Leaving no Dependents

Where this Deed provides for the payment of a Benefit on the death of a Member or former Member leaving no Dependents, the Trustee shall pay the Benefit to the legal personal representative of the Member or former Member, or if there is no legal personal representative, pay or apply the Benefit to or for the benefit of such Relatives of the former Member as appear to the Trustee to be entitled to share in the estate of the Member or former Member PROVIDED THAT if there be no such Relatives, and subject to the requirements of the Commissioner in relation to Members' Vested Benefits, the Benefit shall be absolutely forfeited and shall remain in the Fund to be dealt with in accordance with Clause 26.

PAYMENT OF BENEFITS

32. (a) Address for Benefits

Benefits are payable at the principal office for the time being of the Principal Employer in the State, Territory or Country in which the Member ceased to be a Member or otherwise as may be determined by the Trustee and advised to the Member.

The Trustee may forward the Benefits to the postal address or bank account of the Beneficiary last notified to the Trustee or to such other place as the Trustee shall determine.

(b) Notification of Address

Every Beneficiary, or person to whom a Benefit is payable on behalf of or for the benefit of a Beneficiary, shall (except where no further Benefit is payable from the Fund) notify the Trustee in writing at the time the Benefit becomes payable and immediately after the Beneficiary changes address at any time of:

- (i) the place of residence of the Beneficiary and the full postal address of that residence; and
- (ii) the bank account (if any) to which the Beneficiary requests that the Benefit be paid.

(c) Receipt for Benefits

Any person to whom a Benefit is payable shall, if requested, furnish the Trustee with a receipt and release in the form from time to time required by the Trustee.

(d) Proofs

Any person appearing, purporting or claiming to be qualified or entitled to any Benefit from the Fund shall on request produce to the Trustee such evidence and do all such acts and execute all such documents as the Trustee may reasonably require.

Whenever it shall be necessary for the Trustee to decide questions of fact it may act upon such proofs or presumptions as it may deem satisfactory notwithstanding that they are not strictly legal proofs or legal presumptions.

(e) No Personal Claim

No Member or person claiming through a Member or on behalf of a Member or as the Dependant of a Member shall be entitled to require payment of that Member's interest in the Fund except as may be provided in the Deed.

(f) Payment to Others on Behalf of Beneficiaries

When any Beneficiary is under the age of 18 years or when in the opinion of the Trustee it would be in the best interests of the Beneficiary, the Trustee may pay all or part of any Benefit to any other person for application on behalf of the Beneficiary and the receipt of the person to whom the Benefit is paid shall be a complete discharge to the Trustee for the payment in respect of the Beneficiary. The Trustee shall not be bound or concerned to see to the application of the Benefit so paid.

(g) Preservation Conditions

Notwithstanding any other provision of this Deed which may be construed to the contrary:

- (i) no Member or Dependant of a Member shall be entitled to receive any Benefit which is a Preserved Payment Benefit prior to the Member retiring from Gainful Employment at or after reaching the age of 55 years otherwise than in the event of Total and Permanent Disablement or death of the Member or in other circumstances acceptable to the Commissioner;
- (ii) any Pension of Annuity that a Member or the Dependents of a Member have a right to receive from the Fund must commence to be paid, and any other Benefits that a Member or the Dependents of a Member have a right to receive from the Fund are to be paid, not later than the 65th birthday of the Member or at such other time as is required by the Act;
- (iii) any Preserved Payment Benefits held by the Trustee which are unable to be paid out to the Member may, at the discretion of the Trustee, be dealt with in accordance with Clause 23, or be retained in the Fund subject to Clause 51.

PAYMENT OF TAXATION

33. (a) Tax on Benefits

The Trustee or, with the agreement of the Trustee, an Insurer or other appropriate organisation, shall deduct from any Benefit payable to any Member or Beneficiary pursuant to this Deed any Taxation required to be deducted (or such Taxation as the Trustee shall consider is required to be deducted) from it.

The Member or Beneficiary shall be entitled to receive only the net Benefit or payment after the deduction of Taxation.

(b) Tax on Contributions

The Trustee or, with the agreement of the Trustee, an Insurer or other appropriate organisation, may deduct any Taxation payable in relation to a Contribution prior to the Contribution being credited to the Accumulation Account of the Member. Where such Taxation has been deducted from a Contribution a reference to the crediting of the Contribution to an Accumulation Account shall mean the crediting of the net Contribution after the deduction of such Taxation.

(c) Payment to Relevant Authority

The Trustee shall pay all Taxation which is due and payable by the Fund, and which is not being transferred with the agreement of the Trustee to an Insurer or otherwise transferred as provided under the Tax Act to the relevant authorities within the required time for payment.

POLICIES OF ASSURANCE34. (a) Trustee to Effect Policy

The Trustee exercising its investment power contained in Clause 15 may effect separate Policies and may secure the Benefit of a Member by means of an individual Policy or Policies or a group Policy or policies or partly in one way and partly in another.

(b) No Responsibility

The Trustee shall not be responsible or liable to the Member, the Member's legal personal representative or the Dependants of the Member should the Trustee determine not to exercise the power and effect such Policy PROVIDED THAT the Member may request the Trustee to effect such separate Policies and may further specify the type of Policy to be effected (including the quantum of cover required) in which case the Trustee may effect such a Policy subject to the Trustee being able to obtain such a Policy on the life of the Member and the Trustee believing that effecting the Policy is in the best interests of the Member, the Dependants of the Member and the Fund.

(c) Premiums for Policy

The premiums for any Policy effected may be debited to the Income Account or directly to the Accumulation Account of the Member in respect of whom the Policy is effected or alternatively in such proportions amongst other Members as the Trustee considers to be equitable which premiums may be debited against the Member's Vested Contributions.

(d) Limitations on Policy

Where a Policy is being effected by the Trustee in respect of a Member and an Insurer refuses to insure a Member or seeks to impose any limitations or special conditions in respect of a Member or Beneficiary then notwithstanding the Benefits which may be payable pursuant to this Deed in respect of any of the Member,

the Trustee may impose such limitations or special conditions in respect of the Benefits otherwise payable in the event of the death or the disablement of the Member or Beneficiary as it shall determine.

(e) Endowment or Whole of Life Policy

Where all or any of the Member's Contributions have been applied towards an endowment or whole of life Policy, then the Vested Contributions of the Member shall mean in relation to those Contributions and any net earnings which would but for this sub-clause be applicable to them, the surrender value of such endowment or whole of life Policy.

PARTICIPATING EMPLOYERS

35. In the event that any company, person or group of persons trading in partnership:

(a) Application

makes application to the Trustee to be admitted in its capacity as an Employer to make Contributions to the Fund as a Participating Employer on behalf of Members or persons who wish to become Members; and

(b) Consent

the Principal Employer and the Trustee consent to the admission of the Participating Employer; and

(c) Execution

the company, person or group of persons trading in partnership making such application executes this Deed in the space provided in Schedule C or, if required, executes a deed on terms which are acceptable to the Trustee and the Principal Employer in respect of such application,

then such company, person or group of persons shall become a Participating Employer subject to the terms, conditions and provisions of this Deed and subject to any special conditions agreed between the Trustee and the Principal Employer and the entry of the details of the Participating Employer by the Trustee in Schedule C shall be conclusive of the due admission of the Participating Employer to the Fund.

OTHER SUPERANNUATION OBLIGATION

36. Where at any time an obligation, whether compulsory or otherwise, is imposed upon an Employer to make contributions to a superannuation fund providing retirement, death or disablement benefits in respect of Members of the Fund then the Employer may, with the consent of the Trustee, reduce its Contributions to the Fund by the amount of the contribution being made to the other fund in respect of those Members (who are members of the other fund) and the Employer may consult the Actuary in respect of the amount of the reduction in Contributions to be made to the Fund.

TERMINATION OF EMPLOYER'S CONTRIBUTIONS

37. (a) Circumstances of Cessation on Insolvency

An Employer, including the Principal Employer, shall cease to be an Employer for purposes of the Fund and Contributions to the Fund shall terminate from the particular Employer on the date that:

- (i) a deed of appointment placing the Employer in receivership is executed by the appointor of that receiver;
- (ii) a resolution of its members or an order of a Court places the Employer in liquidation; or

- (b) Exercise of Powers of the Principal Employer

If the Principal Employer ceases to be an Employer as a result of the provisions of sub-clause 37(a) above, the powers and discretions vested in the Principal Employer under this Deed shall terminate and shall then only be exercisable by such of the Participating Employers as the Trustee shall from time to time determine or, in the absence of any such determination, by the Trustee.

- (c) Transfer of Participating Employer's Business

If a Participating Employer (the "Former Employer") is amalgamated with or disposes of its undertaking to the Principal Employer or to another Participating Employer (the "New Employer") Contributions shall be deemed not to have terminated and Membership shall be deemed not to have terminated and the Members who are Employees of the Former Employer shall become Employees and Members with the New Employer and the New Employer may make future Contributions in respect of those Members.

(d) Members' Contributions Terminated

No Contribution shall be made by a Member without the consent of the Trustee where the Employer of the Member has terminated its Contributions in respect of that Member pursuant to sub-clause 37(a) above.

(e) Employees not to be Admitted

No Employees of an Employer shall be admitted as Members where the Employer's Contributions in respect of its Members have been terminated.

(f) Transfer to Another Fund

Where an Employer terminates its contributions to this Fund and commences to make contributions to another Complying Superannuation Fund, in relation to such of its Employees who are or were Members at the date of such termination, Contributions shall be deemed not to have terminated and Membership shall be deemed not to have terminated.

PROVISION FOR MEMBERS ON TERMINATION OF CONTRIBUTIONS

38. In the event that Contributions by an Employer cease in the circumstances described in sub-clause 37(a) then the Trustee shall continue to hold all Benefits or pay out Benefits to Members, Beneficiaries or Dependents in accordance with the existing provisions of the Deed.

RECONSTRUCTION OR AMALGAMATION OF AN EMPLOYER

39. If an Employer is reconstructed, goes into liquidation for the purpose of reconstruction or is merged or amalgamated with another employer the Trustee may:

(a) Deed of Adoption

enter into a deed of adoption with its successor as an Employer with the object of carrying on a Complying Superannuation Fund either pursuant to this Deed or any similar deed or rules on such terms and conditions as the Trustee considers to be reasonable and which protects the interests of the Members; or

(b) Transfer Assets

transfer some or all of the assets of the Fund representing the assets applicable to Members who were Employees of the former Employer to a Complying Superannuation Fund conducted by a new employer in

accordance with and subject to the provisions of Clause 23 in respect of some or all Members or former Members; or

(c) Continue Fund

continue to operate the Fund for the benefit of any Members still employed by the former Employer; or

(d) Other

deal with the Fund in accordance with the provisions of Clause 38.

VARIATION OF TRUST DEED

40. The provisions of this Deed may be added to, amended, altered, modified, rescinded or varied (the "Variation") from time to time by the Trustee with the consent of the Principal Employer on the following basis:

(a) Resolution or Deed

The Variation shall be:

- (i) by oral declaration or written resolution of the Trustee and the Principal Employer, and a certified copy of minutes of a meeting of the Trustee and of the Principal Employer confirming any such oral declaration or a certified copy of any such written resolution shall be furnished to the Commissioner if required by the Act; or
- (ii) by Deed executed by the Trustee and the Principal Employer and a copy of such Deed shall be forwarded to the Commissioner if required by the Act.

(b) Notice

On any Variation being effected the Trustee shall as soon as practicable afterwards advise the Members of the Fund of the nature and purpose of the Variation and the effect (if any) on their entitlements.

(c) Limitation on Variation

No Variation shall have the effect of:

- (i) reducing the accrued Benefit calculated on the basis of Contributions to the Fund and earnings on those Contributions that have accrued or become payable before the Variation; or

- (ii) reducing the amount of a Benefit other than a Benefit referred to in paragraph (i) above that is or may become payable in relation to a period before the date of the Variation,

unless:

- A. the reduction is required because of, and does not exceed the value of any Taxation payable on the taxable income of the Fund; or
- B. the reduction is required only to enable the Fund to comply with the Act; or
- C. each Member so affected consents in writing to the reduction; or
- D. the Commissioner consents in writing to the reduction.

WINDING UP OF FUND

41. (a) Election to Terminate

The Trustee may elect to wind up the Fund at a certain date (the "Termination Date") in the following circumstances:

- (i) the circumstances set out in sub-clause 37(a) above; or
- (ii) the Principal Employer gives the Trustee written notice of its decision to wind up the Fund; or
- (iii) there are no further Members remaining in the Fund; or
- (iv) the Trustee otherwise determines for any reason that the Fund should be wound up.

(b) Procedure on Winding Up of Fund

Where the Fund is to be wound up the Trustee shall:

- (i) give written notice to each Employer and Member that the Fund is to terminate on the Termination Date;
- (ii) arrange to pay or transfer Benefits to Members, former Members and Beneficiaries in accordance with sub-clause (c) below, after deducting from

the assets of the Fund the costs of administering and winding up the Fund.

(c) Exhaustion of Fund

Subject to sub-clause 32(g), the Trustee shall pay the following Benefits in the following order to the extent that the assets of the Fund permit:

- (i) Benefits to which Members, former Members or their Dependants who have not been paid a Benefit immediately prior to the Termination Date are entitled at the Termination Date;
- (ii) the provision of additional Benefits to Members, former Members and their Dependants as the Trustee in its absolute discretion considers appropriate;
- (iii) payment to such of the Employers as have made Contributions to the Fund in respect of Members as the Trustee in its absolute discretion considers appropriate.

(d) Duration of Fund

The trusts constituted by this Deed shall, unless previously terminated in accordance with the provisions of this Deed, endure during the life of the survivor of all of the lineal descendants of His Late Majesty King George V living at the date of this Deed and for twenty-one (21) years after the death of such survivor and for such further period (if any) as may be allowed by law for the duration of the trusts established under this Deed.

- DIVISION B -

PAYMENT OF CONTRIBUTIONS AND BENEFITSAPPLICATION OF DIVISION

42. The Benefits available under Division B shall apply to Employees who have been nominated to join the Fund by an Employer and who have been admitted as Members of the Fund by the Trustee.

MEMBERSHIP CLASSIFICATION43. (a) Classes of Membership

There shall be three classes of Membership of the Fund which shall be designated:

- "A" Membership Class
- "B" Membership Class
- "C" Membership Class

PROVIDED HOWEVER that the Trustee shall have the power to create such other Membership Classes with such rights and entitlements as the Trustee and the Principal Employer shall agree upon.

(b) Original Class

All Members upon joining the Fund in accordance with the provisions of this Deed shall become "C" Class Members (the "Original Class") unless otherwise nominated by the Employer when a nomination for Membership is made pursuant to sub-clause 8(a) and shall remain Members of the Original Class unless and until the Employer makes a written nomination for a Member to become a Member of an additional or alternative Class and the Trustee approves such nomination at which time the Member shall become a Member of the Class into which the Member is nominated PROVIDED HOWEVER that the Member shall also remain a Member of the Original Class unless the Employer nominates otherwise.

(c) Reclassification

A Member shall be capable of reclassification to any other Class at any time PROVIDED THAT any Benefits forming part of the Member's Accumulation Account which have been vested in that Member during such time as that Member was a Member of another Class shall be retained as an entitlement of the Member to the extent

that the entitlement was vested in the Member at the time the Member became a Member of the other Membership Class when such reclassification took place.

(d) Transfer of Accumulation Account

Upon the reclassification of a Member as a Member of another Class the Trustee may, with the consent of the Employer, transfer all or any of the Member's other Accumulation Accounts to the new Membership Class subject to the proviso contained in sub-clause (c) above.

(e) Designation of Class

If a Member is reclassified to another Membership Class and that Member remains a Member of more than one Class then, at the time at which any Contribution to the Fund is made by the Employer or the Member, the Employer or the Member making the Contribution shall designate the Class to which the Contribution is attributable in accordance with sub-clause 22(c) and may further designate that all future Contributions shall be credited to that Class PROVIDED THAT in the event that the Employer or the Member makes no such designation the Trustee at its discretion shall make such designation.

(f) Nomination at Discretion of Trustee and Employer

The Trustee and the Employer shall have absolute and unfettered discretion as to the making of a nomination and the granting of a consent to a Member to become a Member of a different Class or more than one Class, and neither the Trustee nor the Employer shall be required to give any reasons for their decision.

DEFINITIONS

44. For the purposes of this Division the following expressions shall have the meanings ascribed:

"Normal Retirement Age" means the age of 65 years for both males and females or such other age as is acceptable to or required by the Commissioner and as the Trustee with the consent of the Employer shall determine.

"Retires from Employment" means actual retirement by a Member from employment by the Employer or retirement as defined by the Act for the payment of Benefits.

CONTRIBUTIONS

45. A Member, or the Employer of a Member, may contribute to the Fund such amount as the Member or Employer shall in their absolute discretion determine subject to the provisions of sub-clause 22(i).

For purposes of this Clause, Member Contributions shall include amounts taken over from other Approved Benefit Arrangements which are so designated pursuant to sub-clause 23(e).

BENEFITS PAYABLE ON RETIREMENT

46. (a) Lump Sum Payment

Where a Member of any Class:

- (i) Retires from Gainful Employment at or after the age of 55 years;
- (ii) Retires from Employment with an Employer at or after Normal Retirement Age;
- (iii) reaches the age of 65 years; or
- (iv) fulfils the requirements under the Act for the payment of Benefits notwithstanding that the Member continues in employment,

then such Member shall be entitled to be paid the amount standing to the credit of the Accumulation Account of the Member as at the date upon which payment is made.

- (b) Pension Payment

Where a Member of any Class is eligible for payment of a Benefit in accordance with sub-clause (a) above and wishes to have the Benefit payable as a Pension, such Pension shall be paid in accordance with the provisions of Clauses 27 and 28.

DISABLEMENT

47. (a) Total and Permanent Disablement

In the event that Member of any Class shall become in the opinion of the Trustee Totally and Permanently Disabled then such Member upon being notified by the Trustee of the fact that the Trustee has formed such an opinion shall be paid by the Trustee:

(i) Lump Sum Payment

a lump sum Benefit equal to the full amount standing to the credit of the Accumulation Accounts of the Member as at the date upon which payment is made; or

(ii) Pension Payment

where a Member is eligible for payment of a Benefit in accordance with sub-clause (i) above and wishes to have the Benefit payable as a Pension, then such Pension shall be payable in accordance with the provisions of Clauses 27 and 28.

(b) Temporary Total Disablement

(i) A Member will be recognised as having become totally disabled (but not Totally and Permanently Disabled) by the Trustee if:

- A. the Member is disabled as a result of illness, accident or injury which commences at or prior to the Member attaining the age of 65 years or the Member's Normal Retirement Age (whichever is the earlier); and
- B. as a result of the said illness, accident or injury the Member has been continuously absent from the Member's employment with the Employer for the eligibility period contained in any Policy effected in respect of the Member; and
- C. the Trustee has effected a Policy with the Insurer to cover total disablement; and
- D. the Trustee after consultation with the Insurer is satisfied that the Member is disabled within the meaning of the definition of temporary total disablement agreed upon by the Trustee and the Insurer; and
- E. the Trustee expects the Member's disablement to be temporary.

(ii) In the event that the Trustee receives an income Benefit under a Policy effected in respect of temporary total disablement of the

Member then the Member shall be paid (to the extent acceptable to the Commissioner) an income Benefit of an amount equal to the amount payable to the Trustee as a result of the temporary total disablement of the Member under the Policy and in the manner specified in the Policy.

- (iii) Payment of Contributions to the Fund by the Member (if any) will be suspended during such time as any income Benefit is payable.
- (iv) The Member will continue to be a Member of the Fund during the period that the Member is temporarily totally disabled and for the eligibility period as is specified in the Policy in respect of the temporary total disablement and the aggregate of those periods will for the purpose of the Fund be deemed to be included in the Member's period of Membership of the Fund.
- (v) The income Benefit under this Clause will cease to be payable in accordance with the conditions applicable to the Policy.

EARLY RETIREMENT FROM EMPLOYMENT

48. In the event of a Member of any Class ceasing to be Employee of an Employer prior to the Normal Retirement Age for any reason other than death or Total and Permanent Disablement, the Trustee shall pay to the Member the following amounts:

(a) "A" Class Membership

In respect of a Member's "A" Class Accumulation Account a lump sum Benefit equal to the total of the following amounts:

- (i) the Member's Vested Benefit;
- (ii) such further portion of the balance of the Member's "A" Class Accumulation Account as the Trustee shall in its absolute discretion shall determine.

(b) "B" Class Membership

- (i) the Member's Vested Benefit;
- (ii) an amount equivalent to a percentage of the balance of the Member's "B" Class Accumulation Account as at the date of payment such amount

being the higher amount represented by the percentage options set out in Schedule D attached to this Deed.

- (iii) such further portion of the balance of the Member's "B" Class Accumulation Account as the Trustee shall in its absolute discretion shall determine.

(c) "C" Class Membership

The full amount standing to the credit of the Member's "C" Class Accumulation Account as at the date of payment.

(d) Pension Payments

Where a Member is eligible for payment of a Benefit in accordance with sub-clauses (a), (b) or (c) above and wishes to have the Benefit payable as a Pension, such Pension shall be paid in accordance with the provisions of Clauses 27 and 28.

PAYMENT ON DEATH

- 49. On the death of a Member of any Class whilst still a Member prior to the Normal Retirement Age the Trustee shall, subject to Clause 24, pay the full amount standing to the credit of the Member's Accumulation Account as at the date of upon which payment is made in accordance with the provisions of Clause 31.

INCREASES TO BENEFITS

- 50. In circumstances where a Member ceases to be employed by an Employer, the Trustee may take into account the Member's interest in the Equalisation Account (if any) in determining whether any amount should be transferred from the Equalisation Account to the Member's Accumulation Account for purposes of the payment of a Benefit.

RETENTION OF BENEFIT IN FUND

- 51. At the request of a Member or Beneficiary the Trustee may in its absolute discretion retain all or part of any Benefit payable under this Division in the Fund until:

(a) Request

the former Member or Beneficiary entitled requests that it be paid to that Member or Beneficiary;

(b) Death

the Member dies in which event it will be paid in accordance with Clause 31;

(c) Retirement

the Member attains the age of 65 years or the Normal Retirement Age of the Member whichever is earlier subject to the provisions of Regulation 5AC or any other requirement of the Act; or

(d) Discretion

the Trustee elects for whatever reason to pay the Benefit to the form Member or Beneficiary,

whichever shall first occur and the amount then payable shall be the Benefit standing to the credit of that Member's or Beneficiary's Accumulation Account or Accounts as at the date of payment PROVIDED HOWEVER that all Benefits must be paid in accordance with any other requirements of the Commissioner or the Act.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year set out in Schedule A hereto as the Date of Deed.

THE COMMON SEAL of ASKFIVE
PTY. LTD. in its capacity as
Trustee was hereunto affixed
in the presence of:

)
)
)
)
)
)

.....*L. Lucas*.....

.....*J. Britnell*.....
Director

.....*Joan Ethel Britnell*.....
Full name of Director

.....*J. Britnell*.....
Secretary

.....*Rodney John Britnell*.....
Full name of Secretary



THE COMMON SEAL of ASKFIVE
PTY. LTD. in its capacity as
Principal Employer was
hereunto affixed in the
presence of:

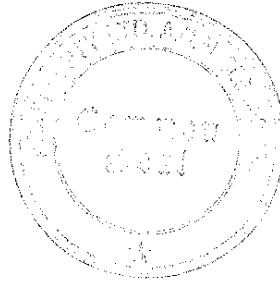
)
)
)
) *L. Lunn*
)
)

..... *J. Britnell*
Director

..... *Jean Ethel Britnell*
Full name of Director

..... *M. Britnell*
Secretary

..... *Rodney John Britnell*
Full name of Secretary



SCHEDULE A

DATE OF DEED: The 1st day of June 1992

TRUSTEE: ASKFIVE PTY. LTD. (A.C.N.)
of C/- Mal Sciacca & Associates,
Shepherd Street, Darwin NT 0800

PRINCIPAL EMPLOYER: ASKFIVE PTY. LTD. (A.C.N.)
of C/- Mal Sciacca & Associates,
Shepherd Street, Darwin NT 0800

NAME OF FUND: Askfive Super Fund

DATE OF
ESTABLISHMENT
OF FUND: The 1st day of June 1992

MY/0692/229

CONFIDENTIAL

Re: Membership

I agree and undertake as follows:

- Dated the day of 19

Address: Occupation:

Membership Class:

MY/0692/230

SCHEDULE B (CONT'D)
ATTACHMENT

NOMINATED DEPENDANT(S)

I nominate the undermentioned persons as my Nominated Dependants:

SURNAME(S)	GIVEN NAME(S)	RELATIONSHIP	% OF TOTAL BENEFIT
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PART 1

DETAILS OF OTHER FUND OR PLAN MEMBERSHIPS

1. Total Number of other Plans or Funds or Annuities ()

2.	Name of other Plan or Fund or Annuity	
3.	Trustees	
4.	Address of Trustees	
5.	Value of Accumulation Account or Members Credit of Benefit presently applicable to Applicant	\$
6.	Value of Preserved Benefit (including Productivity Benefit)	\$

PART 2

DETAILS OF AMOUNTS (NOT BEING ROLL OVERS) FROM
SUPERANNUATION FUNDS, PENSION FUNDS, APPROVED DEPOSIT FUNDS,
ROLL OVER ANNUITIES AND EMPLOYERS AFTER 15 FEBRUARY 1990

* Total number of such amounts previously received ()

2. List details of any undeducted contributions made after 30 June 1983 being contributions made by you and not claimed for income tax purposes.

SCHEDULE C

PARTICIPATING EMPLOYERS ADMITTED TO FUND
PURSUANT TO CLAUSE 35

NAMES OF PARTICIPATING EMPLOYERS	DATE OF ADMISSION	EXECUTION OF PARTICIPATING EMPLOYER OR TRUSTEE
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SCHEDULE D

PERCENTAGE VESTING SCHEDULE

OPTION 1		OR	OPTION 2	
No. of Years Completed as a Member of the Fund	Percentage Balance of Member's Accumulation Account		No. of Years Completed as an Employee of Employer	Percentage Balance of Member's Accumulation Account
at least	less than		at least	less than
0	1		0	1
1	2		1	2
2	3		2	3
3	4		3	4
4	5		4	5
5	6		5	6
6	7		6	7
7	8		7	8
8	9		8	9
9	10		9	10
10	11		10	11
11	12		11	12
12	13		12	13
13	14		13	14
14	15		14	15
15	16		15	16
16	17		16	17
17	18		17	18
18	19		18	19
19	20		19	20