

V MARTYN PTY. LTD.

(the Principal Employer)

SUPERANNUATION DEED

establishing

THE V MARTYN SUPERANNUATION FUND

Reference: MA56839



FRANKLYN SIMON

SOLICITOR

49 Colin Street, West Perth, Western Australia
Telephone: 322 1399
Facsimile: 322 2727

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This DEED is made -

BY the person named and described in the Schedule as the Principal Employer (called "the Principal Employer").

RECITALS

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 for themselves and in the event of their death for their Dependants.

B. The Principal Employer has agreed to act as the Trustee of the Fund.

C. The Fund is established and maintained solely for the purpose of providing superannuation benefits for Members (as defined in this Deed) 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 which fund shall be conducted so as to attract the concessional rate of tax which is applicable to superannuation funds.

PROVISIONS

1. ESTABLISHMENT

The Principal Employer establishes a fund (called "the Fund") which is known by the name described in the Schedule of this Deed and which commences on the Date of Establishment of Fund specified in the Schedule.

2. DIVISIONS

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 Benefits payable out of the Fund.

3. COVENANTS

The Principal Employer covenants to perform and observe the covenants, trusts and conditions of this Deed.

DIVISION AMANAGEMENT AND ADMINISTRATION4. INTERPRETATION - DEFINITIONS

In this Deed unless the context otherwise requires -

"Accumulation Account" means the account established on behalf of each Member as described in clause 10;

"Act" means the Income Tax Assessment Act 1936 or, where relevant, the Occupational Superannuation Standards Act 1987;

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

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

"Approved Deposit Fund" in relation to a year of income means a fund which is a complying A.D.F. pursuant to the Act;

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

"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;

"Class" means Membership Class;

"Commissioner" means the Commissioner of Taxation or, where relevant, 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 Act;

"Contributions" means payments to the Fund by Members and Employers in accordance with the provisions of this Deed;

"Deed" means these provisions and any authorised alterations, additions, amendments, modifications or variations thereto;

"Dependant" in relation to a former Member means -

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

(b) any child of a Member including any person who, in the opinion of the Trustee, is or was actually maintained by the Member as his child; or

(c) any other person who, in the opinion of the Trustee, was substantially financially 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, the Trustee, and "Director" has a corresponding meaning;

"Employee" means a person in the employment of an Employer and who is -

- (a) a Director of that Employer; or
- (b) classified by his Employer as a permanent Employee for the purposes of this Deed;

and includes any person as aforesaid on Special Leave;

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

"Fund Earning Rate" means the fund earning rate defined in clause 10.4(c);

"Fund Year" means a period of twelve months ending on the 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;

"Industrial Tribunal" means an industrial tribunal constituted under a law of the Commonwealth or of a State or Territory;

"Member" means an Employee who has been accepted by the Trustee as a member of the Fund and has not ceased to be a Member pursuant to clause 18.4;

"Member's Contributions" means the amounts contributed pursuant to clause 42 or deemed to have been contributed by a Member pursuant to clause 20.6;

"Member's Vested Contributions" means:-

- (a) Member's Contributions (reduced, if the Trustee so determines and if acceptable to the Commissioner, by the cost of providing solely death or disablement cover effected in respect of the Member and by any applicable costs or charges incurred pursuant to clause 13.2 or 19.5); and

- (b) those Contributions made by an Employer on behalf of a Member which are required to be vested in the Member by the Commissioner together with earnings as required by the Commissioner;

"Membership Class" means the Class or Classes of Membership of a Member in accordance with clause 40;

"Net Earnings" means earnings (which may be negative) allocated on a particular amount in accordance with clause 10.4 and the Fund Earning Rate described therein (adjusted in accordance with clause 10.5, if applicable) or in accordance with clause 10.6, as appropriate;

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

"Participating Employer" means the parties described in the Schedule (if any) and any employer that by agreement with the Principal Employer and the Trustee is admitted to participation in the Fund pursuant to clause 34;

"Pension" means a Benefit payable at a yearly rate by instalments;

"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 (in which case in relation to a Member or a former Member the expression shall mean the particular assurance on the life of the Member or former Member) and includes any policy covering any two or more of the foregoing risks;

"Preserved Payment" means a payment made to the Fund by an Employer or by transfer from another fund which is to be preserved as provided in this Deed as a result of -

- (a) its being a Productivity Payment;
- (b) its being otherwise required by the Commissioner or government legislation or regulation to be preserved; or
- (c) an agreement between the Employer and the Member with respect to the provision of superannuation benefits;

and "Preserved Payment Benefit" means a Benefit arising from a Preserved Payment;

"Principal Employer" means the Principal Employer being the party to this Deed 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 37;

"Productivity Payment" means a payment made to the Fund or a payment made by transfer from another fund or the reclassification of part or all of an existing Benefit of a Member by the Trustee with the consent of the Employer which payment or reclassification takes place pursuant to or as a result of -

(a) a Superannuation Agreement that has been made or ratified by an Industrial Tribunal in accordance with the Commission's superannuation principles as defined in section 82AAS of the Act; or

(b) an agreement that -

(1) is a Superannuation Agreement that has not been ratified by an Industrial Tribunal; and

(2) was entered into in connection with and, in the opinion of the Commissioner, is identical or nearly identical to, another Superannuation Agreement that -

(i) has been made or ratified by an Industrial Tribunal in accordance with the Commission's superannuation principles as defined in section 82AAS of the Act; and

(ii) relates to persons engaged in the same industry as the industry in which the Member is engaged;

and "Productivity Payment Benefit" means a Benefit arising from a Productivity Payment;

"Qualifying Eligible Termination Payment" shall have the meaning ascribed in section 27A(12) of the Act;

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

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of that former Member or of his or her spouse; and
- (b) the spouse of any person specified in paragraph (a);

"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 one or more of the following:-

- (a) an Approved Deposit Fund;
- (b) a superannuation arrangement described in clause 20;
- (c) an authorised organisation for the purchase of an Annuity;

"Salary" in relation to any Member means an amount advised by his Employer to the Trustee as the yearly rate of remuneration of that Member for the purpose of determining Benefit payments and Contributions under this Deed including directors' fees and recurrent payments for shift work, commissions, bonuses and payments of a like nature but excluding, unless the Principal Employer otherwise directs, any overtime, special grants or similar amounts;

"Secretary" means the secretary of the Fund (if any) appointed pursuant to this Deed;

"Special Leave" means any period of temporary absence of a Member from his employment (other than as a normal condition of employment) with or without pay and given with the approval of his Employer, provided that the Member has not resigned nor been dismissed by the Employer;

"Spouse" in the definition of "Dependant" means -

- (a) a person legally married to a Member at any time; or
- (b) 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 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 hereunder to the Spouse is to be divided between them;

"Superannuation Agreement" means an agreement, award, determination or order that requires the making of superannuation contributions as defined in section 82AAS of the Act in relation to persons engaged in a particular industry;

"Taxation" includes income tax, capital gains tax, tax on eligible termination payment, payroll tax, land tax, stamp duty and any other taxes or duties;

"Total and Permanent Disablement" means -

(a) physical or mental incapacity of such a degree that in the opinion of the Trustee, after considering a certificate or certificates signed by two registered medical practitioners, the Member is incapable of engaging in any employment for which he is reasonably qualified by education, training or experience; or

(b) if the Trustee so determines, total and permanent disablement as defined in any Policy effected in respect of the Member;

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.

5. INTERPRETATION - GENERAL

5.1 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.

5.2 Headings to Clauses

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

5.3 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.

5.4 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 therefor.

5.5 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.

5.6 Occupational Superannuation Standards Act 1987

Notwithstanding anything contained in this Deed, the requirements and other provisions prescribed by the Occupational Superannuation Standards Act 1987 and the regulations made under that Act from time to time in relation to this Fund shall be deemed to be included in

this Deed to the extent that they are required in order for the Fund to obtain concessional income tax status and shall prevail to the extent of any inconsistency between them and other provisions of this Deed.

6. GENERAL PROVISIONS

6.1 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 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.

6.2 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 -

(a) where the Employer or Trustee is a company - by resolution of its Directors or by any person or persons having the written authorisation of such Directors to so act on their behalf; or

(b) where the Trustee consists of individuals - at a meeting of such persons where questions are to be decided by a majority of the number of such persons holding the office of Trustee PROVIDED that during such period as there are at least 200 Members such majority must be of at least two-thirds of the number of such persons holding the office of Trustee; or

(c) where the Employer consists of individuals - by a majority of such individuals.

6.3 Work Related Claims

Nothing in this Deed shall in any way affect the right of a Member or his personal representative to claim damages or compensation under Common Law or under any Workers' Compensation legislation or any other statute in force governing compensation to a Member injured or killed by an accident arising out of or in the course of his employment with the Employer.

7. PROPER LAW

This Deed shall be governed and construed and shall take effect in accordance with the laws of the State of Western Australia.

8. ARBITRATION

If any question or dispute shall arise with respect to the Fund or to the construction or meaning of this Deed, and if the Trustee so requires, the question or dispute shall be referred to a single arbitrator agreed to by the parties to the question or dispute, but in default of agreement, to an arbitrator appointed pursuant to the provisions of the Commercial Arbitration Act in the State in which this Deed was executed. If the Trustee requires any question or dispute to be referred pursuant to this clause, no right of action shall accrue in respect thereof until the question or dispute has been adjudicated upon by the arbitrator.

9. FUND ASSETS

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 be established and maintained by -

- (a) 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) such Contributions (if any) as the Members shall make to the Fund at any time;
- (c) such Contributions as an Employer makes to the Fund at any time;
- (d) interest dividends and distributions of income arising from any investment and the accumulation thereof;
- (e) profits (less losses) and other benefits arising from any investment and the accumulation thereof;
- (f) the proceeds of any Policy held by the Fund; and
- (g) monies, investments and other property transferred to the Fund as a Roll Over Payment.

10. ACCUMULATION ACCOUNT

10.1 Separate Member Accounts

The Trustee shall establish an Accumulation Account in respect of each Member for each Class of which he is a Member.

10.2 Credits

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

- (a) any amount paid into the Fund in respect of the Member as a Roll Over Payment or pursuant to clause 22.7;
- (b) any Contributions made by the Member less any Taxation, costs or charges deducted from such Contributions pursuant to clause 10.9;
- (c) any Contributions made in respect of the Member by Employers less any Taxation, costs or charges deducted from such Contributions pursuant to clause 10.9;
- (d) the proceeds of any Policy or Annuity effected by the Trustee in respect of the Member;
- (e) such positive earnings as are determined by the Trustee in accordance with clause 10.4, 10.5 or 10.6;
- (f) such forfeited amounts as are allocated to but not paid directly to the Member pursuant to clause 23.3 or 23.4.

10.3 Debits

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

- (a) any amount paid out of the Fund in respect of the Member as a Roll Over Payment or pursuant to clause 22.3;
- (b) any other Benefit payments made to or in respect of the Member;
- (c) the costs of any Policy or Annuity effected by the Trustee in respect of the Member;
- (d) such negative earnings as shall be determined by the Trustee in accordance with clause 10.4, 10.5 or 10.6;
- (e) such amount as is forfeited pursuant to clause 23 or clause 24.1 or 24.2;
- (f) such proportion of any amount payable by way of Taxation in respect of the 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.

10.4 Income Account

- (a) The Trustee shall establish an Income Account for the Fund to which shall, subject to clause 10.6, be credited all income and profits of the Fund each year and credits arising out of adjustments pursuant to clause 10.5 and profits of the Fund shall include any surplus arising from a valuation undertaken pursuant to clause 10.7.
- (b) The Income Account shall, subject to clause 10.5, be debited with the following:-
 - (1) any loss sustained on the disposal of any investments of the Fund;
 - (2) any costs or charges incurred pursuant to clause 13.2 or 19.6 which are not debited to an Accumulation Account or deducted from Contributions pursuant to clause 10.9;
 - (3) any debits arising out of adjustments pursuant to clause 10.5;
 - (4) any deficiency arising from a valuation undertaken in accordance with clause 10.7;
 - (5) such proportion of 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 as the Trustee may determine to be equitable.
- (c) Following the debiting of the Income Account as specified in clause 10.4(b), at the end of each Fund Year the Trustee shall determine at its discretion the earning rate (which may be negative) for the Fund after taking into account any adjustments under clause 10.4(d) and such provision or reserve for future contingencies as the Trustee shall consider reasonable (called "the Fund Earning Rate"). The Trustee shall when required by the Commissioner notify the Member of the basis of the calculation of the Fund Earning Rate. The Trustee shall then allocate to each Accumulation

Account the earnings due calculated equitably in accordance with the Fund Earning Rate.

(d) The amount distributed as the earnings of the Fund pursuant to clause 10.4(c) 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.

(e) Any amount remaining in the Income Account after distribution of earnings pursuant to clause 10.4(d) above shall be transferred to the Equalisation Account established pursuant to clause 24.5.

(f) In the event that the Trustee is required to pay out a Benefit during the course of a Fund Year and is thus required to establish a Fund Earning Rate in respect of a portion of a Fund Year, such Fund Earning Rate for that period shall be determined by the Trustee on a basis which it considers equitable. The Trustee shall when required by the Commissioner notify the Member of the basis of the calculation of the Fund Earning Rate.

10.5 Adjustment

In determining the amount of the Member's Vested Contributions and the amount standing to the credit of a Member's Accumulation Account at the time a Benefit is calculated or becomes payable in respect of him, 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 the Income Account shall be debited or credited accordingly.

10.6 Specific Investments

The Trustee may undertake to invest separately in respect of certain Members or certain Classes of Members of the Fund or in respect of different Classes for certain Members 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 making up a Member's Accumulation Account for each Class. In that event, the income and profits (less losses) arising from specific investments and any costs or charges applicable to specific investments which are incurred pursuant to clause 13.2 or 19.6 and any Taxation which is payable or may become payable in respect of 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 specific investments which are incurred pursuant to clause 13.2 or 19.6 and any Taxation which is payable or may become payable in respect of specific investments.

10.7 Valuation

At the end of each Fund Year or at such other time as the Trustee considers it appropriate (including but without limitation 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.

10.8 Preserved Payment Benefits

Notwithstanding anything to the contrary in this Deed, any amount representing a Preserved Payment Benefit may, at the discretion of the Trustee or at the request of a Member, be transferred at any time to a Member's "G" Class Accumulation account.

10.9 Taxation, Costs and Charges

Notwithstanding anything to the contrary in this Deed, any amount payable by way of Taxation in respect of a Contribution and any costs or charges incurred pursuant to clause 13.2 or 19.6, or an appropriate portion thereof, may at the discretion of the Trustee be deducted from the appropriate Contributions or be debited directly to the appropriate Accumulation account.

11. FUND RECORDS

11.1 Receipt and Payment of Monies

All monies 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, Building Society or similar body as determined from time to time by the Trustee or into a trust account of a Solicitor, Accountant or Investment Manager appointed pursuant to this Deed.

11.2 Issue of Receipts

A receipt given on behalf of the Fund by the Trustee 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 monies of the Fund shall be a sufficient discharge to the person by whom the monies are paid.

11.3 Records and Accounts to be Kept

The Trustee shall -

- (a) keep account of all monies received for and disbursed from the Fund and of all dealings in connection therewith;
- (b) collect, and pay promptly into the bank account of the Fund, all monies from time to time due to the Fund;
- (c) 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 shall require; and
- (d) 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.

11.4 Audit

Each annual balance sheet and statement 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. If the Auditor is so satisfied, he shall execute an audit certificate in the prescribed form which shall be lodged with the Commissioner.

11.5 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 clause to make a copy of this Deed available to the member for inspection at the registered office of the Trustee during hours when that office is open.

11.6 Information for Trustee

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

11.7 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 and Benefits payable from the Fund as shall be required by the Commissioner from time to time.

12. FUND TRUSTEE - VACANCY, APPOINTMENT, REMOVAL AND REPRESENTATION

12.1 Definitions

For the purposes of this clause unless the context otherwise requires -

"Eligible Company" means a company the issued capital of which is -

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

or has the issued capital held in such other manner as shall be acceptable to the Commissioner 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 by a two-thirds majority of the Directors with no casting vote being given to the chairman;

"Independent Trustee" means -

- (a) For a Fund with less than 200 Members an individual or company appointed by the Employer to act as Trustee of the Fund PROVIDED however that the Trustee shall cease to be an Independent Trustee if the Employer is notified in writing that more than 25% of the Members of the Fund regard the Trustee as unacceptable as an Independent Trustee or if the Employer notifies it in writing that it is no longer acceptable as an Independent Trustee;

- (b) 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 Member interests, and the Independent Trustee shall certify its independence from the Employers and Members as required by the Commissioner from time to time PROVIDED however that the Trustee shall cease to be an Independent

Trustee if it ceases to be acceptable as an Independent Trustee by either the Employers or 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.

12.2 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.

12.3 Trustee Criteria

The appointment, removal and composition of the Trustee of the Fund shall be governed by the criteria specified in this Deed or pursuant to such other criteria, rules and regulations as may be promulgated by the Commissioner or made under the act from time to time. The Employer may obtain 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 adopted by the Employer by resolution such basis shall apply to the Fund in the place of the relevant provisions of this clause.

12.4 Eligibility for Trustee

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

- (a) the original Trustee specified in this Deed which shall be deemed to be an Independent Trustee as defined in this Deed;
- (b) an Independent Trustee as defined in this Deed;
- (c) 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;
- (d) a group of individuals of which one-half shall consist of individuals nominated by or representing the Members of the Fund and of which one-half shall consist of individuals nominated by or representing the Employers;
- (e) 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 as defined in this Deed 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 clause 12.4(c) or 12.4(d) above together with, if desired by the Employers or the Members, an Independent Trustee PROVIDED further that if Trustees are appointed pursuant to clause 12.4(d) the Independent Trustee shall not have a casting vote and PROVIDED lastly that in the event of the membership of the Fund exceeding 200 Members and the first proviso in this clause not being applicable 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.

12.5 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 -

- (a) for a Fund with less than 200 Members the Principal Employer may appoint an Independent Trustee as defined in this Deed;
- (b) 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.

12.6 Committee of Management

Where the Commissioner has approved the Trustee for the Fund when it has in excess of 200 Members which Trustee is not 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 or in accordance with any agreement or deed entered into between the Employer and the Trustee 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 (to the exclusion of the Trustee) which operations shall encompass such matters as the Commissioner shall determine from time to time.

12.7 Member Directors or Trustees

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

- (a) if the Trustee is an Eligible Company - as a Director; or
- (b) 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 clause 12.8 by the Employer. 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 Employer.

12.8 Employer Directors or Trustees

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

- (a) if the Trustee is an Eligible Company - as a Director; or
- (b) 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 clause 12.7 by the Members.

12.9 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 clause 12.7 or 12.13 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 representative of the Employers shall take such steps as are necessary to appoint or remove the person to or from the relevant position.

12.10 Appointment and Removal of Employer Representatives

The Employers shall determine which person or persons will represent them or cease to represent them in accordance with clause 12.8 or 12.14 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.

12.11 Independent Trustee for Fund with less than 200 Members

Where an Independent Trustee is appointed or nominated to be the Trustee of a Fund with less than 200 Members and it ceases to be a Trustee pursuant to clause 12.15, the Employer shall -

- (a) 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 at least 25% of Members object to such appointment within that time; or
- (b) request all Members of the Fund to nominate for appointment Member Directors or Trustees pursuant to clause 12.7 above, and nominate Employer Directors or Trustees in accordance with clause 12.8 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.

12.12 Independent Trustee for Fund with 200 Members or more

Where either the Employer or the Members wish to appoint an Independent Trustee to be a Trustee of the Fund or where an independent Trustee who has been appointed by the Employer and the Members ceases to be a Trustee pursuant to clause 12.15, the Employer and the Members shall determine whether they wish to appoint an Independent Trustee and if they do so -

- (a) the Employer shall nominate by notice in writing to the members a person independent of itself whom it believes will be acceptable to the Members;
- (b) the Members shall within 14 days of receiving such nomination advise the 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 Employer a person independent of the Members whom they believe will be acceptable to the Employer;

(c) the Employer shall within 14 days of receiving such nomination advise the Members in writing whether the nomination is acceptable to the Employer in which case the nominee shall become the Independent Trustee PROVIDED however that if it is not acceptable to the Employer it shall make a further nomination pursuant to the procedure contained in clause 12.12(a) 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 of this Deed.

12.13 Vacancy in Member Representation

A person appointed pursuant to clause 12.7 to represent Members as a Director or Trustee shall forthwith cease to be a person representing the Members -

- (a) in the event that more than 50% of all Members resolve either by written resolution or in general meeting that the person should cease to act in his representative capacity;
- (b) if he resigns his office as a Director or Trustee by notice in writing to the Members or to the Employer;
- (c) if the person is a Director of a company acting as Trustee or is a Trustee in his own right and he is disqualified from office by operation of law;
- (d) if being an individual, he dies; or
- (e) if being a company, it is wound up.

12.14 Vacancy in Employer Representation

A person appointed pursuant to clause 12.8 to represent the Employer as a Director or Trustee shall forthwith cease to be a representative of the Employer -

- (a) when the Employer revokes the appointment of the representative in writing;
- (b) if he resigns his office as a Director or Trustee by notice in writing to the Employer;
- (c) if the person is a Director of a company acting as Trustee or is a Trustee in his own right and he is disqualified from office by operation of law;
- (d) if being an individual, he dies; or
- (e) if being a company, it is wound up.

12.15 Change of Trustee

A person shall forthwith cease to act as a Trustee of the Fund -

- (a) if it is an Independent Trustee and it ceases to be an Independent Trustee as defined in this Deed;
- (b) if a resignation by notice in writing as a Trustee of the Fund is given to the Members or to the Employer;

- (c) if the Trustee is disqualified from holding office by operation of law;
- (d) if being an individual, he dies;
- (e) if being a company, it is wound up; or
- (f) if he ceases to be a person representing the Members or the Employer in accordance with clause 12.13 or 12.14 above.

12.16 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.

12.17 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 hereunder, a new Trustee shall be appointed within 60 days of such vacancy occurring.

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

12.18 Numbers of Trustees

Where the Trustee consists of individuals it shall comprise such numbers of persons as shall be agreed between the Employer and the Members but in the absence of any such agreement the number of Trustees shall be four.

13. TRUSTEE'S POWERS OF MANAGEMENT

13.1 Additional Powers

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

- (a) 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;
- (b) to commence, carry on or defend proceedings relating to the Fund or to the rights of Members, former Members or Beneficiaries;
- (c) to borrow money and to secure the repayment thereof 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 acceptable to the Commissioner;
- (d) to insure or reinsure any risks, contingencies or liabilities of the Fund with any insurance company, mortgage insurance company, reinsurance company or superannuation fund;
- (e) to underwrite or sub-underwrite any risks, contingencies or liabilities under any superannuation arrangement conducted by an Employer where there exists the possibility of transfers of Employees to the Fund;

(f) 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;

(g) to retain the services of and to appoint professional or other advisers in relation to the management, administration or investment of the Fund and to pay and advance out of the Fund all expenses of and incidental to the management and administration of the Fund including the fees of the aforesaid advisers and the remuneration of persons appointed pursuant to this Deed and to revoke any such appointment;

(h) 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; and

(i) 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 performance of its obligations under this Deed.

13.2 Remuneration of Trustee

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 new Members and existing Members of the Fund in respect of -

- (a) Contributions made to the Fund; and
- (b) income earned by the Fund; and
- (c) management and administration of the Fund generally.

The fees charged (if any) by the Trustee shall be determined each year by consultation between the Trustee and the Employer.

13.3 Indemnity of Trustee

The Trustee shall be indemnified out of the Fund against all liabilities incurred by it in the exercise or purported exercise or attempted exercise of the trusts, powers, authorities and discretions vested in it under this Deed or at law and shall have a lien on and may use the monies forming part of the Fund for the purposes of this indemnity.

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

No Trustee shall be liable for anything done or omitted to be done except in the case of fraud or other wilful misconduct on its part.

13.4 Confidentiality of Information

The Trustee, the Principal Employer and every other Employer shall regard as strictly confidential (so far as shall be practicable) all information disclosed to or gained by it in the course of administering the Fund or otherwise in connection with this Deed or anything relating or incidental thereto.

13.5 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 the exercise of which shall be final and binding PROVIDED that the Trustee shall not discriminate against any person on the grounds of that person's sex or marital status in such a manner as to infringe any law of the Commonwealth or a State or Territory in respect of discrimination.

14. APPOINTMENT OF ACTUARY, AUDITOR AND SECRETARY

14.1 Appointment

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

(a) 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.

(b) 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.

14.2 Secretary

In addition, the Trustee may from time to time appoint a person to be the Secretary on such conditions as it determines and may appoint such other officers as it considers desirable for the proper management of the Fund.

14.3 Removal

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

14.4 Employment

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.

15. ACTUARIAL INVESTIGATIONS

15.1 Report

In the event that an Actuary has been appointed the Trustee shall cause the Actuary to make an actuarial investigation of the Fund and to report in writing on the results of his investigation and on the state and sufficiency of the Fund at a date not more than three years after the date on which this Deed is deemed to come into effect and thereafter at intervals not exceeding three years. In undertaking this investigation the Actuary shall have regard to the present and future liabilities of the Fund and will make such recommendations as he sees fit in relation to the Fund.

15.2 Information to be Supplied to Actuary

The Trustee and the Employer shall give the Actuary the information he may reasonably require for the purposes of his investigations.

15.3 Actuary's Reports to Principal Employer

The Trustee shall send a copy of each report furnished by the Actuary to the Principal Employer.

15.4 Not Bound to Act on Advice

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 act upon the advice so provided.

16. VARIATION IN BENEFITS

16.1 Actuary's Report

Where the report by the Actuary in accordance with clause 15 discloses that the Fund is more than or less than sufficient to provide the Benefits under this Deed or where the Trustee is of the view that the Fund is more than or less than sufficient to provide the Benefits under this Deed, the Trustee may, after obtaining the advice of the Actuary and the consent of the Principal Employer and in a manner which is in the opinion of the trustee equitable to all persons concerned, make changes to -

- (a) the Contributions payable by the Employer or by any one or more of them;
- (b) the Contributions payable by Members or by any section or Class of Members;
or
- (c) the amount of the Benefits or any particular section or class of Benefits, including Benefits in the course of payment, either to Members or Beneficiaries generally or to any section or Class of Members or Beneficiaries.

16.2 Compulsory Superannuation

Where at any time an obligation is imposed upon an Employer to make compulsory contributions to a superannuation fund providing retirement, death or disablement benefits in respect of Members of the Fund then the Employer may forthwith reduce its Contributions to the Fund by the amount of the compulsory 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.

17. TRUSTEE'S POWERS OF INVESTMENT AND SALE

17.1 Authorised Investments

So much of the monies 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 as soon as practicable by and under the control and in the name of the Trustee in any of the following investments in Australia or elsewhere:-

- (a) 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;

- (b) any first mortgage on freehold property situated in Australia or elsewhere even though the amount of the loan may exceed two-thirds of the value of the property and whether or not a report or valuation has been obtained on the value of the property;
- (c) on deposit with or on loan to any Bank, Building Society, Credit Co-Operative or other financial institution on the normal terms and conditions of their borrowings;
- (d) 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 therefrom;
- (e) the purchase or acquisition in any way of shares or stock (of any class or description) or of any type of bond, mortgage, debenture, note, option or other like security in or of any Employer, building society or 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;
- (f) 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 howsoever arising;
- (g) the purchase or acquisition of any real or personal property and the improvement or extension thereof;
- (h) 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 the units or sub-units are fully paid up or whether their issue involves any contingent or reserve liability;
- (i) the discounting of loans, mortgages, contracts, hire purchase agreements or leases;
- (j) any other investments which the Trustee considers appropriate and which are acceptable to the Commissioner;

PROVIDED however that the Trustee is not authorised to make a loan to any Member of the Fund for any reason and PROVIDED further that no investment undertaken shall be in contravention of the investment criteria specified by the Commissioner or by government legislation or regulation from time to time.

17.2 Underwriting

The Trustee may underwrite or sub-underwrite the issue of any investments authorised by this Deed.

17.3 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.

18. MEMBERSHIP OF FUND

18.1 Nomination

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 in writing and shall be accompanied by a completed application for membership in the form of Annexure A annexed to this Deed or in such other form as the Trustee shall from time to time determine.

18.2 Admission

(a) Upon receipt of the nomination from the Employer and a completed application for membership in the appropriate form the Trustee may determine to admit the applicant to membership of the Fund.

(b) The Member shall be deemed to have joined on a date determined by the Trustee or, if the Trustee makes no such determination, the date of the completed application for membership PROVIDED that the Employer may instruct the Trustee to grant such additional Membership Period as it may determine which additional Membership Period shall be deemed, unless the Employer otherwise determines, to be taken into account only for the purposes of the Class which the Member joins on admission to the Fund.

(c) Subject to any other conditions which may be applied pursuant to this Deed, the Trustee, after obtaining the advice of the Actuary (if any) may impose conditions on an applicant's admission and his rights and duties as a Member including conditions on the classification of the Member into a Membership Class or Classes and may limit and impose conditions upon Benefits as it sees fit. The Trustee, after obtaining the advice of the Actuary (if any) and subject to the provisions of clause 40, may remove or vary at any time all or any of the aforesaid conditions.

(d) 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 details as the Commissioner shall require.

18.3 Members and Beneficiaries to Provide Information

Every Member and Beneficiary when requested by the Trustee shall 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 nominated by the Trustee.

If a Member or a Beneficiary fails to comply with the provisions of this clause, the Trustee may suspend the payment of any Contributions in respect of that Member or withhold any Benefit in respect of that Member or the Beneficiary until he does comply.

Where a Member or Beneficiary furnishes information required pursuant to this Deed, affecting or likely to affect the Benefits payable to or in respect of the 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 the said Benefits to amounts that would have applied had full and accurate information been supplied.

18.4 Cessation of Membership

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

- (a) the date upon which payment of all his Benefits is made to him;
- (b) the completion of a Roll Over Payment by the Trustee in respect of all his Benefits;
- (c) ninety days after his resignation dismissal or retirement from the service of the Employer;
- (d) his death;
- (e) the commencement of the payment to him of a Pension or the purchase for him of an Annuity;
- (f) the provisions of clause 24 or clause 36 operating to terminate his membership;

PROVIDED that where a Policy providing disablement benefits has been effected in respect of a Member he shall remain a Member for such period (if any) following resignation, dismissal or retirement as the Employer shall determine.

18.5 Meetings of Members

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

- (a) To call a meeting of Members shall require a notice to be served on the Trustee signed by 20 Members or one half of the number of Members in the Fund whichever is the lesser which notice shall request a meeting of Members.
- (b) 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) The Trustee may at any time convene a meeting of Members by notice in writing.
- (d) Every notice of meeting shall -
 - (1) be posted or given at least 10 days before the meeting;
 - (2) advise the place and time of the meeting;
 - (3) advise the Member that he may appoint a proxy to vote on his behalf at the meeting PROVIDED that he lodges the proxy with the Trustee not later than 24 hours before the meeting;
 - (4) be accompanied by a form of proxy approved by the Trustee;
 - (5) set out the matters including any resolutions to be considered at the meeting.
- (e) 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 his last known address and when so posted the notice shall be deemed to have been given three days after the date of posting.

(f) The Trustee shall appoint a Chairman of the meeting and shall make such regulations concerning the conduct of the meeting or meetings as it may decide.

(g) Subject to clause 18.5(d) above, a quorum for the meeting shall be 10 Members present in person or by proxy or 25% of the Members of the Fund whichever is the lesser PROVIDED that if a quorum is not present within 30 minutes of the time appointed for the meeting the Chairman 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) Each Member shall be entitled to one vote with the Chairman being given a casting vote in the event of an equality of votes.

19. CONTRIBUTIONS TO FUND

19.1 Members' Contributions

Unless the Principal Employer otherwise determines or the law does not so allow, the Contributions payable by a Member shall be deducted by his Employer from each Salary payment and shall be paid by the Employer to the Fund forthwith, or as directed by the Trustee PROVIDED that if no such deduction is made the Member shall pay his Contributions as and when he receives each Salary payment.

19.2 Contributions During Special Leave

In the event of a Member taking Special Leave, the Trustee shall consult with the Employer regarding the payment of Contributions by and in respect of the Member during the said Special Leave and then shall advise the Member in writing of the conditions which will apply in respect of Benefits and Contributions both during and after the period of Special Leave.

19.3 Employer's Contributions

The Trustee shall subject to the approval of the Principal Employer determine the Contributions payable by each Employer in respect of Members of all Classes on and from -

- (a) the date at which this Deed is deemed to come into effect;
- (b) the date the Member joins the Fund;
- (c) the date of any change in the Member's Class;
- (d) the date of each actuarial investigation (if any);
- (e) such other date as the Trustee may decide;

and the Trustee may consult the Actuary in respect of the making of such determination and likewise the Contributions payable by an Employer on its becoming a Participating Employer shall be so determined.

The Contributions payable by an Employer shall be paid to the Trustee at least once each year in such manner and at such time as shall be agreed upon between the Trustee and the particular Employer.

19.4 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 in accordance with clause 40 the Employer shall designate in relation to which Membership Class or Classes the Contribution is being made on behalf of that Member 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.

19.5 Interest on Contributions

The Trustee may require an Employer to pay interest 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 at a rate determined by the Trustee.

19.6 Administration Costs

All costs, charges and expenses incurred in connection with the preparation, establishment, maintenance, administration, operation or winding up of the Fund, shall be borne and paid by the Trustee of the Fund and the Trustee shall indemnify the Employer in respect of any costs which are properly incurred by the Employer in connection with the above expenses of the Fund PROVIDED however that the Trustee is authorised to accept Contributions in respect of the costs of the conduct of the Fund from the Principal Employer.

20. TRANSFERS TO AND FROM OTHER FUNDS

20.1 Transfer to Other Funds

Where a Member joins or is eligible to join any other Complying Superannuation Fund conducted as a concessional fund pursuant to the relevant sections of the Act (called "the Other Fund") and the Member requests that the whole or a part of his entitlement 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 (called "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 Member has requested be transferred and the Trustee may at its discretion obtain the advice of the Actuary in the computation of same.

20.2 Application of Transferred Amount

The Trustee may require that the former Member be entitled to such rights in the Other Fund as it shall agree with the trustee of the Other Fund are just and equitable and, in particular, may require that such portion only of the Transferred Amount as it shall determine is to be regarded in the Other Fund as being attributable to Contributions by the former Member.

20.3 Benefits Cease

The Benefit of a Member in respect of whom a Transferred Amount is paid under this clause shall be reduced by the amount of the Transferred Amount and 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 that amount and, except as provided in clause 20.2 above, the Trustee shall have no responsibility to see to the application of the Transferred Amount.

20.4 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 in one or more of the following ways:-

- (a) in the superannuation fund the Member is leaving until his retirement from Gainful Employment at or after age 55;
- (b) in another superannuation fund which preserves benefits until his retirement from Gainful Employment at or after age 55;
- (c) in an Approved Deposit Fund which is required to preserve the benefits until his retirement from Gainful Employment at or after age 55;
- (d) in an Annuity under which benefits are precluded from being paid out to the Member prior to his retirement from Gainful Employment at or after age 55 except where such Annuity is in the form of a non-commutable pension payable for life which commences at such time as is acceptable to the Commissioner;

or that it may be released or be paid to the Member in other circumstances acceptable to the Commissioner.

20.5 Transfers from Other Funds

Where a Member is or was a member of or is or was the beneficiary under any other superannuation arrangement including an Approved Deposit Fund or Annuity the Trustee may by resolution take over or acquire by transfer or otherwise from the trustee of the other superannuation arrangement or Approved Deposit Fund or Annuity the whole or any part of the assets of such superannuation arrangement with the intent of preserving the rights entitlements and interests of any of the existing members of the superannuation arrangement at the time of takeover or acquisition. The Trustee shall hold the assets as part of the Fund and reflect such rights entitlements and interests in the particular Member's Accumulation Account as it shall determine and, if the Trustee so determines, the Member shall be deemed to have become a Member of the Fund on the date he became a member of the original fund from which the benefit was transferred PROVIDED however that where such a transfer -

- (a) takes place from a Fund administered in accordance with the requirements of former section 23FB or former paragraph 23(ja) of the Act such assets shall be preserved hereunder in accordance with the requirements of former section 23FB or former paragraph 23(ja) of the Act, as appropriate; or
- (b) incorporates an amount which was paid to the Fund for the credit of the Member as a Preserved Payment the assets representing such amount shall be preserved hereunder until the retirement of the Member from Gainful Employment at or after the age of 55 years or until other circumstances acceptable to the Commissioner arise.

20.6 Determination of Member Contributions

On any transfer in accordance with clause 20.5 above, the amount of any entitlement for an individual member of any such superannuation arrangement for the purposes of determining the Member's Contribution under clause 42.2 shall be such amount as the trustee of the superannuation arrangement from whence the Member 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 superannuation arrangement considers to be fairly attributable to the contributions of that Member to such superannuation arrangement together with accrued earnings thereon PROVIDED however that the amounts deemed to be contributions of that Member are for the purpose of determining the Member's Benefits and the remainder (if any) shall be deemed to have been contributed by the Employer of such Member in respect of him.

21. STATUTORY BENEFIT SCHEME

Where a scheme having government support or recognition whether in the Commonwealth of Australia or any State or Territory or any other place with which the activities of the Employer are or may for the time being be concerned (called "the Statutory Scheme") provides, or will provide, Members, their Dependants or Beneficiaries with benefits which in the sole opinion of the Trustee are of a similar nature to any Benefit provided under this Deed, the Trustee, with the consent of the Principal Employer and after seeking the advice of the Actuary, may alter or vary in any way whatsoever the provisions of this Deed which in the sole discretion of the Trustee corresponds to the provisions of the Statutory Scheme without regard to the provisos to clause 38.

22. EXCESSIVE BENEFITS

22.1 Amounts Limited

Notwithstanding any other clause of this Deed, whilst it remains a requirement of the Commissioner, Benefits payable to Members under this Deed shall be limited to amounts which are not excessive for the purposes of the reasonable benefits limits applied by the Commissioner after taking into account such benefits which the Member has already received, is currently entitled to receive or may receive from an Employer or from any other superannuation arrangements (including Approved Deposit Funds and Annuities) as the Trustee considers applicable and as the Commissioner shall require.

22.2 Reduce Contributions

If at any time -

(a) the Benefit payable to a Member if aggregated with applicable benefits which the Member has already received, is currently entitled to receive or may receive from an employer or under any other superannuation arrangement Approved Deposit Fund or Annuity is or if the amount held in the Equalisation Account is in the reasonable opinion of the Trustee likely to be excessive in amount having regard to the criteria applied by the Commissioner; or

(b) the Commissioner shall advise the Trustee in writing that he is satisfied that the Benefits payable to a Member or the Benefits his Dependants have a right to receive from the Fund are excessive in amount and specifies the sum which will reduce the amount of the Benefit which the Member or his Dependants have a right to receive from the Fund to a sum which is not excessive in amount,

the Employer and/or Member shall forthwith reduce the Contributions payable to the Trustee on behalf of that Member or his Dependants by such amount as the Trustee in its absolute discretion shall determine or (in the case of a notice such as is referred to in clause 22.2(b)) as the Commissioner shall have specified as necessary in order to reduce the Benefit payable to or in respect of that Member either alone or if aggregated with any benefits payable under

any other superannuation arrangement to an amount which is not or is not likely to be excessive in the opinion of the Commissioner and in making such reduction the Trustee may in its discretion -

- (1) require the amount of Contributions being paid in respect of a Member firstly by his Employer or secondly by any Member to be reduced to such an extent and in such manner as the Trustee in its absolute discretion shall determine; and/or
- (2) prohibit the Employer and/or Member from making any further Contributions in respect of any member.

In this clause, the expression "Excess Benefits" means the amount by which a Benefit or the Equalisation Account is excessive for the purposes of this clause.

22.3 Excess Benefits Fund

Whilst it remains a requirement of the Commissioner, the Trustee shall transfer the Excess Benefit to a separate and distinct fund (called "the Excess Benefits Fund") which fund shall be conducted as a non-complying superannuation fund for the purposes of the Act and which shall be established for the purpose of holding the Excess Benefit or any further contributions in trust for -

- (a) those persons who would have been entitled to them had the Excess Benefit or contribution been paid subject to the trusts and powers contained in this Deed;
- (b) the Members of the Fund as an unallocated reserve where the transfer is made from the Equalisation Account,

PROVIDED that no part of any amount representing a Preserved Payment Benefit in respect of a Member shall be transferred to the Excess Benefits Fund whilst any entitlement in respect of the Member which is not a Preserved Payment Benefit remains in the Fund.

22.4 Trust Deed

In the event of the establishment of an Excess Benefits Fund pursuant to clause 22.3, the Trustee shall execute a trust deed in respect of each Excess Benefits Fund established, which shall be subject to the same trusts, powers, authorities and provisions as are contained in this Deed except for -

- (a) the provisions of this clause;
- (b) the provisions of any clauses requiring the payment of Contributions;
- (c) such other matters as the Trustee in its absolute discretion shall determine to omit,

and containing such other trusts, powers, authorities and provisions as the Trustee shall determine to insert PROVIDED that the deed must contain the restrictions on payment of Preserved Payment Benefits contained in clause 20 AND PROVIDED further that no provision of such deed shall have the effect of materially reducing or adversely affecting the value of the interest which was formerly held in the Fund for any Member or Beneficiary without the consent of those Members who are required to consent by the Commissioner, or the Commissioner.

22.5 Transfer of Funds

The priority for the transfer of amounts from the Fund to an Excess Benefits Fund shall be as follows:-

- (a) firstly those amounts held in the Fund representing Employer financed Benefits which are not Preserved Payment Benefits;
- (b) then those amounts held in the Fund representing Member's Vested Contributions which are not Preserved Payment Benefits;
- (c) then Preserved Payment Benefits.

22.6 Future Accretion

The Trustee may transfer to the Excess Benefits Fund established for Members all or such part of any future accretion to the value of the Benefit payable to a Member as it may think desirable.

22.7 Transfers Back from Excess Benefits Fund

Where there is a change in the circumstances which gave rise to the establishment of the Excess Benefits Fund and the transfer of assets to that fund the Trustee may transfer amounts from the Excess Benefits Fund to the Fund at its discretion.

23. MONIES OWING TO FUND OR AN EMPLOYER

Where a Member at the time he ceases to be an Employee owes any monies to the Fund or to an Employer (including costs of any prosecution or civil proceedings together with interest on those monies 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 monies are owing to the Employer, the Member shall be deemed to have forfeited his right to receive a sum equivalent to the said monies owing to the Fund or the Employer (as the case may be) from that part of the Benefit payable which does not represent Member's Vested Contributions or a Preserved Payment Benefit and the Trustee shall -

- (a) if the said monies are owed to the Fund, retain them in the Fund, or
- (b) if the said monies are owed to the Employer, retain them in the Fund or pay them to the Employer or as the Employer directs.

24. FORFEITURE OF BENEFITS

24.1 Conditions of Forfeiture

Any Member, former Member or after his death, any of his Dependants or his personal representative -

- (a) who assigns or charges or attempts to assign or charge any Benefit;
- (b) whose Benefits whether by his 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;

- (c) who becomes bankrupt or insolvent;
- (d) who for any reason is unable personally to receive or enjoy the whole or any portion of his Benefits or, in the opinion of the Trustee, is incapable of managing his affairs;
- (e) who in the opinion of the Principal Employer and the Trustee commits any fraud or is guilty of dishonesty, defalcation or serious misconduct;
- (f) who is a former Member who cannot (subject to reasonable enquiries having been made) be located and whose Dependants cannot be located by the Trustee during a period of 2 years after a payment was last made to him by his Employer or by the Trustee,

shall forfeit entitlement to all his Benefits and, in the case of a Member, he shall cease to be a Member of the Fund.

24.2 Accumulation Account Residue

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

24.3 Application of Certain Forfeited Benefits

The Trustee shall hold upon trust and pay or apply any Benefits which have been forfeited as aforesaid and which represent Member's Vested Contributions or Productivity Payment Benefits to or for the benefit of the former Member or Beneficiary (as the case requires) or his Dependants 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 PROVIDED however that where the former Member remains in the employment of the Employer any payments so made shall be limited to the relief of hardship of the former Member or of his Dependants.

24.4 Application of Remaining Forfeited Benefits

The Trustee shall subject to clause 24.3 above and to clause 23 hold upon trust and pay or apply any Benefits which have been forfeited as aforesaid as follows:-

- (a) to or for the benefit of the former Member or Beneficiary (as the case requires) or his Dependants 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 PROVIDED however that where the former Member remains in the employment of the Employer any payments so made shall be limited to the relief of hardship of the former Member or of his Dependants; or
- (b) to or for the benefit of Members and former Members of the Fund who have rights to receive Benefits from the Fund or for their Dependants on a basis that the Trustee considers reasonable having regard to all the circumstances which Benefits may be paid in lieu of Contributions which were otherwise payable by the Employer or the Member to the Fund; or
- (c) to a separate account to be called the Equalisation Account established pursuant to clause 24.5; or

(d) to repay to the Employer any amounts representing Contributions and accumulated earnings on those Contributions made in respect of a Member whose rights to receive Benefits under the Fund have ceased; or

(e) for any other purpose approved from time to time by the Commissioner.

24.5 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 forfeited benefits held pursuant to clause 24.4 or any amounts remaining in the Income Account pursuant to clause 10.4.

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

The Equalisation Account shall be used by the Trustee to stabilise the investment earnings of the Fund and to provide for such future contingencies as the Trustee considers reasonable and accordingly the Trustee shall have the discretion to deal with the assets of the Equalisation Account in accordance with the provisions of clauses 24.4(b), (c), (c) and (e) above and in the payment of taxation and payments from the Equalisation Account can be made by the Trustee for any of the purposes specified in clauses 24.4(b), (c) and (e) above and for the payment of Taxation in respect of the Contributions and the income and profits of the Fund.

24.6 Distribution to Employers

If on the winding up of the Fund there remains no person entitled to any Benefits forfeited hereunder which are held in the Equalisation Account after the Trustee has dealt with the same in accordance with this clause then any residual amount shall be apportioned amongst the Employers in such proportions as shall be determined by the Trustee as being equitable.

25. CONVERSION OF LUMP SUM TO PENSION

25.1 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 clauses 51 and 52 in lieu of the whole or any portion of any lump sum Benefit which is otherwise payable to the Member under this Deed.

25.2 Amount of Pension

The cost of any Pension payable pursuant to this clause shall be determined by the Trustee after obtaining the advice of the Actuary, who, unless otherwise directed by the Trustee, shall make due allowance in his calculations for the expenses of the future management of the Pension payments.

25.3 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.

26. PENSION PAYMENT CONDITIONS

26.1 Method of Payment

Where any Benefit under 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 shall be payable by instalments which may be equal or unequal and on such dates as the Trustee determines after consultation with the person to whom the Pension is payable on such conditions as the Trustee shall determine, and the Commissioner shall allow.

26.2 Limited by Accumulation Account Balance

All or a part of a Pension payable to or in respect of a Member shall (except to the extent that it has been provided by the purchase of an Annuity) be payable from his Accumulation Account, and where so payable it shall be payable only to the extent that such Accumulation Account will permit. If all of the former Members or Beneficiaries to whom such pension is payable die whilst there is still an amount standing to the credit of such Accumulation Account, the balance of such Accumulation Account shall be dealt with in accordance with the provisions of clause 29 PROVIDED that in the event that this is unacceptable to the Commissioner the Benefits shall be dealt with in accordance with clause 24.4.

27. COMMUTATION OF PENSION

27.1 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 -

- (a) the commutation of the Benefit is in circumstances acceptable to the Commissioner;
- (b) the amount of the commuted Benefit including the value of any remaining Pension shall be subject to the provisions of clause 22.1;
- (c) any amount in excess of the amount specified in clause 22.1 shall be dealt with in accordance with the provisions of clause 22.1 or as otherwise required by the Commissioner;
- (d) where any amount remains in the Fund after all Members' entitlements have been paid out the amount so remaining shall be dealt with in accordance with clause 24.4 as a forfeited Benefit,

PROVIDED further that in the opinion of the Trustee the commutation would not be to the disadvantage of the Fund, the Employer, Members or Beneficiaries.

27.2 Actuary to Determine Benefit

The Trustee after obtaining the advice of the Actuary shall determine the amount of the lump sum payable in respect of the Pension being commuted.

The Trustee may instruct the Actuary in furnishing his advice as aforesaid, to regard the state of health of the person receiving or to receive the Pension being partially or wholly commuted as being unaffected by any significant impairment and to make such other assumptions as it determines in its absolute discretion and it may act upon the advice so obtained.

28. TRANSFER IN SPECIE

28.1 Transfer of Policy

Where a Member and his Dependants are entitled to be paid or the Trustee in its discretion determines to pay to him or them the whole or any part of the Member's Accumulation Account which 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 the Policy assign it to the Member or to his 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 his entitlement as reflected by the Member's Accumulation Account, and neither the Trustee nor the Employer shall be liable to pay any premiums thereafter becoming due and owing under the Policy as from the date of the assignment.

28.2 Transfer of Investments

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

28.3 No Beneficial Interest

Notwithstanding any other provision of this Deed, 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 the asset or assets remain subject to the provisions of this Deed.

29. PAYMENT OF BENEFITS ON DEATH

29.1 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 or former Member leaving Dependants, the Trustee shall 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 it inappropriate 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 Dependants or the legal personal representative of the Member in the manner, at the times, by the instalments and in such proportions between them if more than one, as the Trustee may from time to time in its discretion determine.

29.2 Benefit Payable on the Death of a Member Leaving no Dependants

Where this Deed provides for the payment of a Benefit on the death of a Member or former Member leaving no Dependants, the Trustee shall pay the Benefit to his legal personal representative, 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 his estate, provided that if there be no Relatives, the Benefit shall be absolutely vested and shall remain in the Fund to be dealt with in accordance with clause 24.4.

30. PAYMENT TO OTHERS ON BEHALF OF BENEFICIARIES

Where any Beneficiary is under the age of 18 years or when in the opinion of the Trustee it is 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.

31. TAX ON BENEFITS PAYABLE AND ON CONTRIBUTIONS

31.1 Tax on Benefits

The Trustee or with the agreement of the Trustee, an insurance company or other appropriate organisation, shall deduct from any Benefit payable to any Member 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 and shall pay the said Taxation to the relevant authorities within the required time for payment.

The Member or Beneficiary shall be entitled to receive only the net Benefit or payment after the deduction of Taxation PROVIDED that if as a result of a Member electing to make a Qualifying Eligible Termination Payment a refund of Taxation paid by the Trustee is paid to the Trustee by the Australian Taxation Office, the Trustee shall pay the full amount of the refund to the payee of the Qualifying Eligible Termination Payment.

31.2 Tax on Contributions

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

32. PAYMENT OF BENEFITS

32.1 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.

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

32.2 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 he changes address of:

- (a) his place of residence and its full postal address; and
- (b) the bank account (if any) to which he requests that the Benefit be paid.

32.3 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.

33. ROLL OVER PAYMENTS

Where a Member or former Member wishes to effect a Roll Over Payment in respect of all or any of his entitlement in the Fund he shall make a request to the Trustee in writing nominating the institution to which the payment is to be made, and the amount to be applied as the Roll Over Payment. The Member or former Member shall additionally complete and execute a Roll Over Payment Notification or such other documents as shall be required to enable the Roll Over Payment to be effected and for it to be recorded by the Commissioner PROVIDED however that in circumstances acceptable to the Commissioner the Trustee may effect a Roll Over Payment without the consent of the Member or former Member.

34. PARTICIPATING EMPLOYERS

In the event that any company, person or group of persons trading in partnership -

(a) makes application to the Trustee to be admitted to make Contributions to the Fund as a Participating Employer; and

(b) the Principal Employer and the Trustee consent to the admission of the Participating Employer,

then such company, person or group of persons shall become a Participating Employer subject to the terms, conditions and provisions in this Deed and shall -

(1) execute this Deed in the space provided in Annexure B; or

(2) execute a deed on terms acceptable to the Trustee;

and the Trustee shall enter details of the Participating Employer in Annexure B which entry or details shall be conclusive of the due admission of the Participating Employer to the Fund.

TERMINATION OF EMPLOYER'S CONTRIBUTIONS

Termination of Employer's Contributions

An Employer's Contributions shall terminate and the Employer shall cease to be an Employer for the purposes of the Fund on the date that -

(a) a deed of appointment placing the Employer in receivership is executed by the administrator of the receiver;

(b) a resolution of the Members or an order of a Court places the Employer in liquidation;

(c) the Employer voluntarily terminates its Contributions by notice in writing to the Trustee; or

(d) the Employer fails to make a Contribution to the Fund for a period of 24 consecutive months and the Trustee considers the Employer to have terminated its Contributions to the Fund.

Exercise of Powers of the Principal Employer

If the Principal Employer terminates its Contributions pursuant to clause 35.1, the powers and rights vested in the Principal Employer under this Deed shall terminate and shall

thereafter 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.

35.3 Transfer of Participating Employer's Business

If a Participating Employer (called "the Former Employer") is amalgamated with or disposes of its undertaking to the Principal Employer or to another Participating Employer (called "the New Employer") Contributions shall be deemed not to have terminated but 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.

35.4 Members' Contributions Terminated

No contribution shall be made by a Member where his Employer has terminated its Contributions in respect of that Member pursuant to clause 35.1.

35.5 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.

35.6 Transfer to Another Fund

Where a Participating Employer terminates its contributions to this Fund and commences to make contributions to another Complying Superannuation Fund or Funds, 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.

36. PROVISION FOR MEMBERS FOLLOWING TERMINATION OF CONTRIBUTIONS

36.1 Cessation of Membership

Subject to clauses 35 and 37, the Members employed as at the date referred to in clause 35.1 by an Employer to which that clause applies shall cease to be Members as at that date and the Trustee shall hold in the Fund in respect of each such Member (called "the Ex-Member") the amount standing to the credit of that Member's Accumulation Account (called "the Appropriated Benefit") subject to clause 22.1.

For this purpose, the Trustee may make a valuation of all or such of the assets of the Fund and may decide and may obtain the advice of the Actuary regarding the determination of the appropriate amount.

36.2 Provision for Ex-Member

The Trustee shall deal with the Ex-Member's Appropriated Benefit in any of the following ways which may be decided by the Trustee in its absolute discretion, but subject to the conditions relating to transfers in clause 20 -

- (a) Where an Ex-Member is a member of any other superannuation arrangement, and so requests, by transfer of all or part of the Appropriated Benefit to the trustees thereof;

(b) By applying all or part of the Appropriated Benefit to provide benefits in respect of the Ex-Member which, in the opinion of the Trustee, are of a similar type to those provided by this Deed in respect of him;

(c) By paying the Appropriated Benefit or the balance of the Appropriated Benefit to the Ex-Member on his ceasing to be an Employee or to the persons referred to in clause 29, on his death.

36.3 No Further Claims Against the Fund

An Ex-Member in respect of whom an Appropriated Benefit has been determined under the provisions of clause 36.1 above shall have no right to resort to or claim against the Fund otherwise than in respect of his Appropriated Benefit.

36.4 Disposal of Residual Assets

If there remains no person entitled to a payment of an Appropriated Benefit from the Fund, any residual assets then remaining shall be dealt with pursuant to the provisions of clause 24.6.

36.5 Transfer to Another Fund

Where a Participating Employer terminates its contributions to this Fund and commences to make contributions to another fund or funds to which a concessional rate of income tax applies pursuant to the Act, 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.

37. RECONSTRUCTION OR AMALGAMATION OF AN EMPLOYER

If an Employer is reconstructed, goes into liquidation for the purpose of reconstruction, is merged or amalgamated with another employer, or if it disposes of all or any of its undertaking, the Trustee may -

(a) enter into a deed of adoption with its successor as an Employer with the object of carrying on the Fund under 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 some of 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 20 in respect of some or all Members or former members; or

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

(d) deal with the Fund in accordance with the provisions of clause 36.

38. VARIATION OF TRUST DEED

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

- (a) The Variation shall be -
- (1) 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 oral declaration or a certified copy of any written resolution shall be furnished to the Commissioner if required by the Commissioner; or
 - (2) by Deed executed by the Trustee and the Principal Employer and a copy of the Deed shall be forwarded to the Commissioner if required by the Commissioner.
- (b) On any Variation being effected the Trustee shall as soon as practicable advise the Members of the Fund of the nature and purpose of the Variation and the effect (if any) on their entitlements.
- (c) No Variation shall have the effect of reducing or adversely affecting the rights of any Member in relation to an accrued Benefit or the amount of any accrued Benefit payable to any Member or Beneficiary in the Fund without either the written consent of those Members of the Fund who are required to consent by the Commissioner or the written approval of the Commissioner.

DIVISION BMEMBERS' CONTRIBUTIONS AND BENEFITS39. APPLICATION OF DIVISION

The Benefits available under Division B shall, subject to the provisions of clause 22, apply to Employees who have been nominated to join the Fund by an Employer and who have made application as may be required from time to time to the Trustee and who have been admitted as Members of the Fund by the Trustee.

40. MEMBERSHIP CLASSIFICATION40.1 Classes of Membership

Notwithstanding anything contained in this Deed, there shall be seven classes of membership of the Fund which shall be designated:-

- "A" Membership Class
- "B" Membership Class
- "C" Membership Class
- "D" Membership Class
- "E" Membership Class
- "F" Membership Class
- "G" Membership Class

40.2 Original Class

All Members upon joining the Fund in accordance with the provisions hereof shall become members of that class of membership specified in the Schedule as the Original Class and if not so specified shall become "F" Class Members ("the Original Class") unless otherwise nominated by the Employer when a nomination for Membership is made pursuant to clause 18.1 and shall remain members of the Original Class unless and until the Trustee makes a written nomination for a Member to become a member of an additional or alternative Class and the Trustee obtains a written consent from the Employer to the nomination of the Member to an additional or alternative Class when the Member shall become a member of the Class into which he is nominated PROVIDED however that the Member shall also remain a member of the Original Class unless the Trustee nominates otherwise.

40.3 Reclassification

A Member shall be capable of reclassification to any other Class at any time in like manner PROVIDED however 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 of the Fund shall be retained as an entitlement of the Member to the extent that the entitlement was vested in the Member at the time he was a member of the other Membership Class when such reclassification took place.

40.4 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 in clause 40.3.

40.5 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 it shall designate the Class to which the Contribution is attributable in accordance with clause 19.4 and in the event that the Employer makes no such designation the Trustee at its discretion shall make such designation PROVIDED however that any Productivity Payment is to be automatically designated a Contribution attributable to the "G" Class.

40.6 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 therefor.

41. DEFINITIONS

For the purposes of this Division, unless the context otherwise requires -

"Highest Average Salary" in relation to the calculation of a Benefit means the Highest Average Salary of a Member in respect of any consecutive period of 36 calendar months during the Member's Gainful Employment which may be increased in accordance with a formula specified by the Commissioner in circumstances acceptable to the Commissioner, or such other definition of Highest Average Salary as is acceptable to the Commissioner.

"Membership Period" in relation to a Member means the continuous period expressed in years and any portion of a year that the Member has been a member of "D", "E" or "F" Class (except where his Membership Period is reduced in accordance with clause 19.2 as a result of the Member taking Special Leave) and shall include any additional Membership Period granted pursuant to the provisions of clause 18.2 together with such further additional Membership Period as the Trustee shall from time to time determine. In the circumstances of retirement by a Member as a result of Total and Permanent Disablement "Membership Period" means the Membership Period the Member would have achieved if he had remained a Member until his Normal Retirement Age.

"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.

"Pension Factor" in relation to a Member means an amount equal to 3.75% (or such other percentage as is nominated by the Employer to the Trustee in respect of a particular Member) multiplied by his Membership Period but subject to a maximum of 75% or such other maximum as shall be specified by the Commissioner.

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

42. CONTRIBUTIONS PAYABLE BY MEMBERS

42.1 Rate of Contributions

All Members may make Contributions up to such amount as may be advised by the Trustee to the members from time to time.

A Member shall normally cease making Contributions at the Normal Retirement Age.

42.2 Take Over Amounts

Member's Contributions for the purposes of this clause shall include any amounts taken over from other superannuation arrangements which are so designated pursuant to clause 20.6.

43. BENEFITS PAYABLE ON RETIREMENT

43.1 Lump Sum Classes

Where an "A" Class Member or a "B" Class Member or a "C" Class Member retires from his employment at or after the Normal Retirement Age such Member shall be entitled to be paid the amounts standing to the credit of his Accumulation Account or Accounts applicable to the relevant Class or Classes as at the date of his payment.

43.2 Pension Classes

Where a "D" Class Member or an "E" Class Member or an "F" Class Member retires from his employment at or after the Normal Retirement Age the Trustee shall pay a Pension to such Member which shall, subject to clause 51, be for an annual amount determined by multiplying the Member's Pension Factor by the Member's Highest Average Salary.

43.3 "G" Class Membership

Where a "G" Class Member retires from his employment at or after the Normal Retirement Age such Member shall be paid a lump sum Benefit equal to the full amount standing to the credit of his "G" Class Accumulation Account as at the date of payment unless the Member nominates to the Trustee prior to retirement to take a Pension Benefit in which case his "G" Class Benefit will be paid in accordance with clause 26.

44. DISABLEMENT

44.1 Total and Permanent Disablement

In the event that a Member of any Class whilst he is employed by the Employer (and has not been dismissed or resigned from such employment) shall become in the opinion of the Trustee Totally and Permanently Disabled as defined in clause 4 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:-

(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:-

- (1) the Member's Vested Contributions in relation to his "A" Class Accumulation Account;
- (2) the proceeds of any Policy effected in relation to his "A" Class Accumulation Account and which are received as a result of the Total and Permanent Disablement of the Member;
- (3) such further portion of the balance of the Member's "A" Class Accumulation Account as the Trustee shall determine.

(b) "B" Class Membership

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

- (1) the Member's Vested Contributions in relation to his "B" Class Accumulation Account;
- (2) an amount equivalent to a percentage of the balance of the Member's "B" Class Accumulation Account as at the date of payment (not including the proceeds of any Policy received as a result of the Total and Permanent Disablement of the Member) such percentage being determined by the length of time such Member has been a Member of the Fund. The percentage of the balance of the Member's "B" Class Accumulation Account to be paid to the Member is as set out in the second column of Annexure C of this Deed opposite the number of years specified in the first column of Annexure C as the number of years for which the Member has been a Member of the Fund as at the date of his Total and Permanent Disablement;
- (3) the proceeds of any Policy effected in relation to his "B" Class Accumulation Account and which are received as a result of the Total and Permanent Disablement of the Member;
- (4) such further portion of the balance of the Member's "B" Class Accumulation Account as the Trustee 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 his payment.

(d) "D", "E" or "F" Class Membership

For a "D" Class, "E" Class or "F" Class Member of the Fund a Pension which shall, subject to clause 51, be for an annual amount determined by multiplying the Member's Pension Factor by the Member's Highest Average Salary and for the purposes of clause 51 the entitlement of the Member shall be the total of the following amounts:-

- (1) In respect of the Member's "D" Class Accumulation Account
 - (i) the Member's Vested Contributions in relation to his "D" Class Accumulation Account;
 - (ii) the proceeds of any Policy effected in relation to his "D" Class Accumulation Account which are received as a result of the Total and Permanent Disablement of the Member;
 - (iii) such further portion of the balance of the Member's "D" Class Accumulation Account as the Trustee shall determine.
- (2) In respect of the Member's "E" Class Accumulation Account
 - (i) the Member's Vested Contributions in relation to his "E" Class Accumulation Account;

(ii) an amount equivalent to a percentage of the balance of the Member's "E" Class Accumulation Account as at the date of his Total and Permanent Disablement (not including the proceeds of any Policy received as a result of the Total and Permanent Disablement of the Member) such percentage being determined by the length of time such Member has been a Member of the Fund. The percentage of the balance of the Member's "E" Class Accumulation Account to be taken into account for the value of the Pension payable to the Member is as set out in the second column of Annexure C opposite the number of years specified in the first column of Annexure C as the number of years for which the Member has been a Member of the Fund as at the date of his Total and Permanent Disablement;

(iii) the proceeds of any Policy effected in relation to his "E" Class Accumulation Account which are received as a result of the Total and Permanent Disablement of the Member;

(iv) such further portion of the balance of the Member's "E" Class Accumulation Account as the Trustee shall determine.

(3) In respect of the Member's "F" Class Accumulation Account

the full amount standing to the credit of the Member's "F" Class Accumulation Account as at the date of his Total and Permanent Disablement.

(e) "G" Class Membership

For a "G" Class Member a lump sum Benefit equal to the full amount standing to the credit of his "G" Class Accumulation Account as at the date of payment unless the Member nominates to the Trustee prior to retirement as a result of Total and Permanent Disablement to take a Pension Benefit in which case his Benefit will be paid in accordance with clause 26.

44.2 Temporary Total Disablement

In the event that a Member of any Class whilst he is employed by the Employer (and has not been dismissed or resigned from such employment) shall become in the opinion of the Trustee totally disabled as defined in this clause and a Policy has been effected by the Trustee in respect of the Member or Members which covers such total disablement then the following provisions of this clause shall take effect:-

(a) A Member will be recognised as having become totally disabled (but not Totally and Permanently Disabled) if -

(1) he is disabled as a result of illness, accident or injury which commences at or prior to his attaining the age of 65 years or his Normal Retirement Age (whichever is the earlier); and

(2) as a result of the illness, accident or injury the Member has been continuously absent from his employment with the Employer for the eligibility period contained in any Policy effected in respect of the Member; and

(3) the Trustee after consultation with the Insurance Company is satisfied that the Member is disabled within the meaning of the definition of temporary total disablement agreed upon by the Trustee and the Insurance Company; and

- (4) the Trustee expects the Member's disablement to be temporary.
- (b) The Member shall be paid (to the extent acceptable to the Commissioner) an income benefit of an amount equal to the amount payable as a result of the Member's total disablement under the Policy arranged between the Trustee and the Insurance Company and advised to the Member at the time the Employee became a Member or at the time the Policy was effected in the manner specified in the Policy.
- (c) Payment of Contributions to the Fund by the Member (if any) may be suspended during such time as any income benefit is payable as aforesaid.
- (d) The Member will continue to be a Member of the Fund during the period he is totally disabled and for the eligibility period of absence caused by his total disablement and the aggregate of the said periods will for the purpose of the Fund be deemed to be included in the Member's years as a Member of the Fund and in the Member's Membership Period.
- (e) The income benefit under this clause will cease to be payable in accordance with the conditions applicable to the Policy.

45. LEAVING SERVICE

In the event of a Member of any Class ceasing to be employed by the Employer prior to the Normal Retirement Age for any reason other than death or Total and Permanent Disablement, the Trustee shall, subject to clauses 35 and 37, 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:-

- (1) the Member's Vested Contributions in relation to his "A" Class Accumulation Account;
- (2) such further portion of the balance of the Member's "A" Class Accumulation Account as the Trustee shall determine.

(b) "B" Class Membership

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

- (1) the Member's Vested Contributions in relation to his "B" Class Accumulation Account;
- (2) an amount equivalent to a percentage of the balance of the Member's "B" Class Accumulation Account as at the date of his payment such percentage being determined by the length of time such Member has been a Member of the Fund. The percentage of the balance of the Member's "B" Class Accumulation Account to be paid to the Member is as set out in the second column of Annexure C of this Deed opposite the number of years specified in the first column of Annexure C as the number of years for which the Member has been a Member of the Fund as at the date of his ceasing to be employed by the Employer;

(3) such further portion of the balance of the Member's "B" Class Accumulation Account as the Trustee 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 his payment.

(d) "D", "E" or "F" Class Membership

For a "D" Class, "E" Class or "F" Class Member of the Fund a Pension which shall, subject to clause 51, be for an annual amount determined by multiplying the Member's Pension Factor by the Member's Highest Average Salary and for the purposes of clause 51 the entitlement of the Member shall be the total of the following amounts:-

(1) In respect of the Member's "D" Class Accumulation Account

(i) the Member's Vested Contributions in relation to his "D" Class Accumulation Account;

(ii) such further portion of the balance of the Member's "D" Class Accumulation Account as the Trustee shall determine.

(2) In respect of the Member's "E" Class Accumulation Account

(i) the Member's Vested Contributions in relation to his "E" Class Accumulation Account;

(ii) an amount equivalent to a percentage of the balance of the Member's "E" Class Accumulation Account as at the date of his payment such percentage being determined by the length of time such Member has been a Member of the Fund. The percentage of the balance of the Member's "E" Class Accumulation Account to be taken into account for the value of the Pension payable to the Member is as set out in the second column of Annexure C opposite the number of years specified in the first column of Annexure C as the number of years for which the Member has been a Member of the Fund as at the date of his ceasing to be employed by the Employer;

(iii) such further portion of the balance of the Member's "E" Class Accumulation Account as the Trustee shall determine;

(3) In respect of the Member's "F" Class Accumulation Account

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

(e) "G" Class Membership

For a "G" Class Member of the Fund a lump sum Benefit equal to the full amount standing to the credit of his "G" Class Accumulation Account as at the date of his payment unless the Member nominates to the Trustee prior to his cessation of employment to take a Pension Benefit in which case his Benefit will be paid in accordance with clause 26.

(f) 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, "Member's Vested Contributions" shall mean in relation to those Contributions and any Net Earnings which would but for this clause be applicable thereto the surrender value of such endowment or whole of life Policy.

46. PRESERVED PAYMENT BENEFITS46.1 Payment Limitation

Notwithstanding the provisions of clauses 24, 36, 43, 44 and 45, no Preserved Payment Benefit shall be paid to a Member or his Dependants until retirement of the Member from Gainful Employment at or after age 55, his earlier death or in other circumstances and in a form acceptable to the Commissioner.

46.2 Preservation of Benefit

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, either be dealt with in accordance with clause 20.4 or be retained in the Fund subject to the provisions of clause 53 and clause 46.1.

47. PAYMENT ON DEATH

On the death of a Member of any Class whilst he is still a Member prior to the Normal Retirement Age the Trustee shall, subject to clause 22, pay in accordance with the provisions of clause 29 the following amounts:-

(a) "A" Class or "D" Class Membership

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

- (1) the Member's Vested Contributions in relation to his "A" and "D" Class Accumulation Accounts;
- (2) the proceeds of any Policy effected in relation to his "C" and "D" Class Accumulation Accounts and which are received as a result of the death of the Member;
- (3) such further portion of the balance of the Member's "A" Class or "D" Class Accumulation Account as the Trustee shall determine.

(b) "B" Class or "E" Class Membership

In respect of a Member's "B" Class and "E" Class Accumulation Accounts a lump sum Benefit equal to the total of the following amounts:-

- (1) the Member's Vested Contributions in relation to his "B" and "E" Class Accumulation Accounts;
- (2) an amount equal to a percentage of the balance of the Member's "B" and "E" Class Accumulation Accounts as at the date of his payment (not including the proceeds of any Policy received as a result of the death of the Member) such percentage being determined by the length of time such Member has been a

Member of the Fund. The percentage of the balance of the Member's "B" and "E" Class Accumulation Accounts to be paid to the Member is as set out in the second column of Annexure C of this Deed opposite the number of years specified in the first column of Annexure C as the number of years for which the Member has been a Member of the Fund as at the date of his death;

(3) the proceeds of any Policy effected in relation to his "B" and "E" Class Accumulation Accounts and which are received as a result of the death of the Member;

(4) such further portion of the balance of the Member's "B" Class or "E" Class Accumulation Account as the Trustee shall determine.

(c) "C" Class or "F" Class or "G" Class Membership

For a "C" Class Member or an "F" Class Member or a "G" Class Member of the Fund a lump sum Benefit equal to the total of the full amounts standing to the credit of the Member's "C" Class, "F" Class and "G" Class Accumulation Accounts as at the date of payment.

48. COMMUTATION OF PENSION BENEFITS ON DEATH

On the death of a former Member of any Class or a Beneficiary who is at the time of his death still in receipt of a Pension pursuant to the provisions in this Deed the Trustee may subject to clause 52 pay to the Dependents of the former Member or to the estate of the Member in such proportions as it shall in its absolute discretion determine the balance of the Member's Accumulation Account which has not been paid out by way of a Pension during his lifetime.

49. ASSURANCE

49.1 Power to Effect Policy

In addition to any other power in this Deed to effect a Policy the Trustee may insure or acquire life cover on the lives of any Member or Members for the provision of benefits to be payable to the Trustee on the death or disablement of the relevant Member or Members (and the term "Policy" shall include a Policy for or including such life cover). In the event of such death or disablement the Trustee shall credit the Accumulation Account of the Member or former Member with the full amount of the proceeds received under the Policy.

49.2 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, "Member's Vested Contributions" shall mean in relation to those Contributions and any Net Earnings which would but for this clause be applicable thereto the surrender value of such endowment or whole of life Policy.

50. INCREASES TO BENEFITS

In circumstances where a Member ceases to be employed by an Employer otherwise than in accordance with clause 45 the Trustee shall take into account the Member's interest in the Equalisation Account (if any) and shall take the advice of the Actuary 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.

51. AMOUNTS OF INSTALMENTS OF PENSION

51.1 Total of Member Accumulation Account

Notwithstanding anything to the contrary in this Division where the Benefit payable in respect of a Member is payable in the form of a Pension, or where the Trustee purchases an Annuity on behalf of a Member then the instalments of the Pension shall, subject to clauses 22 and 50, be equal to such amount as the Trustee considers appropriate taking into account the amount standing to the credit of the Member's Accumulation Account (or the amount represented by the proportion of the Accumulation Account to which the Member is entitled, if less).

51.2 Pension Increase

Any Pension payable pursuant to clauses 43, 44 and 45 shall, if required by the Commissioner, be increased in course of payment from time to time by such amount as the Trustee in its absolute discretion considers appropriate to compensate the Pensioner for cost of living increases PROVIDED that the amount of the increase expressed as a percentage shall not exceed for the corresponding period the percentage increase in the Consumer Price Index (All Groups) weighted average of eight capital cities (as published by the Australian Bureau of Statistics), or in the event that the Consumer Price Index (All Groups) weighted average of eight capital cities ceases to be published, such other measure of cost of living increases as the Trustee, after seeking the advice of the Actuary, considers appropriate.

51.3 Pension for Life

Any Pension payable under this Deed shall be paid for life but at the request of a Member and if acceptable to the Commissioner the Trustee may pay a Pension for any period certain not exceeding ten years.

52. DEPENDANT PENSION ON DEATH OF PENSIONER

On the death of a former Member of any Class who is at the time of his 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 a Pension not exceeding 85% of the Pension that was being paid to the former Member as at the date of his death or such other amount as shall be acceptable to the Commissioner to the Spouse.

53. PERSONS TO WHOM BENEFITS ARE PAYABLE

Subject to the provisions of this Deed, the Trustee shall pay the Benefits referred to in this Deed as follows:-

- (a) Where the Benefit or balance of the Benefit is payable following the death of the Member or former Member the payment shall, subject to clause 53.4, be made in accordance with the provisions of clause 29.
- (b) Where the Benefit or balance of the Benefit is payable as a Roll Over Payment it shall be made in accordance with the provisions of this Deed to the trustee of the other fund or arrangement.
- (c) Where the Benefit or balance of the Benefit is payable following the disablement of a member the payment shall be made to the Member or alternatively, in the event of the death of the member, to the Dependants of the Member, but in any event no

such payment shall be made until such time as the Member leaves the service of the Employer other than a payment pursuant to clause 44.2.

(d) Where the Benefit or balance of the Benefit is payable as a reversionary Pension it shall be paid in accordance with the provisions of clause 52.

(e) In all other cases the Benefit shall be paid to the Member.

54. RETENTION OF BENEFIT IN FUND

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

- (a) the former Member or Beneficiary entitled requests that it be paid to him;
- (b) the Member dies in which event it will be paid pursuant to clause 53.1;
- (c) the attainment by the Member of the age of 65 years or his Normal Retirement Age whichever is earlier; or
- (d) the Trustee elects for whatever reason to pay the Benefit to the former 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.

ANNEXURE AAPPLICATION FOR MEMBERSHIPCONFIDENTIAL

To: The Trustee,

(Name of Fund)

Re: Membership

I, the undersigned person, being eligible hereby apply for admission to membership of the Fund.

I agree and undertake as follows:-

- (i) I will be bound by the Trust Deed governing the Fund as it is or may be by variation from time to time.
- (ii) I will make a full disclosure in writing of any benefits I have received, may receive or may be entitled to receive from any other Superannuation Fund, Approved Deposit Fund or Roll Over Annuity.
- (iii) I understand the terms and conditions of the Trust Deed and more particularly the terms and conditions of Division B of the Deed concerning benefits payable and I acknowledge I have been informed of my rights and the rights of my Dependants pursuant to the Deed.
- (iv) I consent to the Trustee acting as Trustee of the Fund.

I declare that the rights held by me and the amounts received by me from any superannuation fund, pension fund, Approved Deposit Fund, Annuity or Employer are set out in the Attachment.

Dated the day of 198 ..

Name: Signature:

Address: Occupation:
 Date of Birth:

NOMINATED DEPENDANT(S)

I nominate the undermentioned persons as my Nominated Dependants:-

SURNAME	GIVEN NAME(S)	RELATIONSHIP	% OF TOTAL BENEFIT

ANNEXURE A (CONT'D)ATTACHMENTPART 1DETAILS OF OTHER FUND OR PLAN MEMBERSHIPS

- * Total Number of other Plans or Funds or Annuities ()

=====

- * Name of other Plan or Fund or Annuity _____

- * Trustees _____

- * Address of Trustees _____

- * Value of Accumulation Account or Members Credit
or Benefit presently applicable to Applicant \$ _____

- * Contributions paid by Applicant to Plan \$ _____

- * Value of Preserved Benefit (including Productivity
Benefit) \$ _____

=====

DETAILS OF AMOUNTS (NOT BEING ROLL OVERS) PREVIOUSLY RECEIVED FROM
SUPERANNUATION FUNDS, PENSION FUNDS, APPROVED DEPOSIT FUNDS, ROLL OVER
ANNUITIES AND EMPLOYERS

- * Total number of such amounts previously received ()

=====

Amount received \$ _____ Date _____

Name of Employer, Superannuation Fund, Approved Deposit Fund, Deferred Annuity.

=====

PART 3FOR ANY PLANS, FUNDS OR ANNUITIES LISTED INPARTS 1, 2 OR 3 PLEASE COMPLETE DETAILS

1. (a) Was the Plan, Fund or Annuity Employment Related? YES/NO
- (b) Was the Plan, Fund or Annuity a personal arrangement? YES/NO
- (c) What date did you join? The day of 19.....

YEAR	AMOUNT
------	--------

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

=====

ANNEXURE B

PARTICIPATING EMPLOYERS

ADMITTED TO FUND PURSUANT TO CLAUSE 34

NAME OF PARTICIPATING
EMPLOYERS

DATE OF
ADMISSION

EXECUTION OF PARTICIPATING
EMPLOYER OR TRUSTEE

1

ANNEXURE CPERCENTAGE VESTING SCHEDULE

Number of Years Completed as a Member of the Fund		Percentage of the balance of Member's Accumulation Account payable to Member
at least	less than	
0	2	Nil
2	4	5
4	6	10
6	8	15
8	10	20
10	12	25
12	14	30
14	16	35
16	18	40
18	20	45
20	22	50
22	24	55
24	26	60
26	28	65
28	30	70
30	32	75
32	34	80
34	36	85
36	38	90
38	40	95
40 and over		100

SCHEDULE

PRINCIPAL EMPLOYER:

V MARTYN PTY. LTD. (A.C.N. 009 121 313) of 15 Vance
Place Bullcreek Western Australia

PARTICIPATING EMPLOYER:

Nil

NAME OF FUND:

THE V MARTYN SUPERANNUATION FUND

DATE OF
ESTABLISHMENT OF FUND:

The date of execution of this Deed

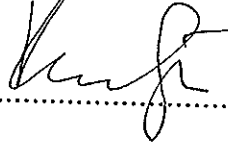
ORIGINAL CLASS:

"F" Class

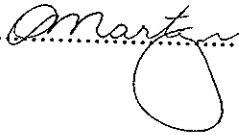
EXECUTED on the 2nd day of September 1992.

The COMMON SEAL of
V MARTYN PTY. LTD.
(A.C.N. 009 121 313)

was hereunto affixed by
authority of the Directors
in the presence of -



Director



Director/Secretary

