

TRUST DEED AND ARTICLES

OF

ANDREW DESMOND SUPERANNUATION FUND

A FULLY COMMUTABLE ALLOCATED PENSION FUND

**AM CORPORATION LIMITED
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Ref: PH/RW**

THIS TRUST DEED made the twenty eighth day of February one thousand nine hundred and ninety seven

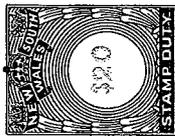
BETWEEN Andrew Desmond of 5/140 Holt Avenue, Cremorne in the State of New South Wales (hereinafter and in the Articles called "the Founding Member" and "Sole Trustee") of the one part

WHEREAS

- A. The Founding Member desires to establish and maintain an indefinitely continuing Fund (hereinafter and in the Articles called "the Fund") for the sole or primary purpose of providing old-age pension benefits for working persons who become Members of the Fund in the event of the retirement of the Member and benefits for Dependants of each Member of the Fund in the event of the death of the Member.
- B. The Trustee(s) have agreed to act as the first Trustee(s) of the Fund.
- C. The Founding Member has agreed to be the first Member of the Fund.

NOW THIS DEED WITNESSES that:

- 1.(a) The Founding Member hereby establishes an indefinitely continuing Fund which is vested in the Trustee(s) for the sole or primary purpose of providing old-age pension benefits for each Member of the Fund in the event of the retirement of the Member and for the benefit of any Dependants of each Member in the event of the death of the Member and any other ancillary benefits approved by the Commissioner.
- (b) The Trustee(s) hereby declare that they hold all of the assets of the Fund in trust to be applied in accordance with the provisions of this Deed and will administer them in accordance with the Articles for the time being in force.
- 2. This Fund is called the Andrew Desmond Superannuation Fund.
- 3. The Fund comes into operation on the twenty eighth day of February one thousand nine hundred and ninety seven (hereinafter and in the Articles called "the Commencement Date").
- 4. This Deed and Articles in force from time to time extends to the successors and assigns of each of the parties hereto and of each such other party as shall by instrument in writing adopt this Deed.
- 5. The Articles means the rules set forth in the Articles annexed hereto as amended from time to time.
- 6. The rules and provisions and conditions contained in the Articles shall have the same force and effect as if set out in the body of this Deed.
- 7. This Deed shall be interpreted in accordance with the definitions forming part of the Articles attached hereto.



8. The Trustee(s) with the agreement of a simple majority of the Members may at any time by oral resolution or by instrument in writing amend all or any of the provisions of this Deed PROVIDED THAT any amendment which reduces any benefit that has accrued to any Member or which affects the basis for calculating the amount of retirement benefit of any Member in a way that reduces that amount with respect to the period of membership before the date of the amendment and which retrospectively reduces benefits accrued or payable to any Member, shall require the written approval of the Commissioner or all the Members of the Fund or any other requirement of the Commissioner

PROVIDED FURTHER THAT no amendment introduced primarily for the purpose of securing exemption or relief from liability for income tax under the provisions of the Income Tax Assessment Act 1936 (hereinafter and in the Articles called "the Tax Act") and/or compliance under the provisions of the Occupational Superannuation Standards Act 1987 and the Superannuation Industry (Supervision) Act 1993 (hereinafter and in the Articles called "the Super Act") shall be deemed to be detrimental to interests of the Members

AND PROVIDED ULTIMATELY THAT the Trustee(s) shall give to each Member as soon as practicable thereafter, a written statement explaining the nature and purpose of the amendment and the effect (if any) of the amendment on the entitlements of the Members.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals this day and year first hereinbefore written:

SIGNED SEALED AND DELIVERED)

by Andrew Desmond)

in the presence of:)



Witness



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CHAPTER 1: DEFINITIONS and INTERPRETATION

1.1 In the Trust Deed to which these Articles are an annexure and in these Articles unless the context indicates otherwise the following words and expressions have the following meanings:

Act: The Tax Act or the Super Act (or both) as the case admits or the context requires in any particular case or context.

Adopted Child: In relation to a person, means a person adopted by the first mentioned person:

(a) under the law of a State or Territory relating to the adoption of children; or

(b) under the law of any other place relating to the adoption of children, if the validity of the adoption would be recognised under the law of any State or Territory.

Approved Deposit Fund:

A fund established in accordance with the provisions of the Super Act as an indefinitely continuing fund the sole purpose of which is to act as an investment repository for eligible termination benefits and has the meaning given to that term by section 10 of the Super Act.

Auditor: An independent registered auditor or such other person who satisfies the definition of "approved auditor" in the Regulations of the Super Act.

Child: In relation to a person, includes an Adopted Child, a step-child or an ex-nuptial child of the person.

Commissioner: The Commissioner of Taxation or the Insurance and Superannuation Commissioner (or both) as the case admits or the context requires in any particular case or context and includes such person or persons replacing or otherwise exercising the functions thereof by reason of amendment to replacement of or consolidation of the Act.

Commissioner of Taxation:

The person for the time being holding the office of Commissioner of Taxation under the Tax Act.

Company:

Includes any company, corporation, corporation sole and public or semi-government body or authority which is incorporated in or under the laws of a country, if the validity of the incorporation would be recognised under the law of any State or Territory, or the Act.

Constitution Corporation:

Has the meaning attributed to it in the Super Act.

Deed:

Any reference in the Trust Deed to which these Articles are an annexure or in the Articles to "this Deed" shall be and be deemed to be a reference to and to include both the Trust Deed to which these Articles are an annexure and to these Articles themselves.

Deferred Benefit:

A benefit payable at a later date pursuant to Article 5.13.

Dependant:

In relation to a person, includes any person who is or was the Spouse of the person and any Child of the person.

Designated Beneficiary:

A Dependant specified in writing by a Member to the Trustees.

Employee:

A person who is in the employment of an Employer and in the case of an Employer which is a Company, includes a director of the Company.

Employer:

Any employer which is a Company, trust, partnership, sole trader or other entity approved by the Trustees to participate in the Fund as an Employer and approved to be an Employer in accordance with Article 7.1 and includes a person who engages another person to perform work under a sub-contract.

Employer-Financed Vested Benefit:

Of any Member means any part or all of the contributions made by the Employer of that Member voluntarily and/or by specific agreement with that Member and/or in accordance with certified agreements or consent awards ratified by the Australian Conciliation and Arbitration Commission (or relevant State Commission or Tribunal) and conferred on that Member to be an entitlement on resignation or withdrawal and includes amounts to which that Member becomes entitled upon withdrawal or as a result of the exercise of a discretion by the Trustees or the Employer as to the amounts of benefits payable upon withdrawal or which are otherwise deemed by the Commissioner to be an Employer-Financed Vested Benefit.

Forfeited Benefits Register:

The register established and maintained in accordance with Article 4.10.

Fully Commutable Pension:

A pension payable under this Deed where the person entitled to the pension has the sole right to convert that pension in whole or in part to an equivalent lump sum (as determined by the Trustees) and such right to convert the pension is exercisable at the time of entitlement or at any time thereafter provided that such conversion is acceptable to the Commissioner.

Fund:

Is the Fund established by clause 1 of this Deed.

Fund Account: The accounts of the Fund established pursuant to Article 4.7.

Individual Account: The separate account maintained for each Member of the Fund pursuant to Article 4.8.

Insurance and Superannuation Commissioner:

The person for the time being holding the office of Insurance and Superannuation Commissioner under the Insurance and Superannuation Commissioner Act, 1987.

Legal Personal Representative:

The person or persons who are an executor or administrator of the estate of a deceased person, the Trustee of the estate of a person under a legal disability or a person who holds a general power of attorney granted by a person.

Member:

The Founding Member and any person who has applied to join the Fund and who has been approved by the Trustees as a Member of the Fund and who has not ceased to be a Member of the Fund, and includes persons in receipt of a pension from the Fund and former Members who continue to have rights or contingent rights to benefits under the Fund.

Member-Financed Benefit:

The accumulation of the Member's contributions plus the amount transferred to the Fund in respect of that Member being a benefit from the previous fund that had, prior to that transfer, become vested in the Member, together with the Net Earnings allocated on those contributions and transfer. The Member-Financed Benefit shall at all times be calculated in accordance with the Regulations of the Super Act.

Net Earnings:

The proportion of the Net Income of the Fund for a year allocated by the Trustees to the Members' Individual Accounts and Reserves and in accordance with the guidelines of the Commissioner. The Trustees may determine an interim net earning rate for the purposes of allocating Net Earnings for benefits payable during the year or after the year if the Fund accounts are not finalised PROVIDED THAT the Trustees in determining the proportion of the net income and realised profits (or losses) uses an interim rate of earnings which is determined with regard to the manner in which the earning rate actually credited in the previous period was determined, the likely investment conditions in the following period and any particular matters which are likely to influence the earning rate in the period AND THAT such interim rate of earnings be applied consistently to all Members leaving the Fund PROVIDED FURTHER THAT the interim earning rate may be amended before the end of the period when it is considered that the use of another rate is more appropriate having regard to the beforementioned factors.

Net Income:

The total investment income plus realised capital profits (or losses) less any taxes, administration and other costs acceptable to the Commissioner incurred in running the fund as determined by the Trustees. The Trustees may also take into account any unrealised capital profits or losses less provision for tax. The Trustees may transfer a part (that is acceptable to the Commissioner) of the Net Income in any year to one or more Reserves.

Normal Retirement Date:

Means in respect of a Member the day of attaining age 65 or such other age as specified by the Regulations of the Super Act.

Partially Commutable Pension:

A pension payable under this Deed where the person entitled to the pension has the sole right to convert in whole or in part up to fifty percent (50%) of that pension to an equivalent lump sum and such right to convert the pension is exercisable at the time of entitlement or at any time thereafter provided that such conversion is acceptable to the Commissioner.

Permanent Disablement:

- (a) The Member having suffered the loss of two limbs, or the sight of both eyes or the loss of one limb and the sight of one eye (where limb is defined as the whole hand or foot); or

- (b) The Member being absent from his employment with his Employer or his place of work through injury or illness for six consecutive months and in the opinion of the Trustees, after consideration of medical evidence, having become incapacitated to such an extent as to render the Member unlikely ever to resume work or attend to any gainful profession or occupation; or
- (c) such other incapacity as the Trustees shall regard as Permanent Disablement (as defined in the Super Act) certifying that in their opinion the Member is unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education training or experience.

Every question of Permanent Disablement shall be decided by the Trustees after consideration of medical evidence and their decision shall be conclusive and binding on all parties.

Preservation Age: Age fifty five (55) or such other age as is permitted or required by the Act or the Commissioner from time to time.

Reserve: The provision or reserve within the Fund established by the Trustees pursuant to Article 4.9.

Retirement (including retires): In relation to a Member has the same meaning as defined in the Regulations of the Super Act.

Salary: The annual salary or notional salary as defined by the Commissioner from time to time where the salary shall be the annual remuneration of the Member including director's fees commissions and bonuses as advised by the Employer or Member as the case may be.

Spouse: In relation to a person, includes another person who, although not legally married to the person, lives with the person on a bona fide domestic basis as the husband or wife of the person.

Super Act: The Occupational Superannuation Standards Act, 1987 as amended, and for a regulated Fund, the Superannuation Industry (Supervision) Act, 1993 as amended.

Tax Act: The Income Tax Assessment Act, 1936 as amended.

**Temporary
Disablement:**

Means the continuous disability of a Member due to physical or mental disability, bodily injury, illness, disease or infirmity rendering a Member unable to perform his normal duties for his Employer or at his place of work and not incurred or inflicted for the purpose of obtaining a benefit from the Fund. Every question of Temporary Disablement shall be decided by the Trustees after consideration of medical evidence and their decision shall be conclusive and binding upon all parties concerned.

Trustees:

The first trustee or trustees of the Fund or any other trustees of the Fund appointed from time to time pursuant to and in accordance with Articles 6.1 to 6.4 inclusive, whether substituted or additional.

- 1.2 In the Deed and Articles, unless inconsistent with the subject matter or context, words importing the singular number shall include the plural number and vice versa and words importing one gender shall include the other genders.
- 1.3 The Index to this Deed and the headings inserted in any Article are for convenience only and shall not affect the interpretation of the provisions of that Article.
- 1.4 If any term defined in the Act is used in this Deed but not defined herein then such term shall have the same meaning that it has for the purposes of the Act.
- 1.5 References in this Deed and Articles to any statute are to be deemed to include a reference to that statute as amended from time to time or any consolidation or re-enactment thereof or any statute enacted in substitution of the same and reference to any provision of any statute is to be deemed (where appropriate) to include reference to the corresponding provision of that statute as amended or any consolidation or re-enactment thereof or any statute enacted in substitution therefor.
- 1.6 This Deed in force from time to time extends to the successors and assigns of each of the parties hereto and of each such other party as shall by instrument in writing adopt this Deed.

CHAPTER 2: MEMBERSHIP

APPLICATION FOR MEMBERSHIP

- 2.1 (a) Every person who is invited by the Trustees to participate in the Fund shall apply in writing in a form approved by the Trustees for admission to membership of the Fund and on approval by the Trustees shall become a Member of the Fund and the Trustees shall give to the person a written statement containing details of the kinds of benefits provided to Members by the Fund, the conditions relating to those benefits and the method of determining entitlements to Members.
- (b) The Trustees shall not be obliged to invite a person to participate in the Fund if that person does not comply with the requirements of the Commissioner.
- 2.2 The completed and signed application of a person shall constitute agreement by that person:
- (a) to become a Member of the Fund; and
- (b) to be bound by the terms and conditions of this Deed.
- 2.3 A Member shall cease to be a Member of the Fund at a date determined by the Trustees.
- 2.4 Except as provided for in this Deed or any other circumstance approved by the Commissioner, a Member shall not be entitled to any benefit from the Fund while remaining an Employee of any Employer who contributes to or has contributed to the Fund on his behalf.

PORTABILITY: TRANSFER FROM ANOTHER FUND

- 2.5 The Trustees may make such arrangements as they think proper with a Member or any previous Employer of the Member or the trustee of any superannuation fund or Approved Deposit Fund of which the Member was a Member for any transfer of assets (including cash) to the Fund and may make arrangements regarding any other matter which in their opinion is pertinent to or consequent upon the admission of such Member to membership of the Fund

PROVIDED THAT such part or the whole (as the case may be) of that Member's transferred amount that is attributable to contributions made in consequence of an industrial award or that is otherwise an Employer-Financed Vested Benefit or other benefit subject to compulsory preservation must be held in trust until:

- (a) the death or Permanent Disablement of the Member;
- (b) the Member attains Preservation Age and retires from the workforce;
- (c) the permanent departure of the Member from Australia; or
- (d) such other event as is required or approved by the Commissioner; and

PROVIDED FURTHER THAT such part or the whole (as the case may be) of that Member's transferred amount that had prior to the transfer become vested in the Member shall at all times be deemed to be a Member-Financed Benefit.

PORTABILITY: TRANSFER TO ANOTHER FUND

2.6 Should a Member request the transfer of his entitlement to another superannuation fund or Approved Deposit Fund or annuity, and:

- (a) leave the employment of his Employer and become eligible to join the other superannuation fund or an Approved Deposit Fund or elect to apply his benefit toward the purchase of an annuity (either immediate or deferred); or
- (b) remain in the employment of his Employer and become eligible to join the other superannuation fund;

the Trustees may with the agreement of the Member transfer (by a payment in cash or transfer in specie), in lieu of part or all of any other benefit to which the Member may be entitled under this Deed, directly to the Trustees of that other superannuation fund or Approved Deposit Fund or directly to the life office or other financial institution granting that annuity (as the case may be) such portion of the assets of the Fund as the Trustees consider equitable and shall advise the trustees of that other superannuation fund or Approved Deposit Fund or the life office or other financial institution granting that annuity the proportions (if any) of the amount so paid which are deemed to be an Member-Financed Benefit and an Employer-Financed Vested Benefit PROVIDED THAT the transfer of that part (if any) of the total benefit being transferred which is attributable to contributions made pursuant to and in connection with an industrial award or other benefit or which is otherwise an Employer-Financed Vested Benefit or other benefit subject to compulsory preservation may only be transferred to a superannuation fund or Approved Deposit Fund which has the appropriate provisions to continue to preserve such part of the transferred amount as is required by the Commissioner from time to time or may only be applied toward the purchase of an annuity which may not commence payments prior to Preservation Age and which cannot be surrendered prior to that age (as the case may be).

- (c) where a period of 90 days has elapsed since a benefit (other than a pension) became payable under this Deed and the benefit has not been paid, the Trustees may pay the benefit to an eligible rollover fund, as defined in the Act. The Trustees must make such payment where the Trustees are satisfied that two reports to Members (that are required to be given under the Act) have not been received by the Member to whom the benefit has become payable. However, if the benefit payable is less than \$500 (or another amount prescribed in the Act), the Trustees may treat the benefit as unclaimed money and pay it to the Commissioner in accordance with the Act.

TEMPORARY ABSENCE FROM EMPLOYMENT

- 2.7 Where the Trustees are satisfied that a Member who leaves employment for whatever reason is likely to return to that employment within a reasonable period, they may with the consent of the Member make such arrangements in regard to the benefit entitlement of the Member as they consider appropriate and without limiting the generality of the foregoing the Trustees may recognise the period of service for which the Member has temporarily withdrawn from employment for the purpose of calculating Fund Service.

INFORMATION

- 2.8 (a) Every Member Dependant and Employer when requested by the Trustees shall furnish any information the Trustees shall deem necessary for the purposes of any investigation or otherwise in connection with the Fund and without limiting the generality of the foregoing such information shall include:
- (i) evidence of age of a Member or Dependant;
 - (ii) evidence of gainful employment at the time of joining the Fund and contributions to the Fund;
 - (iii) in the case of a Member, medical evidence at the commencement of his membership of the Fund;
 - (iv) in the case of a Member receiving a pension, evidence that he has not died;
 - (v) in the case of a Dependant, evidence of the death of the Member or any other Dependant.

If any Member or Dependant fails to comply with the beforementioned, the Trustees may suspend the payment of any benefits or pensions.

- (b) Where the information is not furnished within six (6) months of the first request and/or where the information furnished by or in respect of a Member or Dependant in any statement submitted to the Trustees is fraudulently incorrect in any material particular, the benefits payable to or in respect of such Member or Dependant may cease or may be forfeited in part or whole by such amounts as shall be determined by the Trustees in their absolute discretion.
- (c) (i) The Trustees shall provide the Members and prospective Members, or cause the Members and prospective Members, to be provided with such statements, notices, documents and information concerning the administration of the Fund as is required by the Act, including prescribed information on request and information concerning significant events. The Trustees shall retain for so long as they are relevant and, in any event, for at least ten years or for such other period as required by the Act, copies of all reports given to the Members.

- (ii) If the Trustees cause someone else to provide a Member or prospective Member with such a statement, notice, document or such information, the Trustees shall, if required by the Act, obtain from that person a written declaration stating that the person has provided the Member or prospective Member with a statement, notice, document or information, as the case may be.

- (d) The Trustees shall provide the Employers with such notices, statements and other information as may be required by the Act.

CHAPTER 3: CONTRIBUTIONS

- 3.1 In the case of a Member who is an Employee, the Employer of the Member shall contribute to the Fund from time to time such amount as it determines PROVIDED THAT an Employer may after one month's notice to the Trustees or such other period of notice as is agreed from time to time with the Trustees vary, suspend or terminate its contributions.
- 3.2 Each Member shall contribute to the Fund such amount as he determines and if agreed between the Member and his Employer, the Employer shall deduct contributions so determined from his remuneration from time to time.
- 3.3 (a) The Trustees shall only accept a contribution by the Employer or Member that is in accordance with the requirements of the Act.
- (b) Subject to requirements of the Super Act, each Employer shall pay its contributions and its Members' contributions to the Trustees in such a manner and at such time or times as are agreed upon between each Employer and the Trustees.
- 3.4 (a) Each Employer shall advise the Trustees of the amount of contributions made in respect of each Member that are fully vested. Each Employer shall advise the Trustees of the amount of contributions made in respect of each Member that they shall claim as a tax deduction.
- (b) Each Member shall advise the Trustees the amount of contributions made in respect of each member that they shall claim as a tax deduction.
- 3.5 If at any time a Member's benefits in the fund shall be deemed by the Trustees to be excessive (and such decision by the Trustees shall be final and shall be made by the Trustees having regard to the Regulations of the Super Act and any guidelines issued by the Commissioner in relation thereto) the Trustees may cease accepting contributions in respect of that Member until the Trustees deem that the Member's benefits are no longer excessive.
- 3.6 Any payment by a Member or an Employer direct to any investment manager, life insurance office or other financial institution or entity shall be deemed to be both a payment by that Member or Employer into the Fund and a payment by the Trustees of the Fund to such investment manager, life insurance office or other financial institution or entity. Any contribution may be paid by cheque cash assignment or transfer of ownership of any benefits or assets (including life insurance policies).
- 3.7 The Trustees shall be entitled to refund any contribution to an Employer or Member that does not satisfy the requirements of the Commissioner to ensure that the Fund complies with the Act.

CHAPTER 4: THE FUND

4.1 The Fund shall comprise the following:

- (a) any contributions by Members;
- (b) contributions by any Employer;
- (c) interest, dividends and other proceeds arising from any investment and the accumulation thereof;
- (d) payments from any death or disablement insurance or annuity policy; and
- (e) monies, investments and other property transferred to the Fund from any other superannuation fund or Approved Deposit Fund.

INVESTMENTS

4.2 All monies belonging to the Fund but not required to meet current payments may be invested by the Trustees in or upon investments, whether secured or unsecured, of any kind (not limited to investments of trust funds) and in any country of the world as the Trustees in their absolute discretion shall think fit and without limiting the generality of the foregoing either directly or indirectly in:

- (a) any one or more of the investments authorised by the laws of Australia or of any of its States or Territories for the investment of trust funds;
- (b) debentures of, or preference or ordinary shares or stock in, or registered notes or bills of exchange either secured or unsecured issued by, or unsecured loans to, or share or stock options offered by any company in Australia or elsewhere;
- (c) trading savings or merchant banks, building societies, friendly societies, authorised or unofficial dealers in the short term money market or other deposit-taking institutions acceptable to the Trustees;
- (d) units or sub-units in any unit trust or any mutual fund;
- (e) real or leasehold property;
- (f) life insurance policies, accident and sickness or disability policies, either alone or jointly with some other person;
- (g) the purchase of immediate or deferred annuities contingent on the life of a Member or Dependant (either alone or jointly) or for a fixed period;
- (h) deposits at call or for fixed terms with an Employer;

- (i) any other investment which the Trustees consider to be appropriate and which is acceptable to the Commissioner with full power to vary, replace and otherwise deal with such investments as fully and effectively and with the same unrestricted powers in all respects as a person absolutely and beneficially entitled dealing with his own property may do.

4.3 Notwithstanding the general provisions of Article 4.2 the Trustees shall at all times comply with the requirements of the Act and the guidelines of the Commissioner in relation to the investments of the Fund.

4.4 Investments may be held in such name or names as the Trustees shall from time to time determine PROVIDED THAT they are not in the name of a Member who is not a Trustee of the Fund. Such names may include the name of a nominee of the Trustees of the Fund, whether an individual or a Company.

BORROWING RESTRICTIONS

4.5 The Trustees shall not borrow or raise money, except in accordance with the Act, whether by way of a secured or unsecured loan, otherwise than to secure temporary finance by way of overdraft with an eligible bank as defined in the Regulations of the Super Act or by other means and with other institutions with the Commissioner's prior approval.

EXPENSES

4.6 All costs, charges and expenses incurred in the inauguration management and administration of the Fund incurred from time to time which are not paid by an Employer or the Members shall be paid out of the Fund.

FUND ACCOUNT

4.7 The Trustees shall cause a Fund Account to be maintained in which shall be recorded:

- (a) an Individual Account for each Member;
- (b) the amount (if any) recorded in each Reserve established in accordance with Article 4.9;
- (c) the amount (if any) recorded in the Forfeited Benefits Register established in accordance with Article 4.10; and
- (d) all other assets of the Fund as specified in Article 4.1 of this Deed.

MEMBERS' INDIVIDUAL ACCOUNT

- 4.8 An Individual Account shall be maintained for each Member of the Fund in which shall be recorded for each year of his membership the following financial data:
- (a) the contributions by his Employer in respect of the Member;
 - (b) the contributions (if any) by the Member;
 - (c) that proportion of any amount transferred into the Fund on the Member's behalf pursuant to Article 2.5 which the Trustees with the Member's agreement determine to be Member-Financed Benefits, non preserved Employer-Financed benefits and preserved Employer-Financed benefits;
 - (d) the proceeds of any insurance cover effected by the Trustees for the benefit of the Member;
 - (e) any Net Earnings in respect of the contributions by the Member and his Employer;
 - (f) any allocations from the Forfeited Benefits Register in accordance with Article 5.28;
 - (g) the cost of insurance cover (if any) effected by the Trustees for the benefit of the Member;
 - (h) the benefits (if any) paid to the Member; and
 - (i) any allocations to the Forfeited Benefits Register in accordance with Article 5.27.

The balance of the Individual Account for a Member is (a) plus (b) plus (c) plus (d) plus (e) plus (f) minus (g) minus (h) minus (i).

- 4.9 The Trustees may establish a provision or Reserve within the Fund for any purpose they think fit that is acceptable to the Commissioner (herein referred to as a "Reserve") and without limiting the generality of the foregoing the following Reserves may be established:
- (a) a Taxation Reserve (in which are recorded any unpaid or expected taxation liabilities);
 - (b) an Investment Fluctuation Reserve;
 - (c) an Expense Reserve; and
 - (d) a Suspended Benefit Reserve (for the purposes of Article 2.8).

and the Trustees may transfer any amount from the Net Income of the Fund contributions or Individual Account of any Member to any one or more of the Reserves and vice versa and between the Reserves as they consider appropriate and that is acceptable to the Commissioner.

FORFEITED BENEFITS REGISTER

4.10 A Forfeited Benefits Register shall be maintained and shall record, where Benefits are forfeited for any particular Member:

- (a) the amount of benefit forfeited or the extent to which a benefit paid or payable to or in respect of a Member is less than the balance of his Individual Account under this Deed; and
- (b) the manner in which the Trustees have applied this amount in accordance with Article 5.28.

CHAPTER 5: BENEFIT ENTITLEMENT

RETIREMENT BENEFIT

- 5.1 A Member shall be entitled to a Retirement Benefit in the event that:
- (a) the Member retires from the workforce in accordance with the Super Act;
 - (b) the Member attains age sixty five (65) and has not ceased employment;
 - (c) the Member attains age seventy (70) and is not gainfully employed full-time (in accordance with the Act); or
 - (d) any other event approved or required by the Commissioner.
- 5.2 The Retirement Benefit shall be a Fully Commutable Pension which has an equivalent value to the balance of the Members' Individual Account PROVIDED THAT the amount of the pension shall be within the minimum and maximum limits required by the Commissioner.
- 5.3 A Member who retires from the workforce after his Normal Retirement Date shall be entitled at the date of such retirement to a Fully Commutable Pension equivalent in value to the balance of his Individual Account at the date of such retirement.
- 5.4 Should a Member not retire from the workforce at his Normal Retirement Date all Employers contributing on that Member's behalf may in their absolute and individual discretion decide whether or not to continue payment of contributions in respect of that Member after his Normal Retirement Date. The Member may at his own discretion continue paying his contributions (if any) after his Normal Retirement Date.

DEATH BENEFITS

- 5.5 Should a Member die before being entitled to a Retirement Benefit, a Death Benefit in the form of a lump sum will be payable in accordance with Article 5.8 of an amount equal to the proceeds of any insurance effected on the life of the Member plus the Member-Financed Benefit of the Member at the date of death, plus such amount as shall be determined by the Trustees in their absolute discretion PROVIDED THAT the value of the said Death Benefit shall not exceed the balance of the Members' Individual Account (including the proceeds of any insurance on the life of that Member) at the date of death.
- 5.6 Should a Member die while entitled to a Retirement Benefit after the pension has commenced, then a Death Benefit in the form of a lump sum shall be payable in accordance with Article 5.8 equal to the balance of the Members' Individual Account.

5.7 Should a Member die while entitled to a Deferred Benefit pursuant to and as defined in this Deed, a Death Benefit shall be payable in accordance with Article 5.8 of an amount equal to the balance of the Members' Individual Account at the date of death.

5.8 The entitlement to the Death Benefit shall be paid to the Designated Beneficiaries in the proportions specified by the Member PROVIDED THAT in the event that the Member has not specified a Dependant to be a Designated Beneficiary or the Designated Beneficiary cannot be located within six months after the date of death then the entitlement to the Death Benefit shall be paid to any one or more of the following persons in such proportions as the Trustees shall in their absolute discretion think fit:

- (a) all or any of the deceased Member's Dependents; or
- (b) the Legal Personal Representative of the deceased Member.

The Trustees shall within a reasonable time after the death of a Member determine the Designated Beneficiary and the Dependents and shall notify such Dependents in writing of any entitlement.

5.9 If the Member dies intestate and the Trustees, after making enquiries which they regard as reasonable, are unable to establish that there are any Dependents or a Legal Personal Representative of the deceased Member within six months from the date of the Member's death, then all entitlements of the deceased Member from this Fund shall be treated as forfeited benefit and shall be applied in the manner provided for in the Super Act, or in the absence of any such provision, shall be applied by the Trustee in accordance with the provisions of clause 5.27.

PERMANENT DISABLEMENT BENEFIT

5.10 Should a Member retire from the workforce before being entitled to a Retirement Benefit on the grounds of Permanent Disablement he shall be entitled to a Permanent Disablement Benefit payable in the form of a lump sum of an amount equal to the proceeds of any insurance effected on the life of the Member plus the Member-Financed Benefit of the Member at the date of Permanent Disablement, plus such an amount as shall be determined by the Trustees in their absolute discretion PROVIDED THAT the value of the said Permanent Disablement Benefit shall not exceed the balance of the Member's Individual Account (including the proceeds of any insurance on the life of the Member) at the date of Permanent Disablement.

TEMPORARY DISABLEMENT PENSION

- 5.11 Should a Member remain in the workforce but be absent from work for a period of not less than four (4) weeks on the grounds of Temporary Disablement he shall be entitled to a Temporary Disablement Pension of such an amount as shall be determined by the Trustees in their absolute discretion

PROVIDED THAT the amount of the said Temporary Disablement Pension shall be not less than the proceeds of any disablement insurance policy arranged by the Trustees and in all cases such benefits payable cease at the time the Member recovers from his Temporary Disablement or becomes eligible for another benefit payment pursuant to these Articles

PROVIDED FURTHER THAT the said Temporary Disablement Pension shall not be payable for in excess of two years (or such other period as may be approved from time to time by the Commissioner) from the date of commencement of the said pension.

OTHER TERMINATIONS OF EMPLOYMENT

- 5.12 Should a Member retire from the workforce before being entitled to a Retirement Benefit for any reason not specified in Articles 5.1 to 5.11 inclusive the Trustees may decide to pay a Withdrawal Benefit and such entitlement and the amount thereof shall be determined by the Trustees in their absolute discretion

PROVIDED THAT the amount of the said Withdrawal Benefit shall not exceed the balance of the Member's Individual Account at the date of termination

PROVIDED FURTHER THAT the amount of the said Withdrawal Benefit shall not be less than the Member-Financed Benefit and the Employer-Financed Vested Benefit of the Member at the date of withdrawal and any other requirements of the Commissioner

PROVIDED ULTIMATELY THAT the whole or that part of the Employer-Financed Vested Benefit of the Member which is subject to compulsory preservation shall not be payable to the Member prior to the Member's Preservation Age except in accordance with the Regulations of the Super Act.

- 5.13 Subject to the Regulations of the Super Act a Withdrawal Benefit may be in any one or more of the following forms by agreement between the Trustees and the person entitled to the benefit:

- (a) retained in the Fund and paid as a lump sum, Partially Commutable Pension, or Fully Commutable Pension payable at the Member's retirement from the workforce after his Preservation Age, but at his Normal Retirement Date at the latest; (herein called "Deferred Benefit");

- (b) transferred to another superannuation fund or Approved Deposit Fund or life office or other financial institution that grants annuities in accordance with Article 2.6;
- (c) paid as a lump sum at the date of entitlement; or
- (d) paid as a Partially Commutable Pension, or Fully Commutable Pension commencing on the date of entitlement.

ROLLOVER BENEFITS

5.14 A Member who is entitled to an unrestricted non-preserved benefit (as defined in the Regulations of the Super Act) may at any time request the Trustees to pay a Rollover Benefit, payable in the form of a Fully Commutable Pension, of an amount specified by the Member up to the amount of the unrestricted non-preserved benefit.

BENEFIT FORMULA

5.15 The Trustees may decide to determine the amount of the Death Benefit, Permanent Disablement Benefit, Temporary Disablement Pension or Withdrawal Benefit provided under this Deed by way of a predetermined formula and they shall advise the Members of such formula in writing. The Trustees after advising the Members, may vary or dispense with the said formula or any one or more thereof PROVIDED THAT the amount of any benefit calculated in accordance with any such formula prior to the date of variation or dispensation of the relevant benefit is not reduced without the consent of those Members so affected.

ALTERNATE FORMS OF BENEFITS

- 5.16 (a) Subject to Article 5.16(b) a Death Benefit, Deferred Benefit or Permanent Disablement Benefit may be paid as a lump sum at the date of entitlement or as a Partially Commutable Pension or Fully Commutable Pension commencing on the date of entitlement at the discretion of the Trustees PROVIDED THAT each form of benefit has an equivalent value.
- (b) A person entitled to a benefit from the Fund may with the consent of the Trustees arrange in lieu of the original form of payment of the benefit to receive part or all of it in some other form of equivalent value PROVIDED THAT the restricted commutability of a Partially Commutable Pension remains unaltered.

CHANGES IN PENSION LEVELS

- 5.17 Pensions in the course of payment may be altered with the consent of the Trustees and the person who is entitled to the benefit PROVIDED THAT the level of benefit in any year is within the minimum and maximum levels required by the Commissioner.

EXCESSIVE BENEFITS

- 5.18 In the event that the total benefits payable to or in respect of a Member under these Articles together with the benefits paid or payable to or in respect of him under any other superannuation fund or Approved Deposit Fund being in the opinion of the Trustees excessive in amount having regard to the Act, the Trustees with the consent of the Member may adjust his benefits and contributions appropriately.

PAYMENT OF BENEFITS

- 5.19 The determination as to whether any person is entitled to a benefit from the Fund and if so the amount of such payment shall be made by the Trustees whose decision shall be final.
- 5.20 The Trustees shall alter the entitlement to and the payment of benefits from this Fund as required by the Commissioner to ensure compliance of the Fund with the Act.
- 5.21 No benefit shall be paid to a Member or his Dependants while the Member is employed by his Employer except as specifically provided for in the Act.
- 5.22 Should the person entitled to a benefit be under the age of majority, the Trustees may pay all or part of the benefit to any other person who in the opinion of the Trustees is the parent or guardian or person having the actual custody or control of the minor to be held in trust for application on behalf of the minor (or his Dependants) and the receipt by the person to whom the benefit is paid shall be a good and sufficient discharge to the Trustees to the fullest extent permitted by Law and the Trustees shall not be bound to see or determine the application thereof.
- 5.23 (a) The Trustees shall deduct from the benefit entitlement the taxation liability in respect of that benefit for that Member or Dependand and remit the tax so deducted to the Commissioner of Taxation;
- (b) The benefit entitlement of the Member or his Dependants (after the deduction of tax) may be paid by cheque, cash or transfer of ownership of life insurance policies as the Trustees in their absolute discretion think fit. The Trustees may with the consent of the Member or Dependand to whom a benefit is payable transfer investments of the Fund of equivalent value to such Member or Dependand in lieu of paying the whole or part of the amount otherwise payable under this Deed PROVIDED THAT such transfer is acceptable to the Commissioner.

- 5.24 (a) Pensions shall be payable monthly unless the person entitled to receive the pension and the Trustees agree that the pension shall be payable at other intervals, and on such terms and conditions as the Trustees shall decide.
- (b) The first instalment of any pension shall fall due for payment on the last day of the month in which the Member becomes entitled to his pension benefit.
- (c) The last instalment of any pension shall fall due for payment upon the last day of the month immediately preceding the earlier of the date of the Member's death or, if he is survived by a Spouse, the date of death of the said Spouse or the date the balance of the Member's Individual Account is less than the amount of the pension due.
- 5.25 In the case of a Fully Commutable Pension where there is a residual in the Member's Individual Account at the time the pension ceases pursuant to Article 5.24:
- (a) if the Member is alive, the residual shall be paid to him as his final benefit entitlement; or
- (b) if the Member has died and if he is survived by a Spouse, the said Spouse has died, the residual shall be a Death Benefit and payable in accordance with Article 5.8.
- 5.26 All amounts payable hereunder shall be calculated in Australian currency according to the current rate of exchange at the date of payment.

FORFEITURE OF BENEFITS

- 5.27 Benefits payable out of the Fund shall at the option of the Trustees be forfeited and, the amount recorded in the Forfeited Benefits Register if the person otherwise entitled thereto:
- (a) (i) assigns, alienates or charges such benefits or part thereof; or
- (ii) in the opinion of the Trustees commits fraud or is guilty of dishonesty, defalcation or serious misconduct.
- (b) subject to the provisions of the Act, the Trustee may not recognise, encourage or sanction:
- (i) any assignment of a Member's benefit; or
- (ii) any charge over the Member's minimum benefit, preserved benefit or non-commutable income stream, as defined in the Act.

APPLICATION OF FORFEITED BENEFITS

5.28 Subject to the requirements of the Act, the Trustees may at their sole discretion apply any benefits forfeited by Members or remaining in the Fund by virtue of the provisions of this Deed towards any one or more of the following purposes:

- (a) the provision of supplementary benefits for retired Members of the Fund;
- (b) the provision on a reasonable basis of additional benefits for existing Members of the Fund;
- (c) the payment of any contribution due by a Member who is suffering hardship;
- (d) the payment to any Employer in accordance with the Act;
- (e) the payment of monies to the Commissioner as unclaimed monies in accordance with clause 5.29; and
- (f) any other purpose approved by the Commissioner

PROVIDED THAT forfeited benefits shall be applied only for the benefit of Members, their Dependants and retired Members who were at the date of the forfeiture entitled to benefits under this Deed.

UNCLAIMED MONEY

5.29 The Trustees shall comply with the requirements of the Act in relation to payment of unclaimed money. If a benefit (other than a pension) has become payable under this clause and the Trustees are unable to pay the benefit because the Trustees after making reasonable efforts to trace the person to whom the benefit is payable are unable to do so, the Trustees shall treat the benefit as unclaimed money and pay it to the Commissioner in accordance with the requirements of the Act.

FINANCIAL HARDSHIP

5.30 The Trustees may, in their absolute discretion, pay part or all of the Member's Withdrawal Benefit (calculated in accordance with clause 5.12 and 5.13) to a Member who is not entitled to be paid a benefit under the balance of this Deed, if the Trustees are satisfied that the Member would suffer financial hardship if part or the whole of his benefit is not paid to him. Any such payment must first be approved by the Commissioner, if the Act so requires.

PAYMENT OF BENEFIT IN OTHER CIRCUMSTANCES

- 5.31 The Trustees may, in their absolute discretion, pay part or all of the amount of the balance of the Member's Individual Account to a Member, or another person, in the circumstances provided for in the Act, notwithstanding the restrictions imposed by this Deed.
- 5.32 Benefits payable out of the Fund shall be paid to the Legal Personal Representative of the person entitled to those benefits if the person:
- (a) owing to mental illness requires care, treatment or control for his own good or in the public interest and is in the opinion of the Trustees for the time being incapable of managing himself or his affairs; or
 - (b) (subject to reasonable enquiries by the Trustees) cannot be located during a period of six months after a payment was last made to him or on his behalf by the Trustees.

CHAPTER 6: THE TRUSTEES

APPOINTMENT OF TRUSTEES

- 6.1 (a) The first Trustees shall be appointed by the Founding Member and subsequent Trustees shall be appointed by the Members by simple majority in a meeting where not less than fifty percent (50%) of the Members are present.
- (b) The number of individual Trustees shall be at least one (1).
- (c) The first Chairman and subsequent chairmen of Trustees shall be elected by a simple majority vote of the Trustees.
- (d) Any Employer, directors of any Employer, other persons and Members are eligible to be Trustees of the Fund in accordance with the Act.
- 6.2 With regard to the first Trustees and any subsequent Trustees whether individuals or a Constitutional Corporation, their eligibility, appointment, representation, composition and any other matter shall at all times comply with all of the Regulations of the Super Act, and any changes in Trustees shall be notified to the Commissioner within the prescribed period in the Act.
- 6.3 In such circumstances as the Trustees may deem expedient the Trustees may appoint either in respect of the whole of the Fund or any part thereof new Trustees in any country in the world and may transfer assign and set over the whole or part of the investments of the Fund to any such new Trustees upon similar trusts and subject to similar terms and conditions to those declared in this Deed and either subject to the control of the Trustees or to the exclusion of such control and the Trustees shall in such event be indemnified and held harmless against any loss which may arise from the exercise of this power.
- 6.4 Where a new Trustee cannot for whatever reason be appointed pursuant to Articles 6.1 and 6.2 then the Legal Personal Representative of the last acting Trustee shall have the discretion to appoint a new Trustee or Trustees and when exercising that discretion the Legal Personal Representative may exercise its discretion to appoint itself as Trustee.

TERMINATION OF TRUSTEES

- 6.5 Any one Trustee shall cease to be a Trustee:
- (a) when the Members resolve by simple majority at a meeting where not less than fifty percent (50%) of the Members are present that such Trustee shall cease to be a Trustee; or
- (b) when the Trustees serve notice in writing to that effect at a meeting where not less than fifty percent (50%) of Members are present; or

- (c) where the Trustee is an individual, upon his death or upon his being declared legally incompetent, or upon his becoming bankrupt; or
- (d) where the Trustee is a Constitutional Corporation, upon a receiver being appointed or an order being made for the winding up of the Trustee other than for the purposes of amalgamation or reconstruction,

and in any such event the Trustee shall be deemed to be discharged from the trusts hereof and in the case of (a) or (b) of this Article shall thereupon execute such documents and do all such things as may be necessary to give effect to such discharge. In the event of any Trustee ceasing to be a Trustee within the meaning of this Deed the Members may appoint one or more new Trustees in accordance with Article 6. The period of any vacancies and the period to notify the Commissioner shall be within the prescribed period in the Regulations to the Super Act.

MEETING OF TRUSTEES

- 6.6 (a) Where there are two or more Trustees, the Trustees (if a Trustee is a Constitutional Corporation, a validly appointed representative) shall meet together for the despatch of business and regulate their meetings as they consider appropriate. Two (2) Trustees shall constitute a quorum for the transaction of business. Any matter may be determined by a simple majority of the Trustees voting at any duly constituted meeting of the Trustees and such simple majority decision shall be deemed to be the decision of the Trustees PROVIDED THAT if the total Fund membership exceeds four (4) the said voting shall be by two-thirds majority. Each Trustee present at such a meeting shall be entitled to one vote and subject to the Regulations to the Super Act the chairman shall be entitled to have a second or casting vote.
- (b) Where a Constitutional Corporation is a sole Trustee, the Trustee must decide all questions which may properly come before a meeting of the Trustees, if the Fund had two individual Trustees, in accordance with the Corporations Law and the Trustee's Articles of Association. The directors of the Trustees must keep and retain for at least ten (10) years, minutes of all meetings of the directors at which matters affecting the Fund were considered.
- 6.7 (a) Where there is one individual Trustee, the Trustee shall record in writing all decisions made by the Trustee in respect of matters affecting the Fund.
- (b) Where there are two or more Trustees, the Trustees shall record all resolutions affecting the Fund in written minutes of the meetings of the Trustees.
- (c) The beforementioned records or minutes of the Trustees resolutions must be retained for at least ten (10) years.
- 6.8 Where there are two or more Trustees, a resolution in writing signed by all the Trustees (if a Trustee is a Constitutional Corporation, all the directors thereof or a validly appointed representative) shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and held.

- 6.9 Except where there is only one individual Trustee, the Trustees must appoint a secretary who may be one of the Trustees. A minute book shall be kept by such secretary and there shall be entered in such minute book particulars of all minutes of all meetings of the Trustees. Such minutes shall be signed by the chairman of the meeting. Any minutes so signed shall in the absence of fraud be prima facie evidence of the matters stated in such minutes.

SECRECY

- 6.10 The Trustees and every new Trustee on his appointment shall observe strict secrecy with regard to the affairs, accounts and transactions of each Employer and of the Fund both while they shall continue to be a Trustee and at all times thereafter and if so required by the Founding Member shall enter into a bond of such value terms and conditions as shall be agreed by the Trustees and the Founding Member.

SIGNING OF DOCUMENTS

- 6.11 (a) The Trustees shall open a current account or any other type of account at any bank, building society, credit union or cash management trust as they may decide. The operation of the account or accounts shall be by the Trustees and/or such other person as the Trustees shall from time to time by resolution so determine.
- (b) All cheques and other negotiable or transferable instruments for payments or transfers out of the Fund and all receipts for monies paid or transferred into the Fund shall be signed drawn endorsed or otherwise executed as the case may be by any one or more of the Trustees or such other person or persons as the Trustees shall from time to time by resolution so determine.
- (c) Should the Trustees apply for insurance cover on the life of any Member or on the lives of any group of Members such application or proposal may be signed by any one of the Trustees (or in the event that a Constitutional Corporation is acting as sole Trustee then it may be signed by any one of the directors thereof) PROVIDED THAT the resolution to effect the insurance was made at a properly convened meeting of the Trustees.

TRUSTEES' DISCRETION AND INDEMNITY

- 6.12 (a) The Trustees in the exercise of the authorities powers and discretions hereby vested in them shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of the authorities powers and discretions from time to time and at any time or may refrain from exercising all or any of such authorities powers and discretions from time to time or at all times and the Trustees' decisions as to the final interpretation and effect of this Trust Deed shall be final.

- (b) The Trustees shall not be liable for:
- (i) any losses except losses arising from their own wilful misconduct;
 - (ii) the acts or defaults of co-Trustees or of an Employer;
 - (iii) any act or acts done bona fide in conformity with the decisions of the Trustees hereunder; and/or
 - (iv) the neglect or default of any actuary, auditor, solicitor, banker, accountant, administrator or other agent employed in good faith by the Trustees.
- (c) The Trustees and each of them shall be indemnified against all liabilities incurred by them in the proper execution of their duties hereunder and shall have a lien on the Fund for such indemnity. The costs charges and expenses incurred by the Trustees in and incidental to the administration and winding up of the Fund or otherwise in relation thereto to the extent to which they are not paid by an Employer shall be paid out of the Fund.
- (d) If the Trustees become liable for any income tax or other tax in respect of any investment income or capital appreciation of the Fund they may deduct an amount equal to such tax from such income or capital.
- (e) Nothing in this clause or elsewhere in this Deed shall:
- (i) permit the Trustees and each director of the Trustees to be indemnified against liabilities for acts or omissions that are:
 - 1. dishonest; or
 - 2. attributable to an intentional or reckless failure to exercise the degree of care and diligence required of a trustee.
 - (ii) permit the Trustees and directors of the Trustees to be indemnified for any penalty imposed on them under the Act.
- (f) Except for any liability arising by virtue of their default or neglect, the Trustees shall not be bound to make any payment to or at the direction of Members except out of the Fund.

PROTECTION OF FUND

6.13 Assets of the Fund including assets held in the name of the Trustees are not part of the estate of the Trustees in their individual personal or corporate capacity for any purpose whatsoever including any claim on the assets of the Trustees by reason of debts or obligations incurred by the Trustees in such individual capacity. The Trustees have no possessory lien on any assets of the Fund in order to satisfy debts or obligations arising otherwise than as Trustees of the Fund and subject to Article 4.5 may not charge any assets of the Fund whether specifically or generally otherwise than for the purposes of the Fund and in accordance with the Act.

RECORDS

- 6.14 (a) The Trustees shall keep or cause to be kept a complete record of all persons who become Members and Employers of the Fund and of all the other matters essential for the working of the Fund. The accounting records of the Fund must be retained for at least five (5) years, or for such other period required by the Act, must be kept in Australia and must be kept in the English language or in a form in which they are readily accessible and readily convertible into the English language.
- (b) The Trustees must keep and retain for at least ten (10) years:
- (i) records of all changes of Trustees;
 - (ii) records of changes of directors of the Trustees; and
 - (iii) consents to act as Trustees or directors of the Trustees.

ANNUAL AUDIT

- 6.15 (a) The Trustees shall comply with such reporting standards and shall maintain such records as are required under the Act and shall cause to be prepared an Income and Expenditure Account and Balance Sheet of the Fund at 30 June each year. An Auditor who satisfies the requirements of the Regulations of the Super Act shall be appointed by the Trustees and he shall provide to the Trustees such written Certificates as may be required by the Commissioner from time to time. The Trustees shall provide the Auditor with all papers accounts and documents connected with the Fund in this regard.
- (b) Whenever the Act requires it to do so, the Trustees shall notify the Commissioner of any event that has a significant adverse effect on the financial position of the Fund and shall provide the Commissioner with such information as is prescribed by the Act.

COMPENSATION OF TRUSTEES

- 6.16 The Trustees may receive from any Employer such compensation as may be agreed between them. The Trustees may receive from the Fund such compensation as may be agreed by simple majority at a meeting of not less than fifty percent (50%) of Members.

POWER OF TRUSTEES

- 6.17 In addition to the powers which they might by law have and which are otherwise granted to them by this Deed the Trustees shall have the following powers:
- (a) to commence carry on or defend proceedings related to the Fund or the rights of Members, former Members and Dependents;

- (b) to insure or reinsure any risks contingencies or liabilities of the Fund with any insurance company friendly society superannuation fund or like body;
- (c) to issue or provide pensions or annuities to Members or their Dependants;
- (d) to deduct income tax from the payment of a benefit to a member and remit the tax so deducted to the Commissioner in accordance with the Act;
- (e) to retain the services of professional consultants whether persons, firms or Companies in relation to the management administration or investment of the Fund and to delegate to such consultants such powers as they shall see fit from time to time and pay in accordance with Article 4.6 the fees payable to such professional consultants;
- (f) to pay from the Fund such governmental fee or tax levied upon the Fund by the Act or the Commissioner's guidelines as may be required from time to time;
- (g) to provide the Commissioner at all times with such information regarding the Fund the Employer or the Members and Dependants as he may require;
- (h) to alter the benefit entitlement and/or payment in accordance with any requirements of the Commissioner to ensure the Fund complies with the Act;
- (i) generally to do all acts and things as the Trustees may consider necessary or expedient for the administration maintenance and preservation of the Fund (including maintaining the Fund's exemption from income tax) and in the performance of their obligations under this Deed; and
- (j) the Trustees shall have the power to do those things permitted or required by the Act.

COVENANTS BY THE TRUSTEES

6.18 The Trustees hereby covenant:

- (a) to act honestly in all matters concerning the Fund;
- (b) to exercise, in relation to all matters affected the entity, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
- (c) to ensure that the Trustees' duties and powers are performed and exercised in the best interests of the Members;

- (d) to keep the money and other assets of the Fund separate from any money and assets, respectively:
 - (i) that are held by the Trustees personally; or
 - (ii) that are money or assets, as the case may be, of a standard employer sponsor, or an associate of a standard employer-sponsor, of the Fund;
- (e) not to enter into any contract, or do anything else, that would prevent the Trustees from, or hinder the Trustees in, properly performing or exercising the Trustees' functions and powers;
- (f) to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the entity including, but not limiting to, the following:
 - (i) the risk involved in making, holding and realising, and the likely return from, the Fund's investments having regard to its objectives and its expected cash flow requirements;
 - (ii) the composition of the Fund's investments as a whole including the extent to which the investments are diverse or involve the entity in being exposed to risks from inadequate diversification;
 - (iii) the liquidity of the Fund's investments having regard to its expected cash flow requirements;
 - (iv) the ability of the Fund to discharge its existing and prospective liabilities;
- (g) if there are any reserves of the Fund - to formulate and to give effect to a strategy for their prudential management, consistent with the Fund's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due; and
- (h) to allow a Member access to any prescribed information or any prescribed documents.

These covenants are deemed to include all covenants as specified from time to time in the Super Act.

NOTICE OF AMENDMENTS

- 6.19 The Trustees shall notify each Member in writing of any amendment to these Articles or to the Trust Deed to which these Articles are an annexure as soon as practical after the said amendment explaining the nature and purpose of the amendment and the effect (if any) of the amendment on the entitlement of the Member.

WINDING UP THE FUND

- 6.20 The Trust hereby declared shall be terminated and the Fund shall be wound up:
- (a) by a resolution of the Trustees;
 - (b) by a resolution of a meeting of Members by seventy five percent (75%) majority where at least fifty percent (50%) of the Members of the Fund are present at such a meeting; or
 - (c) at the death or prior termination of membership of the last Member or Dependant entitled to benefits from the Fund.
- 6.21 Upon termination of the Fund in accordance with Article 6.20 the Trustees shall:
- (a) advise the Members and any Dependents in writing that the Fund shall be wound up on a specified date (hereinafter called "the Closure Date");
 - (b) at the Closure Date immediately make a call for any arrears of contributions and not accept further contributions;
 - (c) for each Member who is an Employee at the Closure Date, hold in trust his part of the net assets as determined by the Trustees for so long as the Member remains an Employee and in this regard the Trustees shall hold such Member's part of the net assets upon the same trusts as are declared in this Deed or transfer them to another superannuation fund pursuant to Article 2.6; and
 - (d) subject to paragraph (c) of this Article 6.21 effect the payment of the allocated net assets in accordance with this Deed as the Trustees with the agreement of each Member or Dependant may determine PROVIDED THAT such proportion or the whole (as the case may be) of that Member's allocated net assets that are attributable to contributions made pursuant to and in connection with an industrial award or that is otherwise an Employer-Financed Vested Benefit or other benefit subject to compulsory preservation may only be paid to the Member on or after his retirement from the workforce after attaining Preservation Age or transferred to another superannuation fund or Approved Deposit Fund pursuant to Article 2.6 of this Deed or in any other circumstance approved by the Commissioner.
- 6.22 In the event of the winding up of the Fund pursuant to paragraph (c) of Article 6.20 due to the death of the Spouse of the last Member or at the death of the last Member if they have no Spouse and the Fund has remaining assets, then a Death Benefit shall be payable on behalf of such last Member or on behalf of the Spouse of such last Member in accordance with Article 5.8 of an amount equal to the remaining assets in the Fund.

TRANSFER OF PERFORMANCE

- 6.23 At the request of the Founding Member or the death of the Founding Member the Trustees may elect to accept the performance by another Member (hereinafter called "the Assignee") of the obligations of the Founding Member in this Deed. Such acceptance by the Trustees shall discharge the Founding Member from any further obligations under this Deed and henceforth the Assignee shall be construed as the Founding Member for the purposes of this Deed (including the Articles) PROVIDED THAT the Assignee undertakes in writing to be bound by the terms and conditions of this Deed PROVIDED FURTHER HOWEVER THAT such transfer of performance shall in no way relieve the Founding Member from any obligations under this Deed which relate to the period up to and immediately preceding the transfer of performance to the Assignee.

REPORTING

- 6.24 (a) The Trustees shall provide written reports to the Members which contain all information required by the Regulations to the Super Act regarding disclosure and reporting requirements from time to time; and
- (b) The Trustees shall provide such written reports to the Commissioner as the Act or the Commissioner's guidelines may require from time to time.

CHAPTER 7: PARTICIPATING EMPLOYERS

ADMISSION OF EMPLOYER

- 7.1 (a) The Trustees may invite an Employer to participate in the Fund and shall signify their approval of such Employer by accepting the first contribution from that Employer.
- (b) The action of an Employer in making its first contribution to the Fund shall constitute agreement by that Employer:
- (i) to become an Employer under the Fund; and
 - (ii) to be bound by the terms and conditions of this Deed.

RETIREMENT OF EMPLOYER

7.2 The participation in the Fund of an Employer may be terminated:

- (a) by the Employer deciding permanently to cease contributing to the Fund; or
- (b) by the Trustees by notice in writing to the Employer.

7.3 On termination of participation in the Fund as aforesaid:

- (a) the Trustees after consultation with the Employer shall specify a date (hereinafter called "the Retirement Date") upon which the Employer (hereinafter called "the Retiring Employer") shall retire;
- (b) the Retiring Employer shall forthwith pay all arrears (if any) of contributions up to the Retirement Date;
- (c) benefits which have become payable on or before the Retirement Date shall continue to be payable out of the Fund; -
- (d) the Trustees shall determine what proportion of the assets of the Fund, including arrears (if any) of contributions still to be made pursuant to paragraph (b) of Article 7.3, is attributable to the Members who were employed by the Retiring Employer at the Retirement Date; and
- (e) the Trustees in their discretion may make such arrangement as they think proper for the provision, in lieu of the benefits which would otherwise be payable out of the Fund, of benefits for Employees of the Retiring Employer and the Dependants of such Employees.

7.4 Provision of benefits pursuant to paragraph (e) of Article 7.3 hereof shall be made by application of the proportion of the assets of the Fund, determined under paragraph (d) of Article 7.3, in accordance with Article 6.20 hereof as if the proportion of the assets so determined had comprised a separate fund of which the Retiring Employer was the Employer and those Members in its employ at the Retirement Date and their Dependents were the only fund Members and as if such separate fund had been wound up pursuant to Article 6.20 on the Retirement Date in accordance with the provisions of Articles 6.21 and 6.22.

CHAPTER 8: MISCELLANEOUS

- 8.1 Except as provided in Articles 6.21 and 6.22 the trusts constituted by this Deed shall continue during the life of the survivor of all the lineal descendants now living of His Late Majesty King George VI and twenty-one years after the death of such survivor and such further period (if any) as may from time to time be permitted by law, PROVIDED ALWAYS THAT this provision shall not apply where the laws of the State or Territory of Australia applicable to this Deed provide that the Rule against Perpetuities shall not apply.
- 8.2 Where the laws applicable to this Deed are the laws of the State of South Australia the provisions of section 35(b) of the Trustees Act 1936-1953 of that State are hereby expressly excluded from application to this Deed.
- 8.3 The Deed shall be governed and construed and shall take effect in accordance with the laws of the State or Territory of the principal residence of the Founding Member. The Employers, Members and Dependants for the time being shall accept the jurisdiction of the Courts of that State or Territory.
- 8.4 Nothing in this Deed shall affect the powers of any Employer with regard to the remuneration, terms of employment or dismissal of an Employee, or any other dealing of any Employer with the Employee. The fact of being a Member shall not be used as a ground for claiming or increasing damages in any claim by the Member for alleged wrongful termination of employment or for claiming the payment of any amount on retrenchment.
- 8.5 Any notices to be given to the Trustees or an Employer may be delivered to the head office for the time being of the Trustees or the Employer (as the case may be) and in the case of notices to be given to any Member may be posted to or delivered to the address of that Member last known to the Trustees. Any notice given by post may be posted by prepaid ordinary mail and is to be deemed to have been given twenty-four hours after the time of posting.
- 8.6 Notwithstanding any of the provisions of this Deed, the requirements contained in the Super Act, and the Regulations made thereunder are deemed to be included in this Deed to the extent that they impose requirements on the Trustees or are required by the Act to be so incorporated and in the event of any inconsistency between the provisions of this Deed and the Super Act and its Regulations as aforesaid then the Super Act and its Regulations shall prevail.
- 8.7 The terms and conditions of this Deed as they apply to the Fund as duly altered, modified, added to or cancelled from time to time shall be binding on the Trustees and each Member, Dependand, Employer and Legal Personal Representative and all persons claiming through them respectively as if such Member, Dependand, Employer or Legal Personal Representative has been party to this Deed.
- 8.8 The Fund and no other Fund shall comprise the only trust property in respect of which the duties and obligations of the Trustees arise under the Deed.