

MAY 02

SUPERANNUATION TRUST DEED

Prepared by:
MOWBRAY
SOLICITOR
101 ROYAL PARADE
PARKVILLE, VIC. 3052



Under Instruction from:
C.I.S. SUPERANNUATION
SERVICES PTY. LTD.

THIS DEED is made on the date set out at Item 1 of the Schedule hereto beside the words "Date of this Deed"

B E T W E E N:

The person whose name and address is set out at Items 2 and 3 in the Schedule hereto and referred to as "the Trustee" (hereinafter referred to as "the Trustee") of the first part

- and -

The person whose name and address is set out at Item 7 and 8 in the Schedule hereto and referred to as "the Principal" (hereinafter referred to as "the Principal")

W H E R E A S:

STAMP DUTIES OFFICER
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- A. The Principal has resolved to establish a fund to be known by the name set out at Item 4 in the Schedule hereto beside the words "Name of this Fund" (hereinafter called "the Fund") with the object of providing individual personal benefits pensions or retiring benefits for the persons who become members of the fund and their dependants hereinafter defined.
- B. The Trustee has agreed to act as trustee of the Fund and to be bound by the terms and conditions hereinafter set forth.

NOW THIS DEED WITNESSETH as follows:-

INTERPRETATION

1. (1) THAT in the interpretation of this Deed and the Rules the following words and expressions shall unless repugnant to the context have the following meanings set beside them:-

- (a) "Act" means the Income Tax Assessment Act 1936 (as amended);
- (b) "child" includes a step-child;
- (c) "dependant" in relation to a member means any person who in the opinion of the Trustee is or was at the relevant date wholly or partially dependent on the member including without in any way limiting the discretion of the Trustee the wife husband widow widower child or other lineal descendant of such member;
- (d) "eligible person" means any person who is in the service of any employer or who is actively engaged in the production of income as a self-employed person or

is otherwise engaged in any business trade vocation profession or service;

- (e) "Trustee" means the person named and described in the Schedule as "The Trustee" and any other trustee or trustees which may be appointed from time to time to act as trustee of this Fund;
- (f) "Fund" means the Fund hereinafter described and which is to be known by the name set out in the Schedule hereto beside the words "Name of Fund" and which has been established by these presents including the Supplementary Benefits Fund as hereinafter defined, SAVE AND EXCEPT THAT in Clause 5 hereof the words "Fund" shall not include the Supplementary Benefits Fund therein referred to and the fund shall consist of all property from time to time being held by the Trustee pursuant to the trust herein declared and as amended from time to time and without derogating from the generality of the foregoing shall include all moneys paid to and accepted by the Trustee including any contributions by any members any income capital accretions or other profits accruing to the Fund any property transferred to and accepted by the Trustee pursuant to Clause 2 hereof and all other additions to the Fund less all losses expenses and outgoings incurred in connection with the Fund;
- (g) "member" means any eligible person who is participating in the Fund as a member and any other person who has become entitled to receive a benefit under the Fund and where applicable shall include the Principal;
- (h) "month" means calendar month;
- (i) "normal retirement date" means
 - (a) in the case of a male such member's sixty-fifth birthday;
 - (b) in the case of a female such member's sixty-fifth birthday; or
 - (c) such other date as is agreed by the Trustee and such member and shall be approved by the Commissioner of Taxation;
- (j) "participant in the Fund" means any person (hereinafter in this definition referred to as "the applicant")
 - (a) who has made an application to which the Trustee has consented and which application was made in the form set out in Appendix "A" hereof to the Trustee to become a participant in the

Fund; and

- (b) the Trustee of the Fund has accepted such application and informed such applicant that he has been accepted as a participant in the Fund;
 - (k) "person" includes any natural person and any other legal entity corporation fund partnership or other body corporate or unincorporate;
 - (l) "review date" means the thirtieth day of June in each year or such other date as shall be selected by the Trustee for the purpose of calculating such annual adjustments;
 - (m) "Rules" means the Rules for the time being governing the Fund being the Rules referred to in Clause 19 of this Deed and any alterations or additions thereto;
 - (n) "service" means the continuous period during which the member is an eligible person and for the purposes of this definition a member's service shall not cease to be continuous by reason only of a transfer from the service of one employer to the service of another employer or the transfer from one vocation office or business to another;
 - (o) "Supplementary Benefits Fund" means the separate fund which is described in Clause 5 hereof;
 - (p) "this Deed" means and includes these presents and any alterations or additions hereto;
 - (q) "widow" includes widower and means the person who becomes the member's widow or widower and the subsequent remarriage of that person shall not for the purposes of the Fund affect that person's status as widow or widower of the member.
- (2) THAT in the interpretation of these presents and the Rules annexed hereto -
- (a) words importing any one gender shall be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided;
 - (b) references to any statutory enactment shall mean and be construed as references to such enactment as amended and modified from time to time;
 - (c) the headings contained in this Deed and the Rules have been included as a matter of convenience only and shall not be taken into account in the construction hereof;

- (d) the Fund shall be governed by and this Deed shall be construed in accordance with the laws of the State or Territory of the Commonwealth of Australia in which this Deed was executed by the Principal.
- (3) THAT for the purposes of these presents in the computation of "years of service" as hereinafter defined -
 - (a) years of service shall be expressed as years and fractions of a year the said fractions being calculated on the basis of complete months of service;
 - (b) any period during which the member is not an eligible person shall not be included in the member's years of service unless otherwise determined or required.

CONTRIBUTIONS

2. THAT all contributions to the Fund shall be governed by and made in accordance with the following:
- (1) each member shall pay to the Trustee (subject as hereinafter provided) the contributions to be made in accordance with the Rules.
 - (2) in addition to the contributions hereinbefore referred to the member may pay to the Trustee such additional sums as the member may from time to time determine PROVIDED THAT such additional payments shall be made in accordance with the terms of Section 23FB of the Act which additional payments shall be applied by the Trustee as the member shall direct in writing.
 - (3) in addition to the foregoing subject to the guidelines of the Commissioner of Taxation and the application of the provisions of the Act to this fund the employer of any member may contribute such additional amounts as the employer may determine from time to time PROVIDED HOWEVER THAT such additional payments shall be made in accordance with the terms of Section 23FB of the Act which additional payments shall be applied by the Trustee as the member shall direct in writing.
 - (4) notwithstanding anything hereinbefore provided upon giving one month's written notice to the Trustee of its intention so to do any member may at any time terminate reduce or suspend the payment of his contributions to the Fund and upon the expiration of such notice the contributions made by such member to the Fund shall cease in accordance with the terms set out in such notice SAVE AND EXCEPT each and every payment due on or before the date of such notice.

APPLICATION OF CONTRIBUTIONS

3. THAT the Principal HEREBY DECLARES THAT all contributions

paid by any member in pursuance hereof and any other moneys or property forming part of the Fund which are received and accepted by the Trustee shall be held in trust by the Trustee and applied in accordance with this Deed and the Rules.

LIMITATION OF BENEFITS

4. THAT notwithstanding anything otherwise contained herein SAVE AND EXCEPT as provided in Clause 5 hereof the Trustee shall limit the benefits under and contributions to the Fund in respect of each member so as to ensure that the total of -

- (a) the benefits being provided under the Fund; and
- (b) the benefits which are to be taken into account for the purposes of this clause and which have been or are being provided under any other super-annuation or similar fund or plan,

shall not in the opinion of the Trustee be greater than the benefits which shall from time to time or in any particular case be approved for the purposes of Section 23FB of the Act.

SUPPLEMENTARY BENEFITS

5. THAT the Trustee may establish a fund (known by the name set out at Item 5 in the Schedule hereto beside the words "Supplementary Benefits Fund" and hereinafter referred to as "the Supplementary Benefits Fund") on the following terms and conditions -

- (a) such Supplementary Benefits Fund shall be separate and distinct from the Fund;
- (b) such Supplementary Benefits Fund shall be administered by the Trustee subject to the same trusts powers authorities discretions and provisions as apply to the Fund in accordance this Deed;
- (c) the Trustee may in its absolute discretion transfer from the Fund to the Supplementary Benefits Fund such amount securities or other assets as in the opinion of the Trustee relate to the benefits or the part thereof which are in the opinion of the Trustee greater than the benefits approved for the time being for the purposes of Section 23FB of the Act;
- (d) the Trustee may apply to the Supplementary Benefits Fund such contributions as are required to provide the benefits under the Supplementary Benefits Fund;
- (e) in the event that the Trustee is of the opinion that it is desirous to do so it may transfer from the Supplementary Benefits Fund to the Fund such moneys

securities and other assets as it shall determine
PROVIDED THAT the Trustee shall not transfer such
moneys securities and other assets as aforesaid in the
event that such transfer shall adversely affect the
approval of the Fund for the purposes of Section 23FB
of the Act.

FORFEITURE

6. (1) THAT the benefits (such benefits being hereinafter in this clause referred to as "forfeited benefits") provided under the Fund to any member shall be absolutely forfeited -
- (a) if the member becomes bankrupt or insolvent;
 - (b) if the member does or suffers anything whereby such member's benefit under the Fund or any part thereof shall while such member is an eligible person become vested in or payable to some other person;
 - (c) if after all reasonable enquiries have been made any member cannot be located and such members dependants cannot be located by the Trustee during a period of five (5) years after a payment was last paid to him by the Trustee.
- (2) THAT the benefits (such benefits being hereinafter in this clause referred to as "suspended benefits") of a member shall be suspended in the event that such member is found by any competent Court or is shown to the satisfaction of the Trustee to be mentally ill or of unsound mind or incapable of managing his own affairs.
- (3) THAT the Trustee may in its absolute discretion pay or apply the whole or any part of such forfeited or suspended benefits to or for the benefit of such member any other member or any one or more of such member's dependants who are not members for the purposes of this Deed in such shares in such proportions and in such manner as the Trustee in its absolute discretion determines PROVIDED HOWEVER THAT such benefits may only be paid or applied in accordance with the provisions of the Act.
- (4) THAT where a member's benefits have been suspended in accordance with sub-clause (2) hereof and the circumstances occasioning such suspension are no longer in existence or such member dies any benefit which has become payable in respect of such member and which has not been applied in accordance with sub-clause (3) of this Clause and any benefit which subsequently becomes payable shall according to the circumstances be paid to such member and such members dependants or (if there is no dependant) to his legal personal representatives in accordance with the Rules.

MEMBER NOT TO CHARGE BENEFITS

7. THAT no member shall charge mortgage transfer assign or otherwise deal with his benefit under the Fund or attempt so to do during such time that such member is an eligible person.

MEMBERS INTEREST NOT TO BE PREJUDICED BY DAMAGES AND COMPENSATION

8. THAT nothing in this Deed or in the Rules shall prejudice the right of a member his legal personal representatives or any other person to claim damages or compensation in any Court of law or pursuant to any statutory enactment governing the payment of compensation to any person injured or dying from an accident arising out of or in the course of that member's employment or business AND THAT except as otherwise provided in the Rules annexed hereto any benefit payable pursuant to the terms of the Fund shall not be reduced by reason of such payment of damages or compensation.

TRUSTEES

9. (1) THAT subject to sub-clause (4) hereof the Fund shall be administered by at least one Trustee.
- (2) THAT notwithstanding anything otherwise contained herein the member may or if more than one a majority of the members may at any time by notice in writing appoint any number of further or additional Trustees to be Trustees of the Fund and may dismiss any Trustee of the Trust fund which dismissal shall be made by notice in writing delivered to the Trustee so dismissed.
- (3) THAT no person shall hold the office of trustee if -
- (a) he is or becomes bankrupt or makes an assignment to or composition with his creditors;
 - (b) he is disqualified from office by operation of law;
 - (c) that person is a member or a relative of a member as defined in Section 6(1) of the Act;
 - (d) he dies;
 - (g) he resigns from the position by notice in writing.
- (4) THAT upon ceasing to be a Trustee pursuant to the terms of the Deed such Retiring Trustee shall perform every act and do everything necessary to vest the Fund in the remaining or New Trustee and shall deliver all records books and other memoranda held by such Trustee in relation to the Fund to the remaining or the New Trustee.
- (5) That the Principal shall ensure that the office of Trustee is

filled at all times and if at any time and from time to time for any period there shall be no person acting as Trustee then the Principal shall appoint a person to act as Trustee of the Trust Fund until a further Trustee is appointed to be Trustee of the Trust Fund pursuant to clause 9(2) hereof.

MANAGEMENT OF THE FUND

10. THAT for the purposes of managing administering and applying the Fund the Trustee shall if it sees fit be empowered to administer manage and deal with the Fund in such manner as it shall in its absolute discretion think fit PROVIDED THAT the Trustee shall not exercise such powers contrary to the spirit and intendment of Section 23FB of the Act.

RESOLUTIONS OF THE TRUSTEES

11. (1) THAT where the fund is administered by more than one Trustee such Trustees may hold meetings for the purposes of carrying out their duties hereunder AND THAT the Trustees may regulate such meetings as they think fit and may determine the quorum necessary for the transaction of business.
- (2) THAT before the Trustees shall hold a meeting as aforesaid any question or discretion (including the powers authorities and discretions created by this Deed and the Rules vested in the Trustees generally) may be decided or exercised by a majority of the Trustees or in accordance with a resolution of the Trustees passed by a majority of votes at such meeting at which a quorum is present each Trustee present being entitled to one vote and in the case of an equality of votes the chairman having a second or casting vote.
- (3) THAT a resolution in writing signed by all the Trustees shall have the same effect and validity as a resolution of the Trustees passed at a meeting of the Trustees at which a quorum is present.

DELEGATION BY OTHER TRUSTEES

12. THAT if the Fund is administered by Trustees the Trustees may by resolution authorise any limited number of the Trustees or other specified persons to sign or endorse cheques and to sign all documents and forms relating to the Fund and to the investments and any policies forming part of the Fund and the moneys payable thereunder in connection with the Fund.

INDEMNITY

13. THAT no person being a Trustee or any other person authorised by the Trustee to act in respect of the Fund shall be under any personal liability in respect of any loss or breach of trust relating to the Fund unless the same shall have been due to his own dishonesty AND THAT the Trustee or such other person shall be indemnified by the Fund against all liabili-

ties incurred by it in the execution or attempted execution or in respect of the non-execution of the trusts authorities powers and discretions contained in this Deed and shall have a lien on and may use any moneys for the time being in the hands of the Trustee for the indemnity and generally for the payment of all proper legal and other costs charges and expenses of administering or winding up the Fund and otherwise of performing its duties under this Deed AND FURTHER THAT this indemnity shall apply to any payment made on the death of a member to any person whom the Trustee bona fide believes to be entitled thereto.

EXERCISE OF POWERS AUTHORITIES AND DISCRETIONS

14. THAT in the exercise of the powers authorities and discretions vested in the Trustee by this Deed and the Rules the Trustee shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of those powers authorities or discretions from time to time and at any time or may refrain from exercising all or any of those powers authorities or discretions from time to time or at all and its decisions as to the interpretation and effect of this Deed and the Rules shall be final.

TRUSTEE MAY ACT THROUGH AN AGENT

15. (1) THAT the Trustee shall not be bound in any case to act personally but shall be at full liberty to appoint an investment manager or a solicitor accountant or other agent or a secretary to transact all or any business of whatsoever nature required to be done in connection with the Fund (including the receipt and payment of money) and shall be entitled to be allowed and to be paid out of the Fund all remuneration charges and expenses incurred in respect of the appointment of and the work performed by the investment manager and the solicitor accountant and other agent and the secretary as aforesaid.
- (2) THAT the Trustee may at any time revoke add to or vary the terms of appointment of an investment manager or of a solicitor accountant or other agent or secretary as aforesaid and may appoint another company firm or person to act as investment manager or as solicitor accountant or other agent or as secretary in respect of the Fund or of a part of it.

GENERAL POWERS OF THE TRUSTEE

16. THAT in addition to the powers which may by law be conferred upon or which are otherwise granted to the Trustee by this Deed the Trustee shall have the following powers:-
- (1) To settle comprise or submit to arbitration any claims matters or things relating to the Deed or to the rights of members or any other persons making any claims upon the Fund;

- (2) To commence carry on and defend proceedings relating to the Fund or to the rights of any members former members or any beneficiaries under the Fund;
- (3) To borrow money and to secure the repayment thereof in such manner and upon such terms which the Trustee may in its absolute discretion determine whether by charge on or any portion of the Fund or otherwise;
- (4) To insure or re-insure risks contingencies or liabilities of the Fund with any insurance company mortgage insurance company re-insurance company or other superannuation Fund;
- (5) To submit underwrite any risks contingencies or liabilities under any superannuation arrangement conducted by any Employer regardless of whether the possibility of transfers of members to the Fund exists;
- (6) To retain the services of such professional or other advisers in relation to the management administration or investment of the Fund and to pay out all expenses properly incurred and incidental to the management and administration and investment of the Fund;
- (7) To indemnify or to undertake to indemnify any person in respect of any claim matter or thing relating to the Fund or to the rights of any member former member or beneficiaries in respect of the Fund;
- (8) To deduct all taxes duties expenses other costs and outgoings from any benefit payable to or in respect of any member or any beneficiary to pay only the residual amount in respect of such benefit to such member or beneficiary;
- (9) Generally to do all acts things matters as a Trustee may consider necessary expedient for the proper and due administration maintenances and preservation of the Fund in performance of its obligations pursuant to the terms of the Deed;
- (10) To appoint any properly qualified actuary being a person who is a fellow of the Institute of Actuaries of Australia or a Secretary and such other offices as the Trustee shall think proper for the proper management of the Fund and to remove such person as a Trustee shall in its absolute discretion determine.

INVESTMENT POWERS

17. (1) THAT the Trustee is empowered to apply the Fund or any part thereof in any one or more of the following investments -

- (a) in any investment at any place in the Commonwealth of Australia which investment is authorised by the laws of the Commonwealth of Australia or any State or territory thereof for the investment of trust funds

but without restriction to such State or Territory;

- (b) on deposit at call or otherwise with any bank or financial institution and whether with or without interest;
 - (c) on effecting or acquiring or in entering into an agreement relating to an annuity in respect of any member (or in respect of a group or all of the members) and in purchasing such annuity;
- (2) THAT the Trustee shall have full liberty from time to time to sell vary and transpose any investments of the Fund.
- (3) THAT the Trustee may in its absolute discretion borrow money and secure the repayment of any moneys so borrowed in such manner and upon such terms and conditions as it shall in its absolute discretion determine.

RECORDS

18. (1) THAT the Trustee shall keep account of all moneys received for and disbursed from the Fund and of all dealings in connection therewith and collect and promptly pay into the bank account all moneys from time to time due to the Fund and to keep appropriate records and accounts in proper order and make suitable arrangements for their custody and for custody of documents relating to the investments and to prepare after the end of each financial year or such other proper time as the Trustee shall determine a balance sheet of the Fund as at the end of such period of time together with a statement of receipts and disbursements during such year or period.
- (2) THAT the Trustee shall cause the books and accounts of the fund to be audited as shall be required by the Act.

RULES

19. (1) THAT the Rules set out in of Item 1 of the Schedule hereto (and as amended in accordance with these presents) shall apply to and be the Rules for the management of the Fund.
- (2) THAT such Rules shall be construed in accordance with this Deed PROVIDED HOWEVER THAT in the event that such Rules shall be inconsistent with the provisions of this Deed or any alterations or amendments thereof or additions thereto that the provisions of this Deed shall prevail.

AMENDMENTS TO THE DEED OR RULES

20. (1) THAT the Trustee may at any time modify add to or vary the terms of this Deed and the Rules PROVIDED THAT such amendment variation addition or modification shall -
- (a) be by resolution or by deed;

- (b) be for the benefit of the past and present members (including their dependants); and
 - (c) not impose any further liability on any person entitled to participate in the Fund without that person's written consent.
- (2) THAT such amendments shall be forwarded to the Commissioner of Taxation for approval within fourteen (14) days of its execution.

TRANSFERS FROM ANOTHER FUND

21. THAT the Trustee may accept into the Fund an amount in respect of an eligible person (or of an employee who thereupon becomes a member) which is transferred from another pension or superannuation or other similar fund or plan in which he has participated PROVIDED THAT the benefits provided for or in respect of such eligible person under the Fund shall be adjusted in such manner as is determined by the Trustee and the eligible person shall take account of the amount so transferred and accepted into the Fund.

TRANSFERS TO ANOTHER FUND

22. THAT in any case where a member may participate in another pension superannuation or similar fund or plan the Trustee shall at the request of the member transfer to the Trustee of that other fund or plan the amount or a part of the benefit relating to such member under the Fund PROVIDED HOWEVER that a transfer may be made in accordance with this Clause only if the Trustee is satisfied that -
- (a) the rights of the member or his dependants or legal personal representatives to receive the benefits arising from the amount transferred are fully secured; and
 - (b) benefits will not be paid from that fund or plan to or in respect of the member except when he retires or in the circumstances of his incapacity for work attributable to illness or accident or on his death or in such other circumstances as in the opinion of the Trustee are approved for the purposes of Section 23FB of the Act.

DISCONTINUANCE OF THE FUND

23. (1) THAT if all of the members terminate their contributions to the Fund the Trustee shall allocate the amount then in the Fund to the members in such shares and proportions as they consider equitable and the amounts so allocated shall be held in trust and invested by the Trustee and the amount allocated to the member and any accretion thereto (or

less any diminution thereof) shall subject to the other provisions of this Deed and any relevant Rules be paid to the members in accordance with Rules on his ceasing or to the dependants or legal personal representatives of the member in the event of his death.

- (2) THAT if a member terminates its contributions to the Fund the Trustee shall unless the member or another person agrees to continue the contributions in respect of that member within the provisions of this Deed hold the amount in the member's reserve for such member in trust to pay it and any accretion thereto (or less any diminution thereof) to the member on his ceasing to be an eligible person or to the dependants or legal personal representatives of the member in the event of his death.

REDUCTION OR SUSPENSION OF CONTRIBUTIONS

24. THAT if a member reduces or suspends its contributions to the Fund the Trustee shall make such adjustments to the benefits for such member as it considers appropriate taking into account the contributions (if any) likely to be paid in the future.

DATE OF COMMENCEMENT

25. THAT the Fund shall be deemed to have commenced on the date set out at Item 6 in the Schedule hereto beside the words "Date of Commencement of this Fund".

SCHEDULE HEREINBEFORE REFERRED TO:

ITEM 1 RULES FOR THE MANAGEMENT OF THE SUPERANNUATION FUND

The following Rules shall apply to and govern the benefits payable under the Fund.

1. INTERPRETATION

- (1) That in the interpretation of the Rules the following words and expressions shall unless repugnant to the context have the following meanings set beside them:-
- (a) "annual salary" means the annual rate of the member's salary or income and without derogating from the generality of the foregoing includes all income derived by a member from any business property or other activity carried on by that person from time to time on his own account;
 - (a) as at the date when he becomes a member of the fund; or
 - (b) as at the relevant review date; or

- (c) as advised by the member to the Trustee upon the relevant review date as hereinafter defined;
 - (b) "final average salary" means the average of the amounts of the member's annual salaries on the review dates which occur within the period of three years prior to the member's retirement on or after his normal retirement date;
 - (c) "projected salary" means the member's annual salary as at the latest review date projected to the member's normal retirement date at such rate and in such manner as in the opinion of the Trustee is approved for the time being for the purposes of Section 23FB of the Act;
- (2) Every eligible person who shall apply to participate in the Fund on the terms and conditions of this Deed and the Rules and is accepted by the Trustee shall thereupon become a member.

2. CONTRIBUTIONS

- (1) Unless otherwise agreed the member shall pay the whole of the contributions to the Fund in respect of that member.
- (2) Subject to Clauses 2 and 4 of the Deed each year the member shall contribute such amount as is required to provide the benefits under the Fund such amount being previously determined by the Trustee in the manner herein provided.

3. MEMBERS RECEIPT OF BENEFITS

- (1) THAT notwithstanding anything otherwise herein contained a member's right to receive benefits shall arise only in the following circumstances
 - (a) subject to sub-clause (b) a member and the dependents of a member shall not receive any benefits from the fund until that member attains the age of fifty-five (55) years;
 - (b) notwithstanding sub-clause (a) hereof a member or his dependents shall become entitled to receive benefits in the following circumstances:
 - (i) in the event of the member's death sickness or permanent incapacity for work; or
 - (ii) in such other circumstance as the Commissioner of Taxation may approve.
- (2) THAT any pension or annuity payable to any member or the dependent of any member pursuant to the fund shall commence on or before such member's seventieth (70th) birthday.

- (3) THAT any other benefit due to any member or any dependents of any member shall be paid on or before such member's seventieth (70th) birthday.

4. BENEFITS ON RETIREMENT ON OR AFTER THE NORMAL RETIREMENT DATE

Where a member retires on or after his normal retirement date the benefit payable to such member shall be a pension which subject to the other provisions of this Deed and the Rules is determined by the formula -

2 1/2% of FAS times YS

but with a maximum pension of seventy-five per cent (75%) of FAS. In this formula -

FAS is the member's final average salary;
YS is the member's years of service.

5. BENEFITS ON RETIREMENT PRIOR TO THE NORMAL RETIREMENT DATE

Where a member ceases (for any reason other than dismissal for misconduct or resignation or retirement to avoid dismissal on those grounds) to be an eligible person within the period of five years prior to his normal retirement date the benefit payable shall be a pension which subject to the other provisions of this Deed and the Rules is determined as -

- (a) the pension calculated by the formula specified in Rule 4 with a maximum of seventy-five per cent of the member's final average salary; less
- (b) two and one-half per cent of the member's final average salary in respect of each year (with fractions of a year being complete months being taken into account in the determination of the pension as aforesaid) of the period from the date of his ceasing to be in the service of the Employer up to his normal retirement date.

6. PENSION PAYMENTS

- (1) Subject to the other provisions of this Deed and the Rules the pension determined in accordance with Rule 4 or 5 shall be payable to the member in monthly instalments of one-twelfth of the pension determined as aforesaid the first of those instalments being payable on the first day of the month following in which the member ceases to be an eligible person and the last instalment being payable on the first day of the month in which the member dies or the member's widow dies or on the date when the one hundred and twentieth instalment becomes payable whichever is the latest.
- (2) In the event that the member who has become entitled to

receive instalments of pension as aforesaid dies the instalments which in accordance with sub-rule (1) hereof becomes payable after the member's death shall be paid to the member's widow during that person's life as follows -

- (a) the first of such instalments shall be paid on the first day of the month following the month in which the member dies;
 - (b) the last of such instalments shall be paid to the widow on the first day of the month in which the widow dies.
- (3) In the event that both the member and the member's widow die before the one hundred and twentieth instalment has become payable the remaining instalments of the pension shall be paid to the persons and in the manner referred to in Rule 8.
- (4) Where a member requests that more than twenty-five per cent of the pension otherwise payable as aforesaid be commuted to a lump sum and if the Trustees decide to accede to his request the amount of the benefit (determined as specified in sub-rule (5) of this Rule) shall not exceed the sum calculated in accordance with the scale (published by the Commissioner of Taxation) which at that time applies to the determination of reasonable benefits for the purposes of Section 23FB(2)(h) of the Act.
- (5) For the purposes of sub-rule (4) of this Rule the amount of the benefit shall be calculated by -
- (a) multiplying the pension (being that part of the benefit which is to be payable as a pension) by the factor used in commutation of portion of the benefit to a lump sum; and
 - (b) adding the resulting figure to the said lump sum.
- (6) If the amount of the benefit (determined as specified in sub-rule (5) of this Rule) exceeds the sum calculated in accordance with the scale (as specified in sub-rule (4) of this Rule) the amount of that excess will be forfeited to the Fund and be applied within the Fund in a manner approved for the purposes of Section 23FB of the Act.

7. OPTION FOR COMMUTATION

- (1) Before the first instalment of the pension referred to in Rule 4 or 5 is paid to him or at such later time as the Trustee shall permit a member shall be entitled to request the Trustee to commute such portion of the pension as a member specifies for a lump sum PROVIDED THAT such portion so commuted shall not subject to Rule 6(4) hereof be more than twenty-five per centum of the pension otherwise payable as aforesaid.

- (2) In the event that a member elects to commute part of his pension as aforesaid the Trustee shall pay the said lump sum to such member on or after the date that the member ceases to be an eligible person.
- (3) For the purposes of this Rule the Trustee shall determine the amount of lump sum which is to be paid in commutation of portion of the pension as aforesaid and may for this purpose obtain such actuarial or other advice as it considers necessary.

8. BENEFITS ON DEATH

Subject as otherwise provided herein in the event that a member dies the benefit payable shall be a lump sum equal to such amount as has been previously agreed upon by the Trustee and the member being not greater than such sum in relation to the member's projected salary as is deemed not to be excessive for the purposes of Section 23FB of the Act.

9. PAYMENTS OF BENEFITS ON DEATH

- (1) Following the death of a member as aforesaid or following the subsequent death of the member's widow in the event that instalments of pension are payable as referred to in Rule 6 or a lump sum is payable under Rule 8 (the said instalments of pension and the said lump sum being referred to in this sub-rule as the benefit payable) the Trustee shall pay or apply the benefit payable to or for the benefit of any one or more of the member's dependants and in such shares and proportions and in such manner as the Trustee in its absolute discretion determines and if there is no dependant the Trustee shall pay the benefit payable to the member's legal personal representatives.
- (2) The member's widow or the dependant to whom instalments of pension (or part thereof) are payable as aforesaid may request the Trustee to commute the whole or such part of the pension (or part thereof) thereafter payable in respect of the member for a lump sum as the widow or the dependant (as the case may be) specifies and if the Trustee decides to accede to such request the Trustee shall pay to the member's widow or dependant (as the case may be) such lump sum as it determines being equivalent (on such basis as they consider reasonable) to the pension or part thereof which is commuted.
- (3) If a benefit becomes payable to the member's legal personal representatives as aforesaid it shall be paid as a lump sum and for this purpose the Trustee shall determine (on such basis as it considers reasonable) the amount of the lump sum which is equivalent to the instalments of pension which would otherwise have been payable to the legal personal representatives.

- (4) Where a dependant to whom an amount being the benefit payable (or part thereof) as aforesaid is to be paid is a minor or is otherwise under a legal disability the Trustee may pay the said amount to the legal personal representatives of the deceased member or to the parent or guardian of the dependant to be applied for the benefit of the dependant and the receipt of the person so paid shall be sufficient evidence to the Trustee that the amount has been paid for the benefit of the dependant.

10. CEASING TO BE AN ELIGIBLE PERSON

If the member prior to his normal retirement ceases (other than by reason of his retirement as referred to in Rule 5 or of his death) to be an eligible person the benefit determined as follows shall subject to the other provisions of this Deed and the Rules be payable to the member.

- (a) If the member ceases to be an eligible person on account of sickness or accident (proof of which is furnished to the satisfaction of the Trustees) the benefit payable shall be equal to either -
- (i) the amount determined from the formula specified in paragraph (b)(i) of this sub-rule; or
- (ii) the amount determined from the formula -

$$\frac{K \times t \times S}{n}$$

whichever is the greater.

In this formula -

K is a percentage being one hundred per cent less two per cent for each complete year from the date on which the member ceases to be in the service of the Employer until his normal retirement date;

t is the member's years of service;

n is the number of the years of service which the member would have completed if he had continued to be an eligible person until and had retired on his normal retirement date;

S is a lump sum being such maximum amount in relation to the member's projected salary as is for the purposes of Section 23F of the Act deemed not to be excessive.

- (b) If the member ceases for any other reason to be an eligible person the benefit payable shall be such

amount as the Trustees determine being -

- (i) not greater than the amount determined in accordance with the formula -

$$\frac{A}{B \times S}$$

In this formula -

A and B are the compound interest factors of the amount of 1 per annum at a rate of interest of 8 per cent per annum for a period of -

A - t years

B - n years

t and n are determined as in paragraph (a) of this sub-rule;

S is the lump sum described in paragraph (a) of this sub-rule;

and

- (ii) not less than such proportion of the said amount as is determined from the following table.

THE TABLE

| <u>Compound Years of Membership of the Fund</u> | <u>Proportion</u> |
|---|---|
| Less than 5 | Nil. |
| 5 and Less than 20 | 10% increased by 2 percentage points for each completed year of membership in excess of 5. |
| 20 and Less than 32 | 40% increased by 5 percentage points for each completed year of membership in excess of 20. |
| 32 and over | 100%. |

- (c) Subject to the other provisions of this Deed and the Rules the benefit payable to the member as aforesaid shall not be less than the aggregate of the amount contributed to the Fund by the member with compound interest thereon up to the date on which the member ceased to be an eligible person and the said interest shall be added at such rate (being not less than four per cent per annum) as the Trustees determined and shall be compound with yearly rests.

11. PENSION INCREASES

The Pensions payable under Rules 3, 4, 5, 8 and 9 shall be increased from time to time by such amount as the Trustee in its absolute discretion considers necessary to compensate the recipient of any such pension for any increases in the cost of living PROVIDED THAT the amount of such increase shall not exceed the increase in the pensions paid by the Australian Government under its Superannuation Act.

12. VARIATIONS IN SALARIES

The member shall from time to time advise the Trustee of changes in his income in order that the benefits payable under the Fund and the contributions required to provide those benefits may be determined.

SCHEDULE HEREINBEFORE REFERRED TO

| | | |
|---------------|---|--|
| <u>ITEM 1</u> | <u>Date of this Deed:</u> | 27 th JUNE 1986 |
| <u>ITEM 2</u> | <u>The Trustee:</u> | JAMES MERRICK PHILLIPS |
| <u>ITEM 3</u> | <u>Address of the Trustee:</u> | 14 FAIRSEAT STREET, BARDON. QLD |
| <u>ITEM 4</u> | <u>Name of this Fund:</u> | E.A. & L.E. MAY SUPERANNUATION FUND |
| <u>ITEM 5</u> | <u>Supplementary Benefit Fund:</u> | E.A. & L.E. MAY SUPPLEMENTARY BENEFIT FUND |
| <u>ITEM 6</u> | <u>Date of Commencement of this Fund:</u> | 1ST JUNE, 1986 |
| <u>ITEM 7</u> | <u>The Principal:</u> | ERNEST ALLEN MAY |
| <u>ITEM 8</u> | <u>Address of the Principal:</u> | 124 BIRDWOOD ROAD, CARINA. QLD. |

IN WITNESS WHEREOF the parties hereto have executed this Deed the day and year first set forth in the Schedule.

SIGNED SEALED AND DELIVERED
by the said JAMES MERRICK PHILLIPS
in the presence of:-

J. Merrick Phillips
29/1/1911

SIGNED SEALED AND DELIVERED
by the said ERNEST ALLEN MAY
in the presence of:-

Ernest Allen May
29/1/1911

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20-00

THIS DEED OF AMENDMENT is made on the Date of Execution specified in Schedule A BY the person or persons named in Schedule A as the Trustee (the "Trustee").

RECITALS

- A. By a trust deed made on the Date of Original Deed specified in Schedule A (which Deed may have been amended from time to time and is hereinafter called the "Original Deed") a superannuation fund known by the name set forth in Schedule A was established for the purpose of providing benefits for self employed persons, the Employees of any Participating Employers and other Employers who are eligible to participate in the Fund and for the dependants of such self employed persons and employees so admitted.
- B. THE Trustee is the present Trustee of the Fund.
- C. THE Trustee desires by this Deed to alter the Original Deed in accordance with the provisions of Clause 36 of the Original Deed.

NOW THIS DEED WITNESSETH that with effect from the Date of Execution specified in Schedule A the Original Deed is amended by removing the existing Clauses and Schedules in their entirety and replacing them with the following Clauses and Schedules:

ESTABLISHMENT

1. (a) This Fund was established on the Date of Original Deed specified in Schedule A and shall from the Date of Execution specified in Schedule A be governed by the provisions of the Deed as hereafter amended unless and until the Deed is subsequently amended; and
- (b) The primary purposes of this Deed is the provision of old age pensions and other benefits to Beneficiaries on their retirement, death or total and permanent disablement as are consistent with the Fund being a Complying Superannuation Fund.

DIVISIONS

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

COVENANTS

3. The Trustee covenants to perform and observe the covenants, trusts and conditions of this Deed.

ADMINISTRATION

4. The Trustee shall generally administer the Fund and carry out the requirements of this Deed so as to comply with or satisfy the Relevant Requirements relating to superannuation funds with the intent that Taxation in respect of the Fund shall be minimised to the full extent possible and contributions to the Fund are tax deductible for the Contributor to the full extent possible and, if appropriate, the Trustee shall administer the Fund as two separate and distinct funds or categories one relating to an employer sponsored superannuation fund and the other one relating to a personal superannuation fund.

DIVISION A

MANAGEMENT AND ADMINISTRATION

INTERPRETATION - Definitions

5. In this Deed unless the context otherwise requires:

"Accumulation Account" means in relation to a Beneficiary the account established and maintained in the Fund for that Beneficiary pursuant to Clause 11 hereof.

"Act" means the Income Tax Assessment Act 1936, the Superannuation Industry (Supervision) Act 1993 and associated Regulations as prescribed from time to time, related Acts and any other law of the Commonwealth of Australia (including where applicable any determination, ruling or guideline made or laid down by the Responsible Authority pursuant to any powers vested in it thereunder) with which the Fund and/or the Trustee must comply in order to maintain concessional treatment in respect of the income of the Fund or in order to obtain what the Trustee considers to be any other relevant concession or to avoid what the Trustee considers to be a relevant penalty or imposition.

"Actuary" means a person who is a Fellow of the Institute of Actuaries of Australia or of any body formed in reconstruction of or in succession to that Institute, and "the Actuary" means the Actuary to the Fund appointed by the Trustee pursuant to Clause 14 hereof.

"Approved Deposit Fund" means an Approved Deposit Fund as defined pursuant to Section 27A(1) of the Income Tax Assessment Act 1936.

"Approved Superannuation Agreement" means in relation to a Beneficiary, any agreement entered into by the Employer under which the Employer agrees to pay contributions to the Fund and which is ratified by a decision handed down by an Industrial Authority or such other agreement not necessarily ratified as aforesaid which is declared by the Employer to be an Approved Superannuation Agreement for the purposes of the Deed.

"The Auditor" means the person appointed from time to time by the Trustee as Auditor to the Fund pursuant to Clause 14 of the Deed.

"Beneficiary" means an Eligible Person who has been admitted as a participant in the Fund PROVIDED THAT such an Eligible Person has not ceased to be a Beneficiary pursuant to sub clause 17(d) hereof.

"Beneficiary's Contributions" means the amount contributed by a Beneficiary pursuant to Clause 40(b) hereof or deemed to have been contributed by a Beneficiary in accordance with sub-clause 19(e) hereof.

"Beneficiary's Vested Contributions" means Beneficiary's Contributions together with Net Earnings compounded annually on those Contributions.

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

"Class" means the Class of Beneficiary in accordance with Clauses 43 and 49 hereof.

"Commencing Date" means the Date of Original Deed referred to in Schedule A.

"Commissioner" means the Insurance and Superannuation Commissioner appointed under the Insurance and Superannuation Commissioner Act 1987, or a person for the time being acting as the Insurance and Superannuation Commissioner under that Act;

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

"Guardian" means -

- (a) the Founder, or
- (b) a person while appointed by the Founder in writing to act as Guardian for the purpose of this Deed, or
- (c) if the Founder is not an Employer, Beneficiary or Contributor, then it shall mean all the Contributors or a majority of them excluding any Employer which is not a Participating Employer.

"Independent Trustee" means a single corporate Trustee appointed following nomination by agreement between a majority of the beneficiaries of the Fund and the employer or employers of those beneficiaries.

"Industrial Authority" means any board, court, tribunal, body or person having authority to exercise any power of conciliation or arbitration in relation to industrial disputes under Commonwealth or State legislation.

"Net Earnings" means earnings (which may be negative) allocated annually to the particular accounts in accordance with sub-clause 11 (e) hereof and the Fund Earning Rate described therein adjusted in accordance with sub-clause 11 (f), if applicable, or in accordance with sub-clause 11 (g) hereof as appropriate.

"Nominated Dependant" means a Dependant nominated by a Beneficiary as the Nominated Dependant.

"Participating Employer" means any Employer that is admitted to participation in the Fund pursuant to Clause 32 (a) hereof.

"Pension" includes a Benefit payable by instalments out of the Accumulation Account of a Beneficiary or former Beneficiary whether such instalments be equal or unequal.

"Pensioner" means a Beneficiary or former Beneficiary who is no longer engaged in any business, trade, profession, vocation, calling or occupation for gain and who is or, in the case of a deceased Beneficiary or former Beneficiary, was in receipt of a pension from the Fund.

"Preserved Payment" means a payment made to the Fund by an Employer which is to be fully vested and preserved as herein provided as a result of;

- (a) its being a Productivity Payment;
- (b) a Compulsory Contribution; or
- (c) an agreement between the Employer and the Beneficiary with respect to the provision of superannuation benefits; or
- (d) its being otherwise required to be regarded as a Preserved Payment by the Responsible Authority,

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

"Productivity Payment" means a payment made to the Fund by an Employer or the reclassification of an existing Benefit of a Beneficiary by the Trustee with the consent of the Employer which payment or reclassification takes place pursuant to or as a result of:

INTERPRETATION - General

6. (a) **Plural and gender of words**

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

(b) **Headings to Clauses**

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

(c) **Defined words**

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

(d) **Statutory enactments**

References to any statutory enactment or regulations shall be construed as references to that enactment or regulations as amended, modified, re-enacted or re-made from time to time.

(e) **Other Division subject to Division A**

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

GENERAL PROVISIONS

7. (a) **Employer's powers not prejudiced**

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

(b) **Exercise of Trustee's powers**

All powers, rights, decisions, discretions, appointments and other authorisations of whatsoever nature or kind granted to or conferred on 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 Trustee:

- (i) where the Trustee is a company - by resolution of its directors or by any person or persons having the written authorisation of its directors to so act on their behalf; or
- (ii) where the Trustee consists of an individual or individuals - by meeting of such persons where questions are to be decided by a majority of the number of such persons holding the office of Trustee.

FUND ASSETS

10. 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) **Transfers**

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

(b) **Beneficiary Contributions**

Such contributions (if any) as the Beneficiaries make to the Fund at any time in accordance with the provisions of this Deed;

(c) **Employer Contributions**

Such contributions as any Employer makes to the Fund at any time;

(d) **Earnings**

Interest and distributions of income arising from any investment and the accumulation thereof;

(e) **Profits**

Profits (less losses) and other benefits arising from any investment and the accumulation thereof; and

(f) **Rollover Payments**

Moneys or investments as approved by the Trustee transferred to the Fund as a Rollover Payment.

ACCUMULATION ACCOUNTS

11. (a) **Separate Beneficiary Accounts**

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

(b) **Credits**

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

- (i) any amount paid into the Fund in respect of the Beneficiary as a Rollover Payment;
- (ii) any Contributions paid in respect of the Beneficiary by a Contributor;
- (iii) any amount transferred from the Death and Disablement Reserve account;
- (iv) such positive earnings as are determined by the Trustee in accordance with sub-clause (e),(f) or (g) below;

C. any debits arising out of adjustments pursuant to sub-clause (f) below.

- (iii) Following the crediting and debiting of the Income Account as specified in paragraphs (e)(i) and (e)(ii) above, 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 such provision or reserve for future contingencies and adjustments under paragraph (iv) and sub-clause (g) below as the Trustee shall consider reasonable (hereinafter called "the Fund Earning Rate"). The Trustee shall then allocate to each Accumulation Account and the Death and Disablement Reserve the earnings in accordance with the Fund Earning Rate.
- (iv) The amount distributed as the earnings of the Fund pursuant to paragraph (e)(iii) above shall be allocated to each Accumulation Account and the Death and Disablement Reserve in proportion to the amount standing to the credit of that Accumulation Account or the Death and Disablement Reserve 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 or the Death and Disablement Reserve since that date.
- (v) Any amount remaining in the Income Account after distribution of earnings pursuant to paragraph (e)(iv) above shall be transferred to the Equalisation Account.

(f) Adjustment

In determining the amount standing to the credit of a Beneficiary's Accumulation Account at the time a Benefit is calculated or becomes payable in respect of that Beneficiary, the Trustee may make such adjustment (if any) on account of earnings, profits and losses arising since the end of the preceding Fund Year as it shall at its discretion decide and the Income Account shall be debited or credited accordingly.

(g) Specific Investments

The Trustee may undertake to invest separately in respect of certain Beneficiaries or certain Classes of Beneficiaries of the Fund 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 Beneficiary's Accumulation Account for each Class. In such an event the income and profits (less losses) arising from such specific investments and any costs or charges applicable to such specific investments which are incurred pursuant to sub-clause 18(f) hereof 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 with the appropriate proportion of any costs or charges applicable to such investments which are incurred pursuant to sub-clause 18(f) hereof.

FUND RECORDS

12. (a) Receipt and payment of moneys

All moneys of the Fund shall be lodged as soon as practicable to the credit of an account in the name of the Fund kept with a Bank or other financial institution as determined from time to time by the Trustee ("the Bank Account").

FUND TRUSTEE - VACANCY, APPOINTMENT, REMOVAL AND REPRESENTATION

13. (a) No equal representation

If the Fund is not required to comply with the equal representation rules under the Act::

- (i) The Fund shall be administered by at least one Trustee.
- (ii) The Trustee of the Fund may be an individual or a company.
- (iii) The power to appoint a Trustee is vested in the Guardian but subject to paragraph (a)(vii) hereof a Trustee shall only be appointed following nomination by agreement between the Beneficiary or Beneficiaries and any Participating Employer or Participating Employers.
- (iv) The Trustee shall cease to be Trustee if it is so notified by the Guardian in writing.
- (v) Without limitation no person shall hold the office of Trustee if:
 - A. he is or becomes bankrupt or makes an assignment to or composition with his creditors;
 - B. he is disqualified from office by operation of law;
 - C. that person in the case of a Beneficiary under Part III of Division B hereof is the Beneficiary or a relative of the Beneficiary as defined in Section 6(1) of the Income Tax Assessment Act 1936 unless otherwise allowed by the Responsible Authority;
 - D. he dies;
 - E. he resigns from the position by notice in writing to the Guardian;
 - F. he is suspended or removed by the Responsible Authority.
- (vi) Upon ceasing to be a Trustee pursuant to the terms of the Deed such Retiring Trustee shall perform every act and do everything necessary to vest the Fund in the remaining or New Trustee and shall deliver all records books and other memoranda held by such Retiring Trustee in relation to the Fund to the remaining or the New Trustee.
- (vii) If for any reason there is at any time no Trustee of the Fund the Guardian may appoint a temporary Trustee with the full powers of a Trustee until such time as a Trustee is appointed in accordance with paragraph (a) (iii) above.

(b) Other Funds

In the case of any other Fund:

- (i) the Trustee of the Fund shall be one or more of the following:
 - A. the Trustee specified in this Deed;
 - B. an Independent Trustee;
 - C. a corporate entity the board of which shall consist as to one-half

B. if the Trustee are individuals - to be an individual Trustee,

the appointment shall be made in accordance with the provisions of this sub clause (c) and the number of persons appointed shall be the same number of persons as are appointed by the Employers.

(ii) Subject to the succeeding provisions of this subclause (c) the appointment of a Beneficiaries' Representative shall be made in accordance with the following procedure:

A. the person representing the Employers as a Director or an Individual Trustee ("the Employers' Representative") shall publish a written notice to the Beneficiaries calling for nominations to be made of persons to be considered for appointment as the Beneficiaries' Representative and any such nomination shall be made within such period as is specified in the notice;

B. if only one person is so nominated and that person is willing to act as the Beneficiaries' Representative then that person shall be appointed by the Guardian as the Beneficiaries' Representative;

C. if more than one person is so nominated and only one of the persons nominated is willing to act as the Beneficiaries' Representative then that person shall be appointed by the Guardian as the Beneficiaries' Representative and if more than one of the persons nominated is willing to act as the Beneficiaries' Representative then the Employers' Representative shall conduct a survey of the Beneficiaries or by any other appropriate means determine which of those persons is nominated with the support of a majority of the Beneficiaries and that person shall be appointed by the Guardian as the Beneficiaries' Representative **PROVIDED THAT** in the event of equal support for more than one of the persons the Guardian shall determine the nominee who is to be appointed as the Beneficiaries' Representative and shall appoint that person.

(iii) It is a condition for eligibility for a person to be nominated and appointed as a Beneficiaries' Representative that he is in fellowship with those Christians known as Brethren and who are defined as such in Clause 4 of the deed dated 19th January 1994 and made between B.W. Parker, R.W. Sanderson, S.J. Pringle, S.R. Reoch and S.W. Jensen which established the Norman Park Education Trust and if a Beneficiaries' Representative ceases to satisfy this condition he may be removed by the Guardian from being a Beneficiaries' Representative.

(iv) Subject to paragraphs (b) (iii) and (c)(iii) of this Clause, a Beneficiaries' Representative can only be removed if a Beneficiary gives the Employers' Representative written notice that the Beneficiary wishes that the Beneficiaries' Representative be removed and the Employer's Representative establishes by a survey of the Beneficiaries or by any other appropriate means that the notice has the support of a majority of the Beneficiaries and in that event the Beneficiaries' Representative shall be removed by the Guardian.

(v) If at a particular time there is for any reason no Employers' Representative then the functions of the Employers' Representative under the provisions of this subclause (c) shall be exercised by the Guardian.

- (ii) Before the Trustees shall hold a meeting as aforesaid any question or discretion (including the powers authorities and discretions created by this Deed vested in the Trustees generally) may be decided or exercised by a majority of the Trustees or in accordance with a resolution of the Trustees passed by a majority of votes at such meeting at which a quorum is present each Trustee present being entitled to one vote and in the case of an equality of votes the chairman having a second or casting vote.
- (iii) A resolution in writing signed by all the Trustees shall have the same effect and validity as a resolution of the Trustees passed at a meeting of the Trustees at which a quorum is present.

(h) **Delegation by other Trustees**

If the Fund is administered by more than one Trustee such Trustees may by resolution authorise any limited number of the Trustees or other specified persons to sign or endorse cheques and to sign all documents and forms relating to the Fund and to the investments forming part of the Fund and the moneys payable thereunder in connection with the Fund.

(i) **Indemnity**

No person being a Trustee or any other person authorised by the Trustee to act in respect of the Fund shall be under any personal liability in respect of any loss or breach of trust relating to the Fund unless the same shall have been due to his own dishonesty **AND** the Trustee or such other person shall be indemnified by the Fund against all liabilities incurred by it in the execution or attempted execution or in respect of the non-execution of the trusts authorities powers and discretions contained in this Deed and may use any moneys for the time being in the hands of the Trustee for the indemnity and generally for the payment of all proper legal and other costs charges and expenses of administering or winding up the Fund and otherwise of performing its duties under this Deed **AND FURTHER THAT** this indemnity shall apply to any payment made on the death of a member to any person whom the Trustee bona fide believes to be entitled thereto.

(j) **Exercise of Powers Authorities and Discretions**

In the exercise of the powers authorities and discretions vested in the Trustee by this Deed the Trustee shall have an absolute and uncontrolled discretion and may exercise or enforce all or any of those powers authorities or discretions from time to time and at any time or may refrain from exercising all or any of those powers authorities or discretions from time to time or at all and its decisions as to the interpretation and effect of this Deed shall be final and binding.

(k) **Trustee may act through an Agent**

- (i) The Trustee shall not be bound in any case to act personally but shall, **SUBJECT TO** fulfilling any requirements of the Act, be at full liberty to appoint an investment manager or a solicitor accountant or other agent or a secretary to transact all or any business of whatsoever nature required to be done in connection with the Fund (including the receipt and payment of money) and shall be entitled to be allowed and to be paid out of the Fund all remuneration charges and expenses incurred in respect of the appointment of and the work performed by such investment manager, solicitor, accountant, other agent or secretary.

of the Fund;

- (v) not to enter into any contract, or do anything else, that would prevent the Trustee from, or hinder the Trustee in, properly performing or exercising the Trustee's functions and powers;
- (vi) to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the Fund including but not limited to, the following:
 - (a) the risk involved in making and realising, and the likely return from, the Fund's investments having regard to its objectives and its expected cash flow requirements;
 - (b) the composition of the Fund's investments as a whole including the extent to which the investments are diverse or involve the Fund in being exposed to risks from inadequate diversification;
 - (c) the liquidity of the Fund's investments having regard to its expected cash flow requirements; and
 - (d) the ability of the Fund to discharge its existing and prospective liabilities;
- (vii) 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
- (viii) to allow a Beneficiary access to any prescribed information or any prescribed documents.

APPOINTMENT OF AUDITOR, SECRETARY AND ACTUARY

14. (a) Appointment of Auditor

The Trustee shall if necessary appoint a person or firm to be the Auditor on such conditions having regard to Clause 4 hereof as it shall determine.

(b) Secretary and Actuary

In addition, the Trustee from time to time may appoint persons or firms to the position of Secretary or Actuary on such conditions as it determines and may appoint such other persons or consultants as it considers desirable for the proper management of the Fund.

(c) Removal

The Trustee may cancel the appointment of any person appointed pursuant to this clause.

VARIATION IN BENEFITS

15. Compulsory Superannuation

Where at any time an obligation is imposed upon the Contributor to make compulsory contributions to a superannuation fund which is established by Federal, State or Territory legislation and is administered by a body or authority established by statute and which provides retirement, death or disablement benefits in respect of Beneficiaries of the Fund

connection with the Fund.

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

Where a Beneficiary furnishes information required pursuant to this Deed, affecting or likely to affect the Benefits payable to or in respect of the 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.

(d) **Cessation of Participation**

A person shall cease to be a Beneficiary of the Fund on the payment of the whole of the Benefit in accordance with the provisions of the Deed.

CONTRIBUTIONS TO FUND

18. (a) **Beneficiary's Contributions**

No contribution shall be made to the Fund by a Beneficiary under Part II of Division B hereof.

Contributions to the Fund by a Beneficiary under Part III of Division B hereof shall be such amount as may be agreed between the Employer or the Beneficiary and the Trustee from time to time.

(b) **Contributions during Special Leave**

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

(c) **Employer's Contributions**

The Employer or, if there is more than one Employer participating in the Fund, the Employers, shall, with the approval of the Trustee determine the Contributions payable by each Employer in respect of Beneficiaries of all Classes on and from:-

- (i) the date on which this Deed is deemed to come into effect;
- (ii) the date the Beneficiary joins the Fund;
- (iii) the date of any change in the Beneficiary's Class;
- (iv) the date of each actuarial investigation (if any);
- (v) each date on which any variation is made to this Deed which has a significant effect on the Benefits or the Contributions; and
- (vi) such other dates as the Trustee may decide.

The contributions payable by an Employer shall be paid to the Trustee free of all deductions at least once each year in such manner and at such time as shall be

TRANSFERS TO AND FROM OTHER FUNDS

19 (a) **Transfers to other Funds**

Where a Beneficiary joins or is eligible to join any other superannuation arrangement (hereinafter called the "Other Fund") and the Beneficiary 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 Beneficiary's Employer (if applicable), shall pay to the Trustee of the Other Fund an amount (hereinafter called the "Transferred Amount") as determined by the Trustee which amount reflects the whole or such part of the entitlement of the particular Beneficiary in the Fund at the time of the request for the transfer as the Beneficiary has requested be transferred and the Trustee may at its discretion obtain the advice of a Qualified Adviser in the computation of same.

(b) **Application of Transferred Amount**

The Trustee may require that the former Beneficiary be entitled to such reasonable rights in the Other Fund as it shall agree with the trustee of the Other Fund are just and equitable.

(c) **Benefits Cease**

A former Beneficiary in respect of whom his whole entitlement in the Fund is paid as the Transferred Amount under this Clause and his Dependants shall not be entitled to any other Benefit 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 to and in respect of that former Beneficiary and except as provided in sub-clause (b) above, the Trustee shall have no responsibility to see to the application of the Transferred Amount.

(d) **Preserved Payment Transfers**

Where a Beneficiary or former Beneficiary 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 a Beneficiary wishes to leave the Other Fund the amount of the Preserved Payment Benefit must be preserved in any of the following ways:-

- (i) in the superannuation fund which preserves benefits until age 55;
- (ii) in another superannuation fund which preserves benefits until age 55;
- (iii) in an Approved Deposit Fund which is required to preserve the benefits until age 55;
- (iv) in a Deferred Annuity which is precluded from paying out any benefits to the Beneficiary prior to age 55;

or that it may be released in other circumstances acceptable to the Responsible Authority.

(e) **Transfers from other Funds**

Where a Beneficiary is or was a member of or is or was a Beneficiary under any other superannuation arrangement including an Approved Deposit Fund or Eligible Annuity the Trustee may by resolution and at its absolute discretion take over or acquire by transfer or otherwise from the trustee of the other superannuation arrangement or Approved Deposit Fund or Eligible Annuity the whole or any part of

FORFEITURE OF BENEFITS

22. (a) Conditions of Forfeiture

Subject to the Relevant Requirements, any Beneficiary, former Beneficiary or after his death, any of his Dependants or his personal representatives:

- (i) who assigns or charges or attempts to assign or charge any Benefit;
- (ii) whose Benefits whether by his own act, operation of law or otherwise become payable to or vested in any other person, company, government or other public authority;
- (iii) 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;

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

(b) Accumulation Account Residue

Any Beneficiary or former Beneficiary who has been paid all Benefits which the Trustee considers should be paid to him pursuant to the provisions of Division B hereof 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.

(c) Application of Forfeited Benefits

The Trustee may pay or apply any Benefits which have been forfeited under this Clause in one or more of the following ways:

- (i) to or for the benefit of the former Beneficiary 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 and the Trustee's decision shall be final **PROVIDED HOWEVER** that where the former Beneficiary is and remains an Eligible Person any payments so made shall be limited to the relief of hardship of the former Beneficiary or of his Dependants; or
- (ii) if the former Beneficiary was an Employee, to or for the benefit of other Beneficiaries of the Fund who have rights to receive Benefits from the Fund and who are or were Employees of the same Contributor or for their Dependants on a basis that the Trustee considers reasonable having regard to all the circumstances in which Benefits may be paid, in lieu of Contributions which were otherwise payable by the Employer of those Beneficiaries or the Beneficiary to the Fund; or
- (iii) to repay to the Employer all or some Contributions (with Net Earnings thereon) made by it to the Fund in respect of a Beneficiary whose entitlements to all his Benefits under the Fund have been forfeited; or
- (iv) to a separate account to be called the Equalisation Account established in accordance with the provisions of sub-clause (d) below.

PROVIDED HOWEVER THAT forfeited benefits may not be applied in any manner or form which in the opinion of the Trustee will prejudice the granting or continuance of any concessions for or in respect of the Fund under the Act or cause the Fund not

(b) **Method of Payment**

The Pension shall be payable in such manner and on such conditions as the Trustee and Beneficiary 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 PROVIDED THAT the total annual pension payable pursuant to sub clause (a) of this Clause is paid within the Fund Year.

(c) **Variation of Pension Payable**

Any Pension payable pursuant to the provisions of this Deed shall, if required by the Relevant Requirements be varied from time to time by such amount as the Trustee in its absolute discretion considers appropriate PROVIDED HOWEVER that the varied pension payable is within the limits required by the Relevant Requirements in respect of the type of pension being paid.

(d) **Dependant Pension**

After the death of a former Beneficiary who was at the time of death still in receipt of a pension pursuant to the provisions of this deed, the Trustee may, unless requested by the spouse of the former Beneficiary in writing, pay to the spouse a pension which pension shall not exceed an amount which is in accordance with the Relevant Requirements PROVIDED THAT if the spouse makes such a request the Trustee shall consider the request in its absolute discretion.

(e) **Death of Beneficiary**

In the event that a Beneficiary to whom a Pension is being paid dies whilst there is still an amount standing to the credit of the Beneficiary's Accumulation Account or Accounts, the balance of such Accumulation Account or Accounts shall be dealt with in accordance with Clause 47 or 51 whichever is relevant PROVIDED HOWEVER that in the event that this is not in accordance with the Relevant Requirements the balance of such Accumulation Account or Accounts shall be dealt with in accordance with Clause 22 as though it was a forfeited benefit or as otherwise required by the Relevant Requirements.

COMMUTATION OF PENSION

25. (a) **Conditions of Commutation**

Following the written request of a person who is in receipt of a pension in accordance with Clause 24 hereof, the Trustee may in its absolute discretion commute to a lump sum Benefit the whole or any part of a Pension payable from the Fund to that Beneficiary or former Beneficiary, as applicable, PROVIDED THAT:-

- (i) the commutation of the pension is permitted by the Relevant Requirements;
- (ii) the amount of the commuted Benefit including the value of any remaining Pension shall be subject to the provisions of Clause 21 and be limited to the amount standing in the Beneficiary or former Beneficiary's Accumulation Account or Accounts;
- (iii) where any amount remains in the Fund after all the Beneficiary's entitlements have been paid out the amount so remaining shall be dealt with in accordance with Clause 22 hereof as a Forfeited Benefit;

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.

DEDUCTION OF TAX FROM BENEFITS PAYABLE

29. The Trustee shall deduct from any Benefit payable to any Beneficiary pursuant to this Deed any Taxation payable from or in respect of it and shall thereupon pay the said Taxation to the relevant authorities.

The Beneficiary shall be entitled to receive only the net Benefit or payment after the deduction of Taxation has been made **PROVIDED HOWEVER** that if the Trustee receives a refund of all or any of that Taxation paid by it then the Trustee shall pay the full amount of such refund to the Beneficiary and/or his nominee.

PAYMENT OF BENEFITS

30. (a) **Address for Payment of Benefits**

The Trustee may forward the Benefits to the postal address or bank account last notified to the Trustee in accordance with sub-clause (b) of this clause or to such other place as the Trustee shall determine.

- (b) **Notification of Address**

Every Beneficiary, or person to whom a Benefit is payable on behalf of or for the benefit of a Beneficiary, shall notify the Trustee in writing at the time the Benefit becomes payable and immediately after he changes residence of:

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

- (c) **Receipt for Benefits**

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

ROLLOVER PAYMENTS

31. Where a Beneficiary or former Beneficiary wishes to effect a Rollover 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 person to whom the payment is to be made and the amount to be applied as the Rollover Payment. The Beneficiary or former Beneficiary shall additionally complete and execute a Rollover Payment Notification together with such other documents as shall be required to enable the Rollover Payment to be effected and for it to be recorded by the Responsible Authority.

ADMISSION AND CESSATION OF PARTICIPATING EMPLOYER

32. (a) **Admission of Participating Employer**

- (i) If the Founder is an employer the Founder shall be deemed to be a Participating Employer. Any other employer who wishes to become a Participating Employer of the Fund shall make application to the Trustee

Employer cease to be a Participating Employer PROVIDED THAT if the Guardian consists of more than one Contributor then a majority of Contributors may give such notification to the Trustee;

- C. the Participating Employer voluntarily ceasing to be a Participating Employer by notice in writing to the Trustee;

that Participating Employer shall thereupon cease to be a Participating Employer and to be entitled to make contributions to the Fund on behalf of its Employees.

TERMINATION OF CONTRIBUTIONS

33. (a) Termination of Employer's Contributions

Subject to sub-clause (b) below, the Employer's Contributions shall terminate where:

- (i) the Employer goes into liquidation (except for the purposes of amalgamation or reconstruction); or
- (ii) the Employer voluntarily terminates its Contributions by notice in writing to the Trustee.

(b) Transfer of the Employer's Business

If the Employer (hereinafter called the "Former Employer") is amalgamated with or disposes of its undertakings to another Employer (hereinafter called the "New Employer") and if the Former Employer and the New Employer so agree contributions shall be deemed not to have terminated but the Beneficiaries who are Employees of the Former Employer shall become Employees and Beneficiaries with the New Employer and the New Employer may make future Contributions in respect of those Beneficiaries.

(c) Application and notice of Termination

Termination of Contributions by the Employer pursuant to the provisions of paragraph (a) (i) above shall apply in respect of all the Beneficiaries in respect of whom the Employer contributes. A notice given by the Employer pursuant to the provisions of paragraph (a) (ii) above may, as stated in the notice, apply to all of the Beneficiaries in respect of whom the Employer contributes or any Beneficiary or section or Class of Beneficiaries in respect of whom the Employer contributes. The notice shall be given to take effect on a date to be agreed upon between the Employer giving the notice and the Trustee but not more than 1 year from the date of such notice.

(d) Employees not to be admitted

No employees of the Employer shall be admitted as Beneficiaries where the Employer's Contributions in respect of all of its Employees who are Beneficiaries have been terminated or suspended.

(e) Termination of other Contributions

Contributions by persons other than an Employer shall terminate where:

- (i) the Contributor voluntarily terminates the making of contributions by notice in writing to the Trustee; or

otherwise than in respect of his Appropriated Benefit as determined in accordance with sub-clause (a) above.

(d) **Disposal of residual assets**

If there remains no person entitled to any payment from an Appropriated Benefit or from the Fund including the Death and Disablement Reserve, any residual assets then remaining shall be dealt with pursuant to the provision of sub-clause 22 (e) hereof.

(e) **Ceasing-Beneficiary to transfer benefits**

Where an Employee of a Participating Employer is a Ceasing-Beneficiary, the Trustee may direct the Ceasing-Beneficiary to make arrangements to transfer all of his Benefits to another Superannuation arrangement in accordance with sub-clause 19 (a) hereof, and if so directed the Ceasing-Beneficiary shall make such arrangements within the time specified by the Trustee.

VARIATION OF TRUST DEED

35. The provisions of this Deed may be added to, amended, altered, modified or varied (hereinafter called "variation") from time to time by the Trustee on the following bases:-

(a) **Class of Variation**

All variations shall be classified as being of an administrative or management nature unless the variation affects the rights or entitlements of Beneficiaries or their Dependants to receive Benefits in which case it shall be classified as a significant variation.

(b) **Administrative Variation**

Where a variation is considered by the Trustee to be of an administrative or management nature the same may be effected by an oral declaration or written resolution of the Trustee and a certified copy of minutes of a meeting of the Trustee confirming any such oral declaration or a certified copy of any such written resolution shall, if required by the Relevant Requirements, be sent to the Responsible Authority within 28 days of the variation being effected.

(c) **Significant Variation**

Where a variation affects the rights or entitlements of Beneficiaries or their Dependants to receive Benefits or where the Trustee elects to effect a variation other than as referred to in sub-clause (b) above, then a variation of this Deed shall be prepared and executed by the Trustee then, if required by the Relevant Requirements, sent to the Responsible Authority within 28 days of the variation being effected and the same shall be available for inspection by any Beneficiary in accordance with the provisions of Clause 12(e) hereto.

(d) **Notice**

On any variation being effected the Trustee shall within 28 days of the variation advise the Beneficiaries of the Fund of the variation and the effect of the variation on their entitlements.

CONTRIBUTION PAYABLE

40. (a) The Employer with the approval of the Trustee, shall contribute to the Fund at such a rate as may be advised by the Employer to the Trustee from time to time.
- (b) No contributions shall be made by a Beneficiary except in the case of "F" Class participants in which case contributions shall be at such a rate to be agreed upon by the Trustee and the Beneficiary from time to time.

PERSONS TO WHOM BENEFITS ARE PAYABLE

41. Subject to the provisions of this Deed, the Trustee shall pay the Benefits referred to herein to the following person or persons:

(a) **Death**

Where the Benefit or balance of the Benefit is payable following the death of the Beneficiary or former Beneficiary the payment shall, subject to paragraph (d) below, be made in accordance with the provisions of Clause 27 hereof;

(b) **Rollover Payment**

Where the Benefit or balance of the Benefit is payable as a Rollover Payment it shall be made in accordance with the provisions of this Deed to the trustee of the other fund or arrangement;

(c) **Disablement**

Where the Benefit or balance of the Benefit is payable following the disablement of a Beneficiary the payment shall be made to the Beneficiary;

(d) **Pension**

Where the Benefit or balance of the Benefit is payable as a Pension it shall be paid in accordance with the provisions of Clause 24 hereof;

(e) **Other**

In all other cases, to the Beneficiary.

PART II - Employees of Participating Employers

APPLICATION OF PART

42. The Benefits available under Part II of this Division shall apply to Beneficiaries who are Employees of a Participating Employer and who have been nominated by the Employer for Benefits under this Part. The provisions of this Part shall apply only to such Beneficiaries.

Class and that any amount transferred to the Fund pursuant to sub-clause (e) of Clause 19 hereof shall automatically be attributable to and remain in the "E" Class.

(f) **Nomination at discretion of Trustee or Employer**

The Trustee and the Employer shall subject as hereinbefore provided have absolute and unfettered discretion as to the making of a nomination and the granting of a consent to a Beneficiary becoming a Beneficiary of a different Class or more than one Class, and neither the Trustee nor the Employer shall be required to give any reasons thereof.

BENEFITS PAYABLE ON RETIREMENT

44. All Classes

Where a Beneficiary retires from his employment at or after the Normal Retirement Age, or, where upon attaining the age of 65 or such other age at which the Responsible Authority has declared benefits may be made payable, the trustee receives a written request by a Beneficiary, he shall be entitled to be paid a pension in accordance with Clause 24 **PROVIDED HOWEVER** the value of the pension shall not exceed in aggregate the amounts standing to the credit of the Beneficiary's Accumulation Account or Accounts.

DISABLEMENT

45. Total and Permanent Disablement

In the event that a Beneficiary of any Class subject to this Part shall become in the opinion of the Trustee Totally and Permanently Disabled as defined in Clause 5 hereof then such Beneficiary upon being notified by the Trustee of the fact that the Trustee has formed such an opinion shall be paid (to the extent acceptable to the Responsible Authority where the Benefit includes any Preserved Payment Benefit) by the Trustee a pension in accordance with the provisions of Clause 24 **PROVIDED HOWEVER** that the value of the pension paid to the Beneficiary as determined by a Qualified Adviser shall not exceed in aggregate the total of the following amounts:

(a) **"A" Class Beneficiaries**

In respect of a Beneficiary's "A" Class Accumulation Account:-

- (i) the Beneficiary's Vested Contributions in relation to his "A" Class Accumulation Account;
- (ii) the proceeds of any additional benefit being provided by the Employer in relation to his "A" Class Accumulation Account and which is received as a result of the Total and Permanent Disablement of the Beneficiary;
- (iii) such further portion of the balance of the Beneficiary's "A" Class Accumulation Account as the Trustee shall determine.

(b) **"B" Class Beneficiaries**

In respect of a Beneficiary's "B" Class Accumulation Account:-

- (i) the Beneficiary's Vested Contributions in relation to his "B" Class Accumulation Account;
- (ii) an amount equivalent to a percentage of the balance of the Beneficiary's

- (ii) an amount equivalent to a percentage of the balance of the Beneficiary's "B" Class Accumulation Account as at the date of his ceasing to be employed by the Employer such percentage being determined by the length of time such Beneficiary has been a Beneficiary of the Fund. The percentage of the balance of the Beneficiary's "B" Class Accumulation Account to be taken into account for the value of the Pension payable to the Beneficiary is as set out in the second column of Schedule D of this Deed opposite the number of years specified in the first column of Schedule D as the number of years for which the Beneficiary has been a Beneficiary 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 Beneficiary's "B" Class Accumulation Account as the Trustee shall determine.
- (c) **"C", "D", & "E" Class Beneficiaries**
- in respect of a Beneficiary's "C", "D" and "E" Class Accumulation Account, the full amount standing to the credit of the Beneficiary's "C", "D" and "E" Class Accumulation Account as at the date of his ceasing to be employed by the Employer.
- (d) **Preserved Payment Benefits**
- Any Preserved Payment Benefits held by the Trustee which are unable to be paid to the Beneficiary shall be dealt with in accordance with sub-clause 19 (d) hereof.

PAYMENT ON DEATH

47. On the death of a Beneficiary of any Class subject to this Part whilst the Beneficiary is still a Beneficiary hereof prior to the Normal Retirement Age the Trustee shall pay to the Dependants of the former Beneficiary in accordance with Clause 27 hereof the following amounts:

(a) **"A" Class Beneficiaries**

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

- (i) the Beneficiary's Vested Contributions in relation to his "A" Class Accumulation Account;
- (ii) the proceeds of any additional benefit provided by the Employer in relation to his "A" Class Accumulation Account and which is received as a result of the death of the Beneficiary;
- (iii) such further portion of the balance of the Beneficiary's "A" Class Accumulation Account as the Trustee shall determine.

(b) **"B" Class Beneficiaries**

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

- (i) the Beneficiary's Vested Contributions in relation to his "B" Class Accumulation Account;

accepted by the Trustee for Benefits under this Part shall be and become "F" Class Beneficiaries (the "Original Class") unless the nomination for participation made pursuant to sub-clause 17 (a) hereof otherwise specifies and shall remain beneficiaries of the Original Class unless and until the Trustee makes a written nomination for a Beneficiary to become a Beneficiary of an additional or alternative Class and the Trustee obtains a written consent from the Beneficiary to the nomination of the Beneficiary to an additional or alternative Class when the Beneficiary shall be and become a Beneficiary of the Class into which he is nominated **PROVIDED HOWEVER** that the Beneficiary shall also remain a Beneficiary of the Original Class unless the Trustee nominates otherwise.

(c) **Reclassification**

A Beneficiary shall be capable of reclassification to any other Class of this Part at any time in like manner **PROVIDED HOWEVER** that any Benefits forming part of the Beneficiary's Accumulation Account which have been vested in that Beneficiary during such time as that Beneficiary was a Beneficiary of another Class of the Fund shall be retained as an entitlement of the Beneficiary to the extent that the entitlement was vested in the Beneficiary at the time he was a Beneficiary of the other Class when such reclassification took place.

(d) **Transfer of Accumulation Account**

Upon the reclassification of a Beneficiary as a beneficiary of another Class the Trustee may with the consent of the Beneficiary transfer all or any of the Beneficiary's other Accumulation Accounts to the new Beneficiary Class subject to the proviso in sub-clause (c) above **PROVIDED HOWEVER** that no such transfer shall result in any portion of an "F" or "G" Class Accumulation Account becoming payable to the Beneficiary except in accordance with the provisions of this Part.

(e) **Designation of Class**

If a Beneficiary is reclassified to another Beneficiary Class and that Beneficiary remains a Beneficiary of more than one Class then at the time at which any Contribution to the Fund is made the Contributor shall designate the Class to which the Contribution is attributable in accordance with sub-clause 18 (d) hereof and in the event that the Contributor makes no such designation the Trustee at its discretion shall make such designation **PROVIDED HOWEVER** that any Productivity Payment or Compulsory contribution is to be automatically designated a Contribution attributable to the "G" Class.

BENEFITS PAYABLE ON RETIREMENT

50. (a) **All classes**

Where a Beneficiary retires from his business, trade, profession, vocation, calling, occupation or employment for gain:

- (i) at or after the age of 55 years;
- (ii) by reason of Total and Permanent Disablement as defined in Clause 5 hereof; or
- (iii) in other circumstances acceptable to the Responsible Authority;

the Trustee shall pay a pension in accordance with the provisions of Clause 24

IN WITNESS WHEREOF these presents were duly executed on the Date of Execution specified in Schedule A of this Deed

INDIVIDUALS AS TRUSTEE

SIGNED SEALED AND DELIVERED

by the said ERNEST MAY

Date 29.3.95

in the presence of:-

Wm. Sh

X Ernest May

SCHEDULE A

**DATE OF
ORIGINAL DEED:
(COMMENCEMENT DATE)**

1ST JUNE 1986

FOUNDER:

ERNEST MAY

TRUSTEE:

ERNEST MAY

NAME OF FUND:

**E.A. & L.E. MAY
SUPERANNUATION FUND**

**DATE OF
EXECUTION:**

29.3.95

PROPER LAW STATE:

QLD.

SCHEDULE B

BENEFICIARY APPLICATION

TO: The Trustee of the Superannuation Fund

I, the undersigned, being eligible hereby apply to become a Beneficiary of the Fund. I agree and undertake as follows:

- (a) I will be bound by the Trust Deed governing the Fund as it is or may be varied from time to time.
- (b) I will upon request make 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, Rollover Annuity or Employer.
- (c) I understand the terms and conditions of the Trust Deed and more particularly the terms and conditions of the Deed concerning Benefits payable.
- (d) I will notify the Trustee if at any time I cease to be gainfully employed.
- (e) I consent to the Trustee acting as Trustee of the Fund.
- (f) I declare that at the time I was given this application for Participation in the Fund I was also given advice in writing about the benefits to which I would be entitled, the method of determining that entitlement and the conditions relating to those benefits.

Name: _____

Date of Birth: ____/____/____ Date of Employment: ____/____/____

Occupation: _____

Address: _____

Applicant's signature: _____

Dated the _____ day of _____ 19____

SCHEDULE C.

PARTICIPATING EMPLOYERS ADMITTED TO THE FUND

| NAME OF PARTICIPATING EMPLOYERS | DATE OF ADMISSION | EXECUTION OF PARTICIPATING EMPLOYER |
|------------------------------------|----------------------|--|
|------------------------------------|----------------------|--|

EA + LE MAY T/A ELITE MEDICAL SUPPLIES

PAPARD Pty LTD T/A STAR SCAFFOLDS

[Signature]
[Signature]

SCHEDULE D.

PERCENTAGE VESTING SCHEDULE

| NUMBER OF YEARS COMPLETED AS AN BENEFICIARY OF THE COMPANY | | PERCENTAGE AMOUNT OF THE BENEFICIARY'S ACCUMULATION ACCOUNT PAYABLE TO BENEFICIARY |
|--|----|--|
| Up to | 2 | |
| | 4 | |
| | 6 | |
| | 8 | |
| | 10 | |
| | 12 | |
| | 14 | |
| | 16 | |
| | 18 | |
| | 20 | |
| | 22 | |
| | 24 | |
| | 26 | |
| | 28 | |
| | 30 | |
| | 32 | |
| | 34 | |
| | 36 | |
| | 38 | |
| | 39 | |
| 40 AND OVER | | |

DUTY PAID ON INSTRUMENT

PROVISO 9 (D) (V)

20
Commissioner of Stamp Duties,
Queensland
3.1.03

NIL

The Guardian

E.A. & L.E. MAY
Superannuation Fund

We, the undersigned employers of the *E.A. & L.E. MAY*
Superannuation Fund as defined in Clause 5 of the *E.A. & L.E. MAY*
Superannuation Fund Deed hereby agree to *ERNEST ALLAN MAY*
being appointed as Trustee of the Superannuation Fund and that
such appointment be effective forthwith.

[Signature]
.....

L. E. May
.....

Brisbane

Dated: This *26 TH* Day of *FEBRUARY* 1990

Date 28/6/95 Y

To: The Guardian

E.A. + L.E. MAY SUPERANNUATION FUND

Nomination of Candidate for Trustee (Beneficiaries Representative)
of the

E.A. + L.E. MAY SUPERANNUATION FUND

I ERNEST MAY.....wish to nominate DENIS COOPER
.....as a candidate for the position of Trustee of the Fund.

Signature.....[Signature].....
Proposer

I LYNETTE MAY.....second this nomination

Signature.....[Signature]..... X L m.
Seconder

We, the undersigned, also wish to support this Nomination:

| Name (printed) | Signature |
|----------------|-----------|
| | |
| | |
| | |
| | |
| | |
| | |

I agree to act as a Trustee should the Guardian find me acceptable.
I do not believe that I am a disqualified person (as defined in legislation)
and I am prepared to accept the extensive and onerous responsibilities of
the position.

AC DENIS COOPER.....(Name) Signature.....[Signature].....