

CONSOLIDATED WORKING COPY

IOOF Portfolio Service Superannuation Fund

IOOF Investment Management Limited

ABN 53 006 695 021

This is a consolidated working copy of the IOOF Portfolio Service Superannuation Fund trust deed which is based on the Consolidated Working Draft with amendments up to 27 November 2020. This document incorporates the amendments made by the following deeds:

1. Deed of Variation dated 26 May 2006 (with effect from 26 May 2006);
2. Deed of Variation dated 5 July 2006 (some amendments took effect from 5 July 2006 and some amendments took effect from 1 January 2007);
3. Deed of Amendment dated 4 July 2007 (with effect from 1 July 2007);
4. Deed of Amendment dated 28 April 2008;
5. Deed of Amendment dated 11 March 2009;
6. Deed of Amendment dated 26 October 2009;
7. Deed of Amendment dated 13 November 2009 (with effect from 15 November 2009);
8. Deed of Amendment dated 29 January 2010 (with effect from 15 November 2009);
9. Deed of Amendment dated 24 March 2010;
10. Deed of Amendment dated 25 May 2010;
11. Deed of Amendment dated 27 July 2010 (with effect from 30 June 2010);
12. Deed of Amendment dated 14 December 2010 (with effect from 28 February 2011); and
13. Deed of Amendment dated 25 March 2013;
14. Deed of Amendment dated 29 July 2013;
15. Deed of Amendment dated 20 December 2013;
16. Deed of Amendment dated 24 March 2014;
17. Deed of Amendment dated 8 December 2017;
18. Deed of Amendment dated 16 April 2018 (with effect from 20 April 2018); and
19. Deed of Amendment dated 27 November 2020.

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Trust Deed for the IOOF Portfolio Service Superannuation Fund

Operative provisions

1 Confirmation

Maintenance of Fund

- 1.1 The Trustee agrees to maintain the Fund formerly known as IOOF Master Fund and now known as IOOF Portfolio Service Superannuation Fund which was established by declaration of trust dated 20 June 1994 and amended from time to time.

Assets of the Fund

- 1.2 The assets of the Fund shall be vested in the Trustee upon trust or apply the same in the manner set forth in this document.

Confirmation of the Sector

- 1.3 By this document it is confirmed that the current sole Sector of the Fund is Sector 1 and that the Sector shall continue to be invested and accounted for as provided in this document and as provided in the rules for that Sector.

Divisions within the Sectors

- 1.4 The Trustee may from time to time establish and vary divisions within the Sectors and the Trustee may acquire certain assets or determine that certain assets are held in respect of a particular division or in respect of particular Employers or Members of a particular division.

Allocation of assets within Sectors

- 1.5 If the Trustee acquires certain assets or determines that certain assets are held in respect of a particular Sector or in respect of particular Employers or Members of a Sector then those assets shall only be available for the purposes of that Sector or those Employers or Members or in respect of liabilities of that Sector or in relation to those Employers or Members as the case may be.

Establishment of new Sectors

- 1.6 The Trustee may at any time by supplemental deed establish a new Sector or Sectors and rules for the Fund. Each Sector of the Fund will be maintained as a separate trust fund and each Sector shall be separately invested.

Sub-Plans

- 1.7 The Trustee may in respect of any division determine to make a sub-plan for the division ("Sub-Plan").

- 1.8 In determining whether to make a Sub-Plan, the Trustee must have regard to all relevant matters, including whether there is a common factor in a segment of the division (for example where there is a group of Members of the division who have the same Employer).

Divisions

- 1.9 The following divisions of Sector 1 are confirmed:
- 1.9.1 IOOF Portfolio Service Employer Superannuation, also known as Division I;
 - 1.9.2 IOOF Portfolio Service Personal Superannuation, also known as Division II;
 - 1.9.3 IOOF Portfolio Service Pension, also known as Division III;
 - 1.9.4 IOOF Super and Pension, also known as Division IV;
 - 1.9.5 LifeTrack, also known as Division V;
 - 1.9.6 AustChoice Super, also known as Division VI; and
 - 1.9.7 IPS MySuper, also known as Division VII.

Rules

- 1.10 The Trustee may make rules governing each division or in respect of part of a division or particular Employers or Members of a division and those rules may be amended or varied in the same manner as this document may be amended or varied.

Application of assets

- 1.11 The assets comprised in each Sector shall only be applied for the purpose of that particular Sector and shall not be available to meet any liabilities in respect of the other Sectors of the Fund.

Constitution of new division

- 1.12 The Trustee may establish other divisions of a Sector of the Fund by executing a Memorandum of Commencement constituting the new division containing the following particulars:
- 1.12.1 the name of the division;
 - 1.12.2 the Rules for that division;
 - 1.12.3 the pool of assets for which benefits may be provided;
 - 1.12.4 any other matters the Trustee determines; and
 - 1.12.5 that Memorandum of Commencement shall take effect upon the date stated in the Memorandum of Commencement.

Trustee

- 1.13 The Trustee confirms that it has agreed to act as trustee of the Fund and will hold the Fund subject to the provisions of this document and any amendments.

Badging of Fund

- 1.14 The Trustee may enter into arrangements with a person (**Sponsor**) for the offer by the Sponsor to other persons of participation in the Fund (**Badged Fund**).
- 1.15 The disclosure documents in respect of the Badged Fund may, with the approval of the Trustee, carry the name of the Sponsor or the name chosen by the Sponsor and approved by the Trustee for the Badged Fund.
- 1.16 The provisions of this document apply to the Badged Fund.

2 General provisions

Exercise of Trustee's rights

- 2.1 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 document may be fully and effectively exercised, made, done or performed by or on behalf of the Trustee by resolution of its directors in accordance with its articles of association or by any person or persons having the authorisation of such directors to so act on their behalf provided that any requirements of the Act are satisfied.
- 2.2 The Trustee may make determinations provided for in this document in writing or orally.

Rights of Members

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

Benefits Secured

- 2.4 The rights of the Members and their Dependants to receive Benefits payable under this document shall be fully secured in accordance with the SIS Act.

3 Fund Investment Pools

Establishment of Fund Investment Pools

- 3.1 The Trustee may establish and maintain separate Fund Investment Pools. A Fund Investment Pool is not a separate trust.

- 3.2 Each Fund Investment Pool will consist of investments that the Trustee considers appropriate for that Fund Investment Pool.
- 3.3 The Trustee may cease to offer a Fund Investment Pool including disposing of any existing holdings in relation to a Fund Investment Pool.

Direct Share Facility

- 3.4 The Trustee may establish and maintain a listed security investment facility called a 'Direct Share Facility' or such other name as the Trustee determines from time to time. A Member may choose to invest under the Direct Share Facility by requesting the Trustee to acquire and hold for the Member's benefit assets notified by the Trustee as being able to be acquired by the Trustee for the benefit of a Member. The Trustee shall hold any such assets chosen by a Member under the Direct Share Facility for the benefit of the Member.
- 3.5 A facility offered by the Trustee in accordance with clause 3.4 shall be one or more a separate Fund Investment Pools, as determined by the Trustee for the purpose of this document.

Fund Investment Pool requirements

- 3.6 The Trustee may require a minimum amount be invested by a Member in a Fund Investment Pool.

Member choice to invest in a Fund Investment Pool

- 3.7 The Member or Division IV Participating Employer may choose to invest (in a form approved by the Trustee) in any one or more Fund Investment Pools and the investments offered through the Fund Investment Pools by the Trustee to members of the Member's or Division IV Participating Employer's division, and may request the Trustee to:
- 3.7.1 use contributions or earnings received in respect of the Member, to apply for the issue of units or acquire shares as investments offered through the Fund Investment Pools or be allocated Units in those Fund Investment Pools;
 - 3.7.2 sell, redeem or dispose of any or all units or shares as investments offered through the Fund Investment Pools or any or all Units in any Fund Investment Pool.
- 3.8 The Trustee may:
- 3.8.1 accept or reject an Investment Direction including an Investment Direction which the Trustee considers invalid; and
 - 3.8.2 if the Trustee determines that it is in the best interests of Members to sell, redeem or dispose all or part of the Member's investment in any one or more Fund Investment Pools, it may act as though it has received a Withdrawal Request for such sale, redemption or disposal from the Member and shall apply that amount to the default Fund Investment Pool or apply it as it determines in its absolute discretion.

Default Fund Investment Pool

- 3.9 The Trustee may invest in a default Fund Investment Pool nominated by the Trustee or apply as it in its absolute discretion determines, any amount standing to the credit of a Members Account, any contributions received in respect of a Member or any earnings in respect of the Member where:
- 3.9.1 the Member or Division IV Participating Employer does not choose one or more Fund Investment Pools to invest in (in accordance with clause 3.7);
 - 3.9.2 in default of any Member Investment Direction;
 - 3.9.3 any Member Investment Direction which the Trustee considers unsuitable; or
 - 3.9.4 where the amount is less than the minimum amount required for a valid Investment Direction.

Fund Expenses

- 3.10 The Trustee from time to time is to determine the Fund Expenses and the amount of these Fund Expenses (if any) that are to be allocated to one or more Fund Investment Pools.
- 3.11 The Trustee in its discretion may deduct all Fund Expenses not allocated to a Fund Investment Pool from Member Accounts in such proportions as is fair and reasonable between Members.

Investment policy for Fund Investment Pools

- 3.12 The general investment policy of each Fund Investment Pool shall be determined by the Trustee. The Trustee may at any time alter any general investment policy for any Fund Investment Pool.

Segregation of assets

- 3.13 Every asset shall be allocated to one or more of the Fund Investment Pools constituted pursuant to this document, provided that the Trustee may maintain and operate a payments account for the Fund as a whole, and shall maintain in that account the amount of cash which constitutes an asset of each Fund Investment Pool.

4 Optional unitisation of a Fund Investment Pool

Units

- 4.1 The Trustee may (but need not do so) divide the interests in one or more Fund Investment Pools into administrative Units and in that event each Unit in a Fund Investment Pool will be a separate Class of Unit from a Unit in another Fund Investment Pool. The Trustee may also determine to divide a Fund Investment Pool into one or more Classes of Unit, in which event the Units of the relevant

Fund Investment Pool will carry such rights and entitlements, including a Unit pricing mechanism, as determined by the Trustee.

4.2 Subject to this document, each Unit of a Class of Units shall rank pari passu with all other Units of the Class and each Unit of a Class shall:

4.2.1 represent an undivided interest in the Fund Investment Pool referable to that Class of Units that shall be equal to that conferred by every other Unit of that Class; and

4.2.2 have an equal Unit Value to each other Unit of that Class.

4.3 The Trustee shall not issue any certificates for Units.

4.4 The Trustee may allocate parts of Units. A part of a Unit has rights appropriate to the proportion of the Unit.

4.5 The Trustee may consolidate or divide a Fund Investment Pool into any number of Units but the consolidation or division must not affect the relativity between the Members' interest in a Fund investment Pool.

Allocation of Units

4.6 When Investment Directions are accepted by the Trustee, or the Trustee determines to invest in accordance with clause 3.9 in relation to a Fund Investment Pool which has been unitised in accordance with this clause 4, the Trustee will allocate Units in the relevant Class, and in that event the relevant investment amounts shall be applied to the Fund Investment Pool referable to that Class and additional Units of the same Class shall be thereby allocated in accordance with this clause 4.

Number of Units

4.7 The number of additional Units of a Class that are allocated shall be that number determined by dividing the investment amount by the current Unit price at the time the Investment Direction is processed.

Issue Price of Units in a Fund Investment Pool

4.8 The price at which initial Units to constitute a Fund Investment Pool are to be allocated is \$1.00 per Unit.

4.9 The price at which subsequent Units of a Fund Investment Pool are to be allocated is:

4.9.1 the Value of the Fund Investment Pool plus a sum up to the Trustee's estimate of expenses which would have been incurred if all the assets of that Fund Investment Pool had been purchased or acquired;

4.9.2 divided by the number of Units of that Fund Investment Pool created,

rounded up to the next 1/100th of a cent or such other amount determined by the Trustee, determined as at the Valuation Date prior to the time of allocation of the Units.

- 4.10 The Trustee may designate or vary a Designated Time for the purposes of determining when time for the allocation of Units is to be made by the Trustee for the purposes of clause 4.9. Accordingly, if an Investment Direction is accepted contributions, transfers or roll-overs received by the Fund or transfers of investments treated as contributions are received:
- 4.10.1 on a business day but prior to the applicable Designated Time on the business day, the contributions, transfers or roll-overs received by the Fund or transfers of investments treated as contributions will be taken to have been received at the Designated Time on that business day; and
 - 4.10.2 on a business day but on or after the applicable Designated Time on the business day or on a day which is not a business day, the contributions, transfers or roll-overs received by the Fund or transfers of investments treated as contributions will be taken to have been received at the commencement of business on the following business day.
- 4.11 Notwithstanding clause 4.10, the Trustee may treat Investment Directions, contributions, transfers or roll-overs accepted by the Trustee by the Fund or transfers of investments treated as contributions deemed under clause 4.10 to be received after a business day it specifies before the next Valuation Date as relating to the next Valuation Date or as relating to the Valuation Date immediately following the next Valuation Date. In the latter case, clause 4.9 will taken to refer to the later Valuation Date.

Notional distributions from Fund Investment Pools

- 4.12 The Trustee may notionally make distributions from a Fund Investment Pool that has been unitised in accordance with this clause 4 to a Member's Account and record the notional distribution as being an allocation of Units in a manner determined by the Trustee.

Withdrawals

- 4.13 The price of a Unit at which an Investment Direction for withdrawal (**Withdrawal Request**) from a Fund Investment Pool is effected will be:
- 4.13.1 the Value of the Fund Investment Pool less a sum up to the Trustee's estimate of expenses which would have been incurred if all the assets of the Fund Investment Pool had been sold or disposed of;
 - 4.13.2 divided by the number of Units of that Fund Investment Pool created, rounded down to the next 1/100th of a cent, calculated as at the next Valuation Date prior to effecting the Withdrawal Request by the Trustee.
- 4.14 The Trustee may designate or vary a Designated Time determined when a Withdrawal Request is received by the Trustee for the purposes of clause 4.13.

The Designated Time may be different for given methods of communications or payment. Accordingly if a Withdrawal Request is received:

- 4.14.1 on a business day but prior to the applicable Designated Time on the business day, it will be taken to have been received at the Designated Time on that business day; and
 - 4.14.2 on a business day but on or after the applicable Designated Time on the business day or on a day which is not a business day, it will be taken to have been received at the commencement of business on the following business day.
- 4.15 Notwithstanding clause 4.14, the Trustee may treat a Withdrawal Request deemed under clause 4.14 to be received after a business day it specifies before the next Valuation Date as a Withdrawal Request relating to the next Valuation Date or as relating to the Valuation Date immediately following the next Valuation Date. In the latter case, clause 4.13 will taken to refer to the later Valuation Date.
- 4.16 If compliance with a Withdrawal Request would result in a Member having less Units than the then current minimum amount, the Trustee may treat the Withdrawal Request as relating to the entire interest of the Member in the Fund Investment Pool.

Trustee entitled to redemption

- 4.17 Where under this document the Trustee becomes entitled to redeem Units then such entitlement to redeem Units shall be deemed to be a notice of redemption given by the Trustee for the purposes of this document.

Unforeseen circumstances

- 4.18 If in the opinion of the Trustee:
- 4.18.1 it is impracticable for it to calculate the Value of a Fund Investment Pool because of the closure of a securities or other exchange or trading restriction on a securities or other exchange, or because of the existence of an emergency or other similar state of affairs or because of an event outside the reasonable control of the Trustee, or because of the requirements of any law; or
 - 4.18.2 there would be insufficient cash retained in the assets of the Fund Investment Pool after complying with a Withdrawal Request to meet other liabilities of the Fund Investment Pool and in its opinion it is not in the interests of Members for any assets of the Fund Investment Pool to be sold in order to satisfy a Withdrawal Request; or
 - 4.18.3 sufficient assets of the Fund Investment Pool cannot be realised at an appropriate price or on adequate terms or otherwise due to one or more circumstances outside the control of the Trustee; or

- 4.18.4 it had taken all reasonable steps to realise sufficient assets of the Fund Investment Pool to satisfy a Withdrawal Request and is unable to do so due to one or more circumstances outside its control such as restricted or suspended trading in the market for an asset of the Fund Investment Pool; or
- 4.18.5 it is in the interests of Members to invoke this clause 4.18 and extend the period within which a Withdrawal Request is to be effected being as soon as is reasonably practicable after receipt of a Withdrawal Request,

then, in each case the period referred to in clause 4.18.5 by which a Withdrawal Request must be satisfied may (in respect of all or any part of the Units the subject of the Withdrawal Request) be extended by the Trustee by the number of days during which it considers these circumstances will prevail.

Minimum Amounts

- 4.19 Subject to the Act, the Trustee may from time to time specify:
- 4.19.1 the minimum amount which the Trustee will invest in Units in accordance with an Investment Direction;
- 4.19.2 the minimum number of Units which a Member may acquire pursuant to an Investment Direction or may hold as a result of giving effect to an Investment Direction; or
- 4.19.3 the minimum amount to be credited to a Member Account before the Trustee will give effect to an Investment Direction.

5 Income and valuation of the Fund

Trustee to receive income

- 5.1 The Trustee as trustee of the Fund shall receive all moneys, rights and other property which are paid or receivable as income of the Fund.

Valuation of the Fund

- 5.2 The valuation of an asset of the Fund may be made by the Trustee or by an adviser appointed by the Trustee. A valuation must be made at the times the Trustee considers necessary or desirable.
- 5.3 The Trustee must record in the Members Account the most recent Value of an asset. However, this does not apply if the Trustee reasonably believes that that Value is inaccurate, incomplete, out of date or not the fair market Value. Instead, the Trustee must have the asset re-valued by a Valuer.
- 5.4 The Trustee may determine, or instruct an adviser to determine, the Value of a Fund Investment Pool at such times (**Valuation Date**) as it considers necessary or desirable (but no less frequently than once a month unless the Trustee determines otherwise).

6 Eligibility and membership

Membership Divisions

- 6.1 Division I is for Members who are employed by a Participating Employer.
- 6.2 Division II is for all Members who are not employed by an Participating Employer and have not been admitted to Division III.
- 6.3 Division III is for Members who are being paid a pension.
- 6.3A Division IV is for Members who are employed by a Participating Employer, or who are not employed by a Participating Employer or who are being paid a pension.
- 6.4 The Trustee may also determine to admit applicants who are Spouses of Members or a Family Law Spouses to membership of a division of the Fund.
- 6.5 The Trustee may create basic and premium categories of membership of a division, distinguished by:
 - 6.5.1 a different choice of investments offered to Members;
 - 6.5.2 in relation to any benefits payable by reference to an insurance contract, different insurance terms;
 - 6.5.3 different fees; and
 - 6.5.4 any other matters the Trustee determines.
- 6.6 The Trustee may:
 - 6.6.1 admit Members of the division to the basic or premium membership categories at the time of their becoming a Member; and
 - 6.6.2 transfer Members between categories, upon application by the Member, or without application by the Member but in accordance with the requirements of the Act.
- 6.6A Without limiting clauses 6.5 or 6.6, the Trustee may create other categories of membership of a division distinguished by such features permitted under this document, including contribution type, investment options, insurance terms, fee structures, forms of benefit, modes of communication or transaction, rights or conditions or any other matters, as the Trustee may determine.

Eligibility

- 6.7 An Employee is eligible to become a Member of Division I or IV of the Fund if:
 - 6.7.1 the Employee is eligible to become an Employer-sponsored Member;
 - 6.7.2 the Employer pays a contribution in respect of the Employee to the Trustee; and

- 6.7.3 that contribution is validly made in accordance with the provisions of this document.
- 6.8 A person is eligible to become a Member of Division III or IV of the Fund if the person is eligible to start receiving payment of a pension.
- 6.9 Persons not eligible to join Divisions I or III are eligible to join Division II or IV of the Fund.
- 6.9A Only LifeTrack Members are eligible to join Division V of the Fund.
- 6.9AA Only AustChoice Members are eligible to join Division VI of the Fund.

Member to provide information

- 6.10 Every Member shall submit:
 - 6.10.1 an application for membership in a form approved by the Trustee; or
 - 6.10.2 the Minimum Information in the circumstances determined by the Trustee; and
 - 6.10.3 if required, any evidence of health and completed and signed statements as to health required in connection with any insurance cover; and
 - 6.10.4 all other information as may be reasonably required by the Trustee.
- 6.11 The Trustee may within a period determined by the Trustee commencing from receipt of an application for membership:
 - 6.11.1 reject the application by the Member without giving a reason for this rejection; or
 - 6.11.2 impose special conditions when accepting the application by the Member.
- 6.12 An application for membership that is not rejected is accepted.

Commencement of membership

- 6.13 An applicant becomes a Member;
 - 6.13.1 on a date determined by the Trustee in its absolute discretion; or
 - 6.13.2 where the Trustee makes no such determination, on the date on which the completed application for membership is received; or
 - 6.13.3 on a date determined by the Participating Employer in respect of the Member, subject to the consent of the Trustee.
- 6.14 On the occurrence of either 6.13.1, 6.13.2 or 6.13.3, the Member shall have the benefit of the category of Membership whose criteria the Member satisfies.

- 6.15 A Member is not entitled to insurance cover except as specified in the Fund's contract of insurance and set out in the Member Information attached to the application for membership.

Meeting of members

- 6.16 The Trustee may, and shall if so required by the Act, put in place arrangements to facilitate the holding of meetings of Members of the Fund from time to time provided that such arrangements shall comply with the requirements of the Act.

Transfer between divisions

- 6.17 On a Member ceasing to be an Employer-sponsored Member, the Member's membership will be transferred from division I to division II.
- 6.18 On becoming eligible to receive a pension, a Member may apply to the Trustee to transfer to division III.
- 6.19 A transfer of a Member under clauses 6.17 to 6.20 is subject to approval by the Trustee.
- 6.20 The Trustee may
- 6.20.1 permit a Member to be a member of more than one division; and
 - 6.20.2 transfer a Member from one sub-plan, category or division of participation to another sub-plan, category or division of participation within the Fund and if such transfer is to occur without obtaining the consent of the Member, the Trustee must be satisfied that the respective sub-plans, categories or divisions confer equivalent rights that the member has in respect of member benefits immediately prior to the date of transfer.
- 6.20A Subject to clause 21A.3.6, the Trustee may transfer a Member from:
- 6.20A.1 a product offered under a sub-plan, category or division of participation (**original product**); to
 - 6.20A.2 another product offered under the same, or another, sub-plan, category or division of participation within the Fund (**replacement product**),

and if such transfer is to occur without obtaining the consent of the Member, the Trustee must be satisfied that the replacement product confers on the member equivalent rights to the rights that the member had in the original product in respect of benefits immediately prior to the date of transfer.

Admission of ineligible persons as Members

- 6.21 Except where the Trustee has determined to conduct the Fund as a public offer superannuation fund, any person admitted as a Member who is not an Employee at the time of admission is not eligible to become a Member and shall not for any purpose be a Member of the Fund or otherwise entitled to any benefits under the

Fund and any amounts paid to the Fund in respect of such person shall be dealt with in accordance with clauses 16.7 and 16.8.

Arrangements for Employees

- 6.22 The Trustee may make any of the following arrangements with the Employer regarding the terms on which its Employees are to be admitted to membership of the Fund:
- 6.22.1 the contributions to be paid for Members by the Employer and the preservation requirements applying to such contributions;
 - 6.22.2 the categories of membership to be offered to those Members;
 - 6.22.3 the investment mix for each Member; and
 - 6.22.4 such other arrangements as the Trustee determines.

Member bound by this document

- 6.23 Each Member agrees to be bound by this document.

Authority to deduct

- 6.24 A Member shall be deemed to have authorised the Employer to deduct from his salary the contributions (if any) which the Member has agreed to make to the Fund.

Cessation of membership

- 6.25 Member's membership of the Fund ceases on the last to occur of the following:
- 6.25.1 when the Trustee has paid all the Benefits including any amount payable under any insurance cover that the Trustee believes the Member is entitled; and
 - 6.25.2 on any insurance cover as specified in the insurance contract or in writing by the Trustee, ceasing.
- 6.26 A person does not continue to be a Member nor does a person again become a Member of the Fund as a result of a dispute between that person and the Trustee as to that person's entitlement to a Benefit(s) from the Fund whether or not the dispute is resolved in the person's favour. Nothing in this provision shall limit a former Member's entitlement to dispute any decision of the Trustee or remove any obligation of the Trustee to deal with such a dispute.

Rights of Members

- 6.27 A Member is entitled to a beneficial interest in the Fund in accordance with this document, but except in accordance with this document neither a Member nor an Employer is entitled:
- 6.27.1 to in any way interfere with the exercise by the Trustee of its powers in relation to the Fund or otherwise;

- 6.27.2 to exercise any rights, powers or privileges in respect of any investment.

Nominated Dependant

- 6.28 A Member may upon admission and from time to time thereafter in a manner approved by the Trustee notify the Trustee of:
 - 6.28.1 the names and addresses of any Dependents to whom the Member wishes any Benefit payable upon the Member's death to be paid;
 - 6.28.2 the proportions and manner in which the person wishes those Benefits to be paid;
 - 6.28.3 the nomination:
 - (a) may be varied or replaced from time to time in a manner approved by the Trustee; and
 - (b) is not binding upon the Trustee but the Trustee may consider the nomination when exercising any of its discretions in respect of the Member.

7 Contributions

Employer contributions

- 7.1 Each Participating Employer will contribute to the Fund for each of its Employees who is a Member, the greater of:
 - 7.1.1 the rate specified in the award applying to that Member (if any); or
 - 7.1.2 the rate specified by the Employer for that Member.
- 7.2 Each Employer shall give to the Trustee clear directions as to the amount of contributions to be allocated to each Member employed by it.
- 7.3 Each Employer shall pay by the Due Date to the Trustee:
 - 7.3.1 the amount payable in accordance with clause 7.1; and
 - 7.3.2 any contributions deducted from the pay of a Member.
- 7.4 The Trustee may refund contributions (and for that purpose, redeem Units or units or dispose of shares or other investments held for the benefit of the Member) where the Trustee may not accept contributions or the contribution was made in error. In refunding contributions, the Trustee may deduct any negative investment earnings and an amount for reasonable administration and transaction costs, including an appropriate proportion of any insurance premium paid in respect of the Member or not recoverable by the Trustee from the insurer.

Member contributions

- 7.5 A Member may contribute to the Fund such amount and in such form as the Trustee and the Member agree.
- 7.6 The Member, or if employed by an Employer, the Employer, shall notify the Trustee of the amount of contribution.
- 7.7 The Trustee may refund contributions (and for that purpose, redeem Units or units or dispose of shares or other investments held for the benefit of the Member) where the Trustee may not accept contributions or the contribution was made in error. In refunding contributions, the Trustee may deduct any negative investment earnings and an amount for reasonable administration and transaction costs, including an appropriate proportion of any insurance premium paid in respect of the Member or not recoverable by the Trustee from the insurer.

Allocation of contributions

- 7.8 The Trustee must allocate contributions to Members at the times and otherwise in accordance with the Act.

Failure of Employer to pay contributions

- 7.9 The Trustee may charge collection costs and interest at a reasonable rate as determined from time to time by the Trustee on any amount not paid by an Employer on the Due Date.

Controls on contributions

- 7.10 The Trustee will not accept contributions for a Member where:
- 7.10.1 the Act does not permit payment of such contributions to a Complying Fund; or
 - 7.10.2 the Trustee determines not to accept contributions of that type.

Other contributions

- 7.11 The Trustee may accept any contributions to the Fund in respect of a Member, including any termination payment that the Member directs be paid to the Fund.

Cooling-off

- 7.12 Where:
- 7.12.1 an interest in the Fund is issued to a person (in clauses 7.12 to 7.13, **the Applicant**) and that interest is the first interest in the Fund issued to that person;
 - 7.12.2 the Applicant is not employed by a Participating Employer;
 - 7.12.3 the Fund is a public offer fund at the time of issue of the interest; and

- 7.12.4 the provisions as to 'cooling-off' under the Act apply,
- the Applicant is entitled to request the Trustee to redeem the interest by written notice given to the Trustee within 14 days starting the earlier of:
- 7.12.5 the end of the fifth (5th) day after the day of issuing the interest in the Fund;
- 7.12.6 the date of receipt by that person of written confirmation of their acceptance of membership in the Fund; or
- 7.12.7 such longer period than clauses 7.12.5 or 7.12.6 as determined by the Trustee from time to time.
- 7.13 The Trustee must redeem the interest (and for that purpose, redeem or dispose of investments held for the benefit of the person including units, shares or Units), as soon as practicable after receiving the request, at the price calculated in accordance with this document, subject to the Act.

Spouse Contributions – splitting amounts

- 7.14 A Member may, subject to clause 7.15 and to the SIS Regulations, apply after 30 June 2006 to the Trustee, in a manner approved by the Trustee, to roll over, transfer or allot an amount of benefits that is not subject to a Payment Split or to the operation of a Payment Flag, for the benefit of the Member's Spouse.
- 7.15 The application may not be in respect of an amount that exceeds the amount of the Splittable Contributions made by, for, or on behalf of the Member in:
- 7.15.1 the last financial year that ended before the application; or
- 7.15.2 the financial year in which the application is made – where the Member's entire Benefit is to be rolled over or transferred in that year,
- and may not be in respect of an amount that exceeds the Maximum Splittable Amount.
- 7.16 The Trustee may accept an application made pursuant to clause 7.14 in its absolute discretion, including after the application of any conditions it considers appropriate, subject to the SIS Regulations. If the Trustee accepts an application it must implement it in accordance with the SIS Regulations.
- 7.17 The Trustee may determine that clause 7.14 does not apply to a category of membership created under clause 6.6A.

8 Administration of Fund

Member Accounts

- 8.1 The Trustee will keep a Member Account for each Member.

Credits to Member Account

- 8.2 The Trustee shall credit each Member Account with such of the following amounts as may be required:
- 8.2.1 contributions by an Employer in respect of the Member;
 - 8.2.2 contributions by the Member;
 - 8.2.3 the Value of any Units (if any) held in respect of the Member;
 - 8.2.4 the Value of any asset, including units or shares, held for the benefit of the Member;
 - 8.2.5 amounts that are Contributions-Splitting ETPs;
 - 8.2.6 amounts that are Family Law Spouse Amounts;
 - 8.2.7 contributions in respect of a Member;
 - 8.2.8 any amounts transferred to the Fund in accordance with clause 17 and showing as a separate amount any amount transferred to the Fund that is not fully vested in the Member;
 - 8.2.9 the proceeds from any insurance contract in respect of the Member;
 - 8.2.10 income and other distributions (if any) received by the Trustee from investments held on behalf of the Member, including notional distributions from a Fund Investment Pool in accordance with clause 4.12;
 - 8.2.11 amounts transferred from the Pension Account of a Member or Beneficiary;
 - 8.2.12 a Shortfall component in respect of a Member;
 - 8.2.13 any amount the Trustee receives in respect of a Member from the Commissioner of Taxation or any other person, in accordance with the Superannuation (Government Co-contribution for Low Income Earners) Act 2003; and
 - 8.2.14 such other amounts as the Trustee from time to time determines.

Debits to Member Account

- 8.3 The Trustee shall debit each Member Account with such of the following amounts as may be required:
- 8.3.1 any amounts transferred from the Fund to a Transfer Fund or Successor Fund in accordance with clauses 16.10 or 18;
 - 8.3.2 the payment of a Benefit to or in respect of a Member or Beneficiary other than payments from a Pension Account;

- 8.3.3 the cost (including any premium) of any payments for any insurance contract effected for the Member or Beneficiary;
- 8.3.4 any tax or government impost attributable to a Member or Beneficiary's Benefit or Account;
- 8.3.5 any amount transferred to a Pension Account of a Member or Beneficiary;
- 8.3.6 any Fund Expenses attributable to the Member or Beneficiary; and
- 8.3.7 such other amounts as the Trustee determines from time to time.

Preservation and cashing restrictions

- 8.4 The Trustee shall record as required in the accounts of each Member:
 - 8.4.1 the amount that is preserved;
 - 8.4.2 the amount that is a restricted non-preserved benefit; and
 - 8.4.3 the amount that is not subject to a cashing restriction for the purposes of the Act.

Fund Expenses, fees and Trustee remuneration

- 8.5 The Trustee from time to time is to determine the Fund Expenses in respect of the Fund and each Fund Investment Pool.
- 8.6 The Trustee in its discretion may deduct all Fund Expenses from Member Accounts and Fund Investment Pools in such proportions and in such a manner as is fair and reasonable and may procure a redemption or disposal of underlying investments held for the benefit of Members or, if applicable, a redemption or disposal of Units.
- 8.7 The Trustee is entitled to be remunerated for its services to the Fund, such amounts, and at such intervals, as may be determined by the Trustee.
- 8.8 The Trustee may in its absolute discretion set one or more fees to be deducted from Member Accounts or Fund Investment Pools and without limiting the Trustee's discretion:
 - 8.8.1 fees may vary in respect of different divisions;
 - 8.8.2 fees may vary in respect of different Fund Investment Pools; and
 - 8.8.3 fees may vary between Members or categories of Member.
- 8.9 The Trustee may in its absolute discretion, subject to the Act, retain any amount representing a rebate, reimbursement, expense or cost saving on a transaction, an amount that is not a Member's Benefit or other similar amount paid to the Fund by a financial services provider or the provider of a financial product.

- 8.10 Without limiting the power of the Trustee as set out in clauses 8.5, 8.6, 8.7 and 8.9, the Trustee shall be entitled to charge the Fund with the following fees, recover the following costs and disbursements and to retain any of the following amounts:
- 8.10.1 **Contribution charge** - The Trustee shall be entitled to deduct such contribution charges against a Member's Account as the Trustee shall determine from time to time.
 - 8.10.2 **Member charge** - The Trustee shall be entitled to charge against a Member's Account a monthly membership charge as it shall determine from time to time.
 - 8.10.3 **Benefit payment charge** - The Trustee may charge a benefit payment charge against a Member's Account upon the payment of a Member's Benefit at such rate as determined by it from time to time.
 - 8.10.4 **Investment switching charge** - The Trustee may charge an investment switching charge to a Member's Account upon the second and each subsequent direction by the Member to the Trustee in a Financial Year to change investment options made available through the Fund. The Trustee shall determine the rate of the investment switching charge from time to time. The Trustee may in its absolute discretion determine to charge an investment switching charge on a different basis, including imposing a charge for each and every Member directed investment switch.
 - 8.10.5 **Administration charge** - The Trustee shall be entitled to charge against a Member's Account a monthly administration fee. The Trustee shall determine the rate of the administration charge from time to time.
 - 8.10.6 **Asset transfer charge** - The Trustee shall be entitled to charge an asset transfer charge in respect of any amounts transferred by a Member or on behalf of a Member into a Member's Account from a Complying Fund, approved deposit Fund or retirement savings account. The Trustee shall determine the rate of the asset transfer charge from time to time.
 - 8.10.7 **Rebate of premiums** - The Trustee shall be entitled to be paid any amounts representing a rebate or reimbursement of any premiums from effecting a contract of insurance.
 - 8.10.8 **Buy/Sell spread** - The Trustee shall be entitled to retain the buy/sell spread in relation to the purchase and disposal of assets held through the Fund on behalf of Members, where the Trustee is able to nett off transactions between Members, including the purchase and redemption or disposal of units or Units (if any).
 - 8.10.9 **Insurance administration fee** - The Trustee shall be entitled to charge against a Member's Account an insurance administration fee .The

Trustee shall determine the rate of the insurance administration charge from time to time.

8.10.10 **Rebate of investment manager fees** - The Trustee shall be entitled to be paid any amounts representing a rebate or reimbursement of any fees from investment managers engaged by the Trustee or the investment managers of assets of the Fund.

8.10.11 **Direct Share Facility Transaction Fee** - The Trustee shall be entitled to charge against a Member's Account a transaction fee in respect of transactions effected on behalf of a Member in respect of the Direct Share Facility. The Trustee shall determine the rate of the transaction charge from time to time.

8.10.12 **Adviser Service Fee** – The Trustee shall be entitled to charge against a Member's Account one or more adviser service fees as determined by the Trustee from time to time and if agreed to by the Member.

8.10.13 The setting and deduction of fees is subject to the Act as it applies to protected members and lost members and in order to comply with the Act's provisions applying to protected members and lost members and for the avoidance of doubt the Trustee has a complete discretion as to the setting of fees which vary between Members.

8.11 The Trustee may recover from a person, including a Member (and Reversionary Beneficiary) and a Family Law Spouse, such fees and costs in relation to any family law dealings, unless prohibited by law.

Expense reserve account

8.12 The Trustee may at any time establish an Expense Reserve Account in respect of the Fund provided that the Trustee may determine to create one or more sub-accounts within the Expense Reserve Account and without limiting the generality of the foregoing a separate sub-account may for this purpose be created in respect of each or any Fund Expense.

8.13 The Expense Reserve Account, shall be credited with sufficient monies from the Member's or Beneficiary's Account to meet any or each Fund Expense (as the case may require) including without limitation the amount of the Trustee's fees calculated in accordance with this clause 8 of this document and costs of any insurance contract or annuity effected in respect of the Member or Beneficiary.

8.14 The Trustee shall debit from the Expense Reserve Account the amount of any or each Fund Expense (as the case may require) including without limitation the amount of the Trustee's fees or charges calculated in accordance with this clause 8 and the costs of any insurance contract or annuity effected in respect of each Member or Beneficiary.

Adjusting accounts and reserves

- 8.15 For the purposes of adjusting accounts and reserves the Trustee shall treat those accounts and reserves as being invested in such Fund Investment Pools as may be considered appropriate by the Trustee.
- 8.16 Reserves may be used to make any compensation or adjustment that the Trustee considers necessary or appropriate in the operation of each of the Fund Investment Pools.

Benefits not fully vested

- 8.17 Any amount standing to a Member's Member Account that is not fully vested in the Member on the Member being paid his or her Benefit, shall be applied in accordance with the arrangements made with the Employer at the time of payment of such amounts to the Fund and any amount not so payable shall be forfeited and applied for the general purposes of the Fund.

Audit of Fund

- 8.18 Each year an approved auditor appointed by the Trustee shall audit the accounts and records of the Fund and shall report to the Trustee not later than 30 days before the date the return is required to be lodged with the Regulator

Reserve Account

- 8.19 The Trustee may create and maintain one or more reserve accounts as the Trustee considers appropriate.
- 8.19A The Trustee may allocate to a Reserve Account:
- 8.19A.1 benefits forfeited;
 - 8.19A.2 reserves of earnings;
 - 8.19A.3 other amounts not applied to a specific account; and
 - 8.19A.4 any other amounts as the Trustee considers appropriate.
- 8.19B The Trustee may deduct from a Reserve Account:
- 8.19B.1 any amount for a general or particular purpose of the Fund; and
 - 8.19B.2 any other amounts as the Trustee considers appropriate.

Other accounts

- 8.20 The Trustee shall keep such other accounts, including sub-accounts, as may be necessary to record the financial transactions by the Trustee and to record the Members' entitlements and changes in the nature of entitlements.

9 Qualification of Trustee

Eligibility to be Trustee

- 9.1 Only a constitutional corporation having power to act and to carry out the trusts of this document shall be eligible to be the trustee of the Fund.
- 9.2 The board of directors of such corporation shall be comprised of such persons as will at all times ensure that the board complies with the requirements of the Act as to trustee representation.

Trustee consent

- 9.3 A person to be appointed as a trustee shall consent in writing (whether in a deed of appointment or otherwise) to the appointment.

10 Retirement and appointment of Trustee

Vacation of office

- 10.1 The office of a trustee shall become vacant if:
- 10.1.1 it resigns its office by notice in writing to the shareholders of the Trustee;
 - 10.1.2 it becomes a Disqualified Person;
 - 10.1.3 it, subject to the Act, is removed by the shareholders of the Trustee by notice in writing; or
 - 10.1.4 on the Trustee becoming aware a Responsible Officer of the Trustee is or has become a Disqualified Person and that person does not cease to be a Responsible Officer within 14 days of the Trustee becoming so aware.

Appointment of new trustee

- 10.2 Where the office of a trustee becomes vacant the shareholders of the trustee vacating office shall appoint as a new trustee, a corporation satisfying the Act's requirements as to Trustees.

Vacancy to be filled

- 10.3 Any vacancy occurring pursuant to this clause shall be filled within 90 days of the day on which the vacancy occurs.

Member and employer representation

- 10.4 If so required by the Act, the Trustee shall put in place arrangements to facilitate equal representation of Members and Employers and may for this purpose, and shall if so required by the Act, set up one or more Policy Committees.

Policy Committees

- 10.5 In the event that the Trustee is required to establish one or more Policy Committees for the Fund under the Act, it shall take all necessary steps to establish and maintain the operation of such Policy Committees in order to fulfil the functions required of Policy Committees as set out in the Act and it shall administer, dissolve, reform or replace such Policy Committees as necessary in accordance with the Act.

11 Discretions and decisions of Trustee

Trustee decisions

- 11.1 The Trustee may act by resolution of the board of directors passed in the manner required by the Act.

Trustee discretions

- 11.2 The Trustee in the exercise of the authorities powers and discretions hereby vested in it shall, subject to this document, have an absolute and uncontrolled discretion and may:

11.2.1 exercise or enforce all or any of the authorities powers or discretions from time to time; or

11.2.2 refrain from exercising all or any of such authorities, powers or discretions from time to time.

- 11.3 The Trustee's decision as to the interpretation and effect of this document shall be final.

Decisions revocable

- 11.4 Any Trustee decision as to the payment of benefits shall be revocable until actual payment of the benefit is made.

No personal liability

- 11.5 No Trustee or director of the Trustee shall be under any personal liability in respect of any loss or breach of trust in respect of the Fund or the benefits of a Member unless the same shall have been due to:

11.5.1 its own failure to act honestly in a matter concerning the Fund; or

11.5.2 intentional or reckless failure to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee or director was required to exercise.

- 11.6 The Trustee may take out such insurance for claims against the Trustee and/or the directors of the Trustee as it thinks fit and the cost of such shall be an expense of the Fund.

Indemnity

- 11.7 The Trustee and the directors of the Trustee shall be indemnified out of the assets of the Fund against all liabilities and expenses incurred by them in the execution of their duties hereunder and shall have a lien on the Fund for such indemnity.
- 11.8 The costs charges and expenses incurred by the Trustee in and incidental to the administration and winding up of the Fund or otherwise in relation thereto shall be paid out of the Fund.
- 11.9 The indemnity in clauses 11.7 to 11.9 shall not apply to the Trustee or a director of the Trustee where the Trustee or that director:
- 11.9.1 fails to act honestly in a matter concerning the Fund;
 - 11.9.2 intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee or director is required to exercise; or
 - 11.9.3 the liability is for a monetary penalty under a civil penalty order under the Act.

Trustee interested

- 11.10 No director of the Trustee shall by virtue of the office be disqualified from being or becoming a Member or from exercising any rights or deriving any benefit as a Member and a director of the Trustee who is or is about to become a Member may be counted in a quorum and vote at any meeting of the Trustee or its board of directors and generally participate in the exercise of the functions of the Trustee notwithstanding that he is interested in the matter.

Custodian

- 11.11 The Trustee may appoint, on such terms as it considers appropriate, a corporate body as custodian trustee to hold on its behalf title to some or all of the assets of the Fund.

Managers and administrators

- 11.12 The Trustee may appoint in writing, on such terms as it considers appropriate, including the granting of any indemnity reasonably required, one or more corporate bodies to act on behalf of the Trustee in regard to the investment and management of the assets and administration of the Fund.

Member's attorney

- 11.13 Each Member hereby irrevocably appoints the Trustee his or her attorney to execute and sign all such deeds and instruments and do all such things the Trustee considers necessary or desirable in administering the Fund.

Exercise of discretion by person other than Trustee

- 11.14 No discretion under these trusts is exercisable by a person other than the Trustee unless:
- 11.14.1 the Trustee consents to the exercise of that discretion; or
 - 11.14.2 the exercise of the discretion relates to the contributions that a Employer will, after the discretion is exercised, be required or permitted to pay to the Fund; or
 - 11.14.3 the exercise of the discretion relates solely to a decision to terminate the Fund; or
 - 11.14.4 the circumstances in which the discretion was exercised are covered by the Act.

Disclosure

- 11.15 The Trustee is not bound (except as required by any law) to disclose to any person any of the following:
- 11.15.1 any document disclosing any deliberations of the Trustee; or
 - 11.15.2 any document relating to the exercise or proposed exercise of any power or discretion conferred on the Trustee by this document.

Brokerage and Commission

- 11.16 The Trustee may pay brokerage or commission in such circumstances as the Trustee considers appropriate subject to any restrictions imposed by the Act.

Direction by Third Party

- 11.17 If a provision of this Deed would otherwise be invalid in part or in whole because it subjects the Trustee to direction by another person then the provision is taken not to subject the Trustee to direction by that person but to give the Trustee the power to treat such a direction as a request and in its discretion agree to act in a manner consistent with it

12 Trustee covenants

- 12.1 The Trustee covenants:
- 12.1.1 to act honestly in all matters concerning the Fund;
 - 12.1.2 to exercise, in relation to all matters affecting the Fund, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
 - 12.1.3 to ensure that the Trustee's duties and powers are performed and exercised in the best interests of the Members;

- 12.1.4 to keep the money and other assets of the Fund separate from any money and assets, respectively:
- (a) that are held by the Trustee personally; or
 - (b) that are money or assets, as the case may be, of a Participating Employer;
- 12.1.5 not to enter into any contract, or do any other act or thing, that would prevent the Trustee from, or hinder the Trustee in, properly performing or exercising the Trustee's functions and powers;
- 12.1.6 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, holding 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;
 - (d) the ability of the Fund to discharge its existing and prospective liabilities;
- 12.1.7 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
- 12.1.8 to allow a Member access to any information or any documents prescribed by the Act.

13 Investment

Powers of investment

- 13.1 The Trustee, as well as having all powers conferred upon it by law, shall have all the powers of a sui juris beneficial owner of the Fund, and, also the following powers:
- 13.1.1 to invest the Fund or any part thereof in any part or parts of the world;

- 13.1.2 to invest in companies incorporated anywhere in the world by way of shares, stock, options or debentures or in rights of any kind to any such shares, stock, options or debentures:
- (a) whether or not listed on a stock exchange;
 - (b) whether such company's liability is limited or not;
 - (c) whether or not the shares or stock carry any rights to dividends or not or to share in any distribution of capital on a winding up or reduction of capital; and
 - (d) whether or not the shares or stock carry any rights to vote or not;
- 13.1.3 to invest in real property or leasehold property of any description and to subdivide and build on any land and to maintain improve extend and demolish any buildings in whole or part;
- 13.1.4 to lend or advance money with or without security;
- 13.1.5 to invest in units or sub-units of a unit trust of any kind including a cash management trust, an equity trust, a public securities trust or a property trust;
- 13.1.6 to invest in ships, aircraft and chattels of any description and any shares or interest therein;
- 13.1.7 to acquire book debts, options, futures contracts, futures options, swap agreements, forward rate agreements, foreign currency, other contracts of a derivative nature and other choses in action wheresoever situated or enforceable and any shares or interests therein;
- 13.1.8 to enter into securities lending arrangements;
- 13.1.9 to invest in any reversionary or deferred property or rights of any description wheresoever situate or enforceable and whether by way of original creation or assignment or otherwise;
- 13.1.10 to invest part of the Fund in assets for the purposes of capital gain only or which may be of a wasting or speculative nature;
- 13.1.11 to invest or expend any part of the Fund in any annuity or policy on the life of any Member or the happening of any other event;
- 13.1.12 to invest all or part of the Fund in one or more superannuation policies or pooled superannuation trusts;
- 13.1.13 to make deposits with any bank in any part of the world for any period whatsoever;

13.1.14 to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;

13.1.15 to enter into bill facility or promissory note agreements; and

13.1.16 to enter into any other investment the Trustee determines subject to the Act.

Restrictions on investment

13.2 The Trustee may not lend any money or give other financial assistance to a Member or relative of a Member and the level of In-house Assets shall not exceed the level determined by the Act.

13.3 The Trustee must not invest money of the Fund unless the Trustee and the other party to the relevant transaction are dealing with each other at arm's length in respect of the transaction or, if the Trustee or any director is interested and the Act permits, the terms are no less favourable to the Trustee than those which it is reasonable to expect if the parties had been dealing with each other at arms length in respect of the transaction.

13.4 The Trustee shall not acquire an asset (other than cash) from a Member or a relative of a Member except where permitted by the Act.

14 Trustee

Dealing with assets

14.1 The Trustee has power:

14.1.1 to sell, transpose, exchange, or vary any or all assets from time to time included in the Fund;

14.1.2 to sell, transfer, mortgage, charge, exchange, lease, hire or license the use of the whole or any part of the Fund upon such terms and conditions as to payment or repayment as it thinks fit;

14.1.3 to pay, agree or settle all or any accounts arising out of or in relation to the acquisition, purchase, sale or disposal of any investments made under the powers and trusts of this document and to give effectual receipts, releases and discharges;

14.1.4 for the purposes of investment, to establish, promote, acquire, invest in, or cause the incorporation or join in or consent to the establishment or reorganisation of companies, partnerships, joint ventures or unit trusts, as it thinks fit and to act from time to time as manager or agent of any such body;

14.1.5 to grant or cause to be granted options over the whole or any part of the Fund or over the capital of any company or the units of any unit trust in

which part of the Fund is invested or over patent, property or other rights to which the Trustee is entitled;

- 14.1.6 to establish or maintain, as it may think fit from time to time, reserve funds or sinking funds to provide for the amortisation of the cost of or depreciation in the value of any property forming part of the Fund or of any liability to which it is subject.

General powers

14.2 The Trustee has power:

- 14.2.1 to employ or engage managers, servants, agents and contractors irrespective of whether such person has any beneficial interest, whether direct or indirect, in the Fund or any parts thereof and to pay out of the Fund any person or persons to do any act or acts (including the receipt of information, documents or money) in connection with or arising out of the exercise of the powers under this document and including, without restricting the generality hereof, acts which the Trustee could perform personally;
- 14.2.2 to prosecute and as it may think fit to defend, answer, discontinue, compromise or settle any claims, actions, suits, or proceedings whatsoever and to refer and submit to arbitration any dispute or matter concerning any part of the Fund or relating to the trusts of this document;
- 14.2.3 to make, do, sign, seal, deliver and execute all acts, deeds, matters and things whatsoever necessary or incidental to the exercise or performance of the powers or trusts of this document or to satisfy its obligations under the Act or give any notices required under that Act;
- 14.2.4 to delegate to any person, firm or corporation, including any firm or corporation in which the Trustee may be interested, any of its discretions, powers and authorities including the receipt or payment of money for such period and subject to such conditions or restrictions as the Trustee shall in its absolute discretion deem fit and to pay to any such person out of the Fund all proper fees, charges, commissions and disbursements;
- 14.2.5 to take and act upon the opinion or advice of any accountant, auditor, banker, lawyer, valuer or other expert or professional person or body and upon any information or documents received from a person on whom it is reasonable to rely (in any case, whether or not a shareholder or director of the Trustee) and in relation to any such opinion, information, documents or advice the Trustee shall not be responsible for any loss, depreciation or damage of any nature to the Fund resulting from any decision of the Trustee to act or not to act as the Trustee may in its absolute discretion think fit in accordance with any such opinion, information, documents or advice;

- 14.2.6 to open any account or accounts with any bank or banks and to operate in all usual ways on such accounts;
- 14.2.7 to appoint by deed or otherwise any person to act as its attorney in any place in the world to do any acts in connection with or arising out of the exercise of the trusts, powers and discretions under this document and in relation to all or any part of the Fund in the same manner as the Trustees could do personally. Such attorney may be given such ancillary powers and be subject to such provisions and restrictions as the Trustees thinks fit including a power to appoint substitutes. The Trustee shall not by reason only of having made the appointment be responsible for any loss arising thereby;
- 14.2.8 to do all such other things as may be incidental to the exercise of the powers and authorities conferred on the Trustee by law or this document;
- 14.2.9 to compromise, compound, abandon, release, forgive, submit to arbitration or otherwise settle any debt, claim or thing whatsoever relating to the Fund or owing to the Trustee on any account whatsoever;
- 14.2.10 to take on lease or hire and make improvements to any real or personal property on such terms and conditions as the Trustee shall in its absolute discretion determine;
- 14.2.11 to pay out of the Fund or the income thereof all costs, charges and expenses incidental to the management of the Fund or to the exercise of any power, authority or discretion herein contained or in carrying out or performing the trusts hereof which the Trustee may at any time incur including all income or other taxes payable in respect of the Fund;
- 14.2.12 to deduct and pay as required all taxes, charges and levies payable on contributions made to the Fund and on benefits payable from the Fund and to charge for the costs and expenses directly or indirectly attributable to administering such tax, charge or levy;
- 14.2.13 to establish a separate trust account and pay into that account in the name of each person any moneys required to be held on separate trust and deal with these moneys as required by the Act;
- 14.2.14 subject to the Act, to borrow from a bank or other financial institution on such terms and conditions, without security, as it shall in its absolute discretion think fit for the purposes of temporary finance in order to overcome cash flow problems in the payment of superannuation benefits or to settle an acquisition of an asset;
- 14.2.15 where appropriate, to charge fees for the provision of information required to be provided by the Act;

14.2.16 to advertise, market and otherwise promote the Fund and to join in with trustees of other superannuation funds to advertise, market and otherwise promote superannuation funds including the Fund;

14.2.17 to set and to vary fees to be charged to Members;

14.2.18 to determine and to vary the minimum account balance that must remain after payment on the grounds of severe financial hardship and to determine and to vary any other criteria for eligibility for payment on the grounds of severe financial hardship;

14.2.19 to determine and to vary the Minimum Amount and the class or classes of Members to whom the Minimum Amount is to apply;

14.2.20 to establish a separate account to which payments under the Insurance policy may be credited and to determine whether or not the account is to be credited with an earnings rate, to determine what that earnings rate should be and to defer crediting the payment (and any earnings thereon) to the appropriate Member Account until a later date not being later than the date the Member Benefit is to be paid; and

14.2.21 to do all acts and things the Trustee may determine necessary or expedient (including the making of rules and the adoption of policies) for the administration, maintenance or preservation of the Fund and in the performance of its obligations under this document.

15 Insurance Benefits

Level of Benefits

15.1 The amount and nature of cover under any insurance contract shall be determined by the Trustee and shall be subject to the terms of the insurance contract or policies taken out by the Trustee to provide the relevant cover under any insurance contract.

15.2 No payment shall be made in respect of a Member in satisfaction of any insurance cover that is greater than the amount received by the Trustee under the insurance contract in respect of that Member after deduction of all administration charges and expenses and taxes attributable to that amount.

Trustee to effect necessary death and disability insurances

15.3 To provide insurance benefits, the Trustee may enter into one or more group insurance policies with insurers for amounts and on terms and conditions agreed between the Trustee and the insurer.

Commencement of death and disability insurance

15.4 Any insurance cover in respect of a person will not commence until:

15.4.1 the person is admitted as a Member;

- 15.4.2 if required, the Member and, where applicable, the Employer, have provided all information required by the insurer.

Cessation of insurance cover

- 15.5 Any insurance cover shall cease:
- 15.5.1 in accordance with the terms contained in the contract of insurance with the insurer and set out in the Member Information attached to the application for membership;
 - 15.5.2 on written notice to the Trustee given by the Member;
 - 15.5.3 on the Trustee determining that it is not reasonably practicable to obtain or renew a contract of life insurance on terms acceptable to the Trustee;
 - 15.5.4 where the insurer for any reason terminates a contract of life insurance, or terminates the cover for the Member; or
 - 15.5.5 where the amount standing to the credit of a Member's Account is insufficient to pay the costs attributable to that Member of providing that cover.

Scope of insurance cover

- 15.6 Any insurance cover shall be subject to the terms of the applicable insurance contract.
- 15.7 The Trustee has no duty:
- 15.7.1 to effect insurance cover;
 - 15.7.2 to increase insurance cover; or
 - 15.7.3 to maintain any insurance contract.
- 15.8 The amount of any insurance cover shall be adjusted where appropriate where there is an error in the age, sex or other details of the Member the subject of the insurance cover.
- 15.9 Insurance cover applying to a Member may change on transfer from division I to division II depending on the terms of the insurance contract or policies.

16 Interest in fund

Members' Interests

- 16.1 The interest in the Fund of a Member and those entitled to a benefit on the death of the Member (Beneficiary) is personal to that person and the Trustee shall not recognise any assignment, claim or charge in respect of that interest unless that assignment, claim or charge is permitted expressly or by necessary implication by the Act nor shall the Trustee be required to recognise an interest of any other

person for whom the Member or Beneficiary may act as trustee in respect of the Member or Beneficiary's interest in the Fund.

16.2 A Member only has an interest in the Fund whilst the Member is alive.

16.3 Except where clause 24.8 applies, on the death of a Member the entitlement to the Member's Account shall be determined in accordance with the provisions applying on the death of a Member.

Payment

16.4 If any part of a Benefit cannot be paid in accordance with the provisions as to payment in this document or rules and is not required to be paid in accordance with clause 16.5 then it may be applied to the general purposes of the Fund.

Unclaimed money

16.5 Where a Member has reached the eligibility age for an age pension and the Trustee is unable to pay the benefit and the circumstances preventing payment are such that a Relevant Law's provisions as to unclaimed money require payment then the Trustee shall pay the benefits in accordance with the Relevant Law.

Application to general purposes of the Fund

16.6 Subject to clause 16.5 if when any benefit becomes payable to a Member or his or her Dependants or legal personal representative and the Member or his or her Dependants or legal personal representative refuse to accept the Benefit or part thereof the amount of the benefit shall be forfeited and applied for the general purposes of the Fund.

Refund of ineligible payments

16.7 Any amount received in error or where a person is not eligible to be admitted as a Member shall be refunded to the payer (less any deductions permitted by the Act) unless to do so would be a breach of the Act, or it is impracticable to comply with the Act's provisions applying to a refund of such amount, or the Trustee determines that to do so would have consequences that the Trustee does not wish to accept.

16.8 The Trustee shall deal with any amount that is not to be refunded to the payer by:

16.8.1 paying the amount to a fund that the Trustee is satisfied is a Successor Fund; or

16.8.2 otherwise dealing with the amount in a manner that the Trustee determines is appropriate.

Employer and Employee rights not restricted

16.9 Nothing in this document shall restrict the right of an Employer to dismiss an Employee or be used to increase damages in any action brought against the Employer in respect of such dismissal or affect the legal rights of a Member or

legal personal representative arising out of or in the course of his or her employment with the Employer.

Dealings with Family Law Spouse Amounts

- 16.10 Where a Family Law Spouse Amount is required to be dealt with in accordance with the Family Law Act 1975 and the Act, the Member's Account (which includes an account in respect of a Reversionary Beneficiary) will be debited with the amount and the amount credited to the account of the Family Law Spouse or transferred in accordance with the directions of the Family Law Spouse to a Transfer Fund.

17 Transfer from another fund

- 17.1 The Trustee may accept into the Fund in respect of the Member an amount transferred from a Transfer Fund in which the Member has participated and the benefit payable under the Transfer Fund in respect of the Member shall be adjusted to take into account the value of the amount transferred in such a manner as is agreed upon by:

17.1.1 the Trustee and the Member; or

17.1.2 in the case where the transfer to the Fund is on the basis that the Fund is a Successor Fund, by the Trustee and the trustee of the Transfer Fund.

18 Transfer of benefit to new fund

Transfers on Member request

- 18.1 Any Member may, with the consent of the Trustee terminate the Member's membership of the Fund and transfer or apply the amount standing to the Member's accounts to a Transfer Fund nominated by the Member which makes provision for payment and preservation of benefits in accordance with the Act.

Withdrawal of Employer

- 18.2 A Participating Employer's participation in the Fund shall be determined in the following manner:
- 18.2.1 date of withdrawal is the date any notice takes effect, or if there is no date specified in the notice, the date the notice is received by the Trustee and where there is no notice, the date the Trustee determines that the Employer has ceased to be a Participating Employer;
- 18.2.2 all arrears of contributions and amounts advanced by the Trustee for the benefit of the Employer's Members, if any, together with interest on any amount not paid by the Employer on the Due Date at a reasonable rate as determined from time to time by the Trustee and collection costs shall be paid up to the date of withdrawal.

Effect on Employee Members

- 18.3 In the event of the termination of the participation of an Employer in the Fund:
- 18.3.1 no further persons who are employed only by that Employer shall be admitted as Members;
 - 18.3.2 no further contributions shall be made by that Employer except contributions that were due on or before the date of withdrawal;
 - 18.3.3 subject to any insurance cover that may apply where a Member elects to transfer to division II, insurance cover shall cease for each Member employed by the Employer at the end of the period for which contributions made by that Employer are last made;
 - 18.3.4 the Member may remain a Member of the Fund, in which case the Member will transfer to division II;
 - 18.3.5 the Member may contribute to the Fund unless the Fund is not a public offer superannuation fund; and
 - 18.3.6 the Member may request:
 - (a) payment of any part of the Member's Benefits that may be paid in accordance with the Rules for Payment of Benefits; and
 - (b) transfer the remaining part of the Member's Benefit in accordance with clauses 18.1 to 18.5.

Transfer to Successor Fund

- 18.4 Any other moneys and assets comprising the benefit of a Member that are not dealt with in accordance with clause 18.3 on a person ceasing to be a Member of the Fund or in any other circumstance the Trustee determines shall be transferred to a Successor Fund.

Transfers in other circumstances

- 18.5 Where the Trustee is unable to pay a benefit and the circumstances preventing payment are such that a Relevant Law's provisions as to unclaimed money apply or the Act requires or permits payment to an eligible roll-over fund then the Trustee shall (where required by the Relevant Law) and otherwise may pay or transfer the benefit in accordance with the Relevant Law. Payment to the Regulator or trustee of an eligible roll-over fund in accordance with the Act shall be a complete discharge to the Trustee.
- 18.6 The Trustee may at any time transfer a protected member's account or, subject to the requirements of the Act and Family Law Act 1975, a Family Law Spouse Amount in respect of a Family Law Spouse, to an eligible rollover fund.

Receipt of Trustee

- 18.7 The receipt of the trustee of the Transfer Fund to which the transfer is made shall be a complete discharge to the Trustee in respect of any money or asset so paid or transferred.

19 Fund information

Deed available for inspection

- 19.1 A copy of this document shall be kept by the Trustee at its registered office and shall be open to inspection by the Member at all reasonable times.

Information on joining Fund

- 19.2 The Trustee shall give to a person on joining the Fund:
- 19.2.1 a written statement containing details of the kinds of benefits provided to Members, the conditions relating to those benefits and the method of determining entitlements of Members; and
 - 19.2.2 such other information as is required to be disclosed by the Act.
- 19.3 The Trustee shall give to a prospective Member who is not employed by a Participating Employer;
- 19.3.1 a written statement containing details of the kinds of benefits provided to Members by the Fund, the conditions relating to those benefits and the method of determining entitlements of Members; and
 - 19.3.2 such other information as is required to be disclosed by the Act.

Annual statement

- 19.4 The Trustee shall give to each Member of the Fund as soon as practicable after the end of each financial year and in any event not later than six months after the end of the year a written statement setting out the information required by the Act as to the Member's entitlements and any other information required by the Act.

Information on cessation of membership

- 19.5 Where a Member ceases to be a Member of the Fund the Trustee shall give, or arrange to be given, to the Member (or if the Member is deceased his legal personal representative) as soon as is practicable thereafter a written statement setting out:
- 19.5.1 the entitlements of that person, identifying any amounts that must be preserved in order to satisfy the Act's requirements as to preservation; and
 - 19.5.2 such other information as is required by the Act.

Other information

- 19.6 The Trustee shall allow the Members access to information required to be given by the Act and such other information as the Trustee reasonably believes a Member reasonably needs to understand the nature or purpose of the event or to make an informed decision about the effects generally and on the Member's current and future entitlements where an event in relation to the Fund is such as to require the Members to be informed.

Employer information

- 19.7 The Trustee shall give to a person applying to become a Participating Employer such information as is required to be given by the Act.

Regulator information

- 19.8 The Trustee shall ensure that the Regulator is given such notices and reports on contributions to and entitlements of the Fund and is advised of such matters as shall be necessary in order to comply with any requirements of the Relevant Law.

Fees for provision of information

- 19.9 The Trustee may charge fees for the provision of information required to be provided in accordance with the Act.
- 19.10 The Trustee shall be entitled to charge fees that take into account all its costs of providing the information. Fees payable by persons other than Members and their Dependants, may unless prohibited by the Act, include a profit element.

Electronic delivery

- 19.11 Without limiting the means by which information may be provided or statements and other communications may be given, the Trustee may provide information or give a statement or other communication by any form of data or image transmission or communication facility or medium, including without limitation facsimile, electronic mail and the internet, in which case the information, statement or communication will be considered to have been provided or given when transmitted or published (as the case may be).
- 19.12 Without limiting clause 19.11, if a Member agrees with the Trustee to receive information, statements or other communications via an electronic medium or it is a condition of the Member's category of membership that information, statements and other communications will be given via an electronic medium, the Trustee need only give information, statements or other communications in that manner.

20 Variation of trust deed

- 20.1 The provisions of this document including this clause may be added to, amended, altered, modified, rescinded or varied (the **Variation**) from time to time by the Trustee either prospectively or retrospectively on the following basis:

Deed

- 20.2 The Variation shall be by deed executed by the Trustee and a copy of such deed shall be forwarded to the Regulator and each Participating Employer if required by the Act.

Notice

- 20.3 On any Variation being effected, the Trustee shall if so required by the Act advise the Members and Beneficiaries in writing of the nature and purpose of the Variation and the effect on their entitlements or rights in accordance with and in the manner and time required under the Act.

Limitation on variation

- 20.4 No Variation shall have the effect of:
- 20.4.1 reducing or adversely affecting the rights or claims of a Member to accrued entitlements under the Fund which have arisen prior to the Variation being effected; or
 - 20.4.2 reducing the amount of an entitlement other than an entitlement referred to in clause 20.4.1 that is or may become payable in relation to a period before the date of the Variation,
- unless:
- 20.4.3 the reduction is required to enable the Fund to comply with the Act; or
 - 20.4.4 the Member so affected consents in writing to the reduction; or
 - 20.4.5 the Regulator consents in writing to the reduction,
- provided that each variation shall comply with the Act.

Further limitation on variation

- 20.5 No Variation to this document shall:
- 20.5.1 have the effect of providing that the sole or primary purpose of the Fund is other than the provision of old-age pensions within the meaning of the Act, unless the Trustee of the Fund is a constitutional corporation or the Act otherwise permits; or
 - 20.5.2 permit a person or body other than a constitutional corporation to be appointed as Trustee, unless this document provides that the sole or primary purpose of the Fund is the provision of old-age pensions within the meaning of the Act or the Act otherwise permits.

21 Compliance with Relevant Law

Management

- 21.1 The Fund shall be managed and administered as a Complying Fund and as such, notwithstanding anything expressed or implied to the contrary in this document, shall satisfy all requirements applying to Complying Funds.

Inconsistency

- 21.2 To the extent that there is an inconsistency between the provisions of this document and the Act or that this document does not deal with any matter required to be dealt with by the Act applying to a Complying Fund those requirements shall be deemed to be included in this document and any inconsistent provisions of this document shall be deemed to be amended or deleted to the extent necessary for the Fund to be classified as a Complying Fund.

Power to comply with Relevant Law

- 21.3 The Trustee has all of the powers necessary to comply with a Relevant Law or to do anything authorised by a Relevant Law and the Trustee must:
- (a) do, or cause to be done, any matter or thing necessary in order to satisfy any applicable requirement of a Relevant Law (including compliance with any lawful direction of a Regulator); and
 - (b) refrain from doing, and take all reasonable steps to prevent any matter or thing which would cause a breach of or non-compliance with any applicable requirement of a Relevant Law,

and the Trustee is not liable for doing or failing to do anything contemplated by this clause if and to the extent that, under the Relevant Law, the Trustee is relieved from a liability to which the Trustee would otherwise be subject or that might otherwise be imposed on the Trustee under the Relevant Law because of that action or failure.

Tax

- 21.4 The Trustee may take any action (whether prospective or retrospective) that the Trustee considers necessary or appropriate to calculate, pay, deduct or take account of any Tax, including, without limitation:
- (a) adopting policies relating to the application or timing of Tax credits and Tax debits to Member Accounts;
 - (b) adopting policies relating to the acceptance of Members and contributions without any required or desirable Tax-related information;
 - (c) adopting policies relating to the claiming of Tax refunds;
 - (d) reducing or otherwise adjusting contributions to or benefits or other amounts payable from the Fund, in which case the Member will be entitled to only the net amount;
 - (e) providing information and making payments to the Regulator;

- (f) establishing reserves and making provisions in the accounts of the Fund; and
- (g) charging to recover the costs and expenses attributable to administering any Tax requirement.

Each Member is liable for all Tax incurred by the Trustee or the Fund in respect of that Member and must indemnify the Trustee in respect of such Tax.

Overriding effect

- 21.5 Notwithstanding anything expressed or implied to the contrary in this document (including any other provision of this document which purports to prevail over this clause) if there is a conflict between this clause and any other provision of this document, this clause prevails to the extent of the conflict.

21A MySuper compliance

Application

- 21A.1 If the Trustee is authorised to offer and determines to offer a class of beneficial interest in the Fund (including within a Division of the Fund) as a MySuper product (within the meaning of the Act), this clause 21A applies to the extent that a Member's interest in the Fund is a MySuper product, notwithstanding anything expressed or implied to the contrary in this Deed.

MySuper obligations

- 21A.2 The Trustee must comply with the additional obligations of a trustee imposed under the SIS Act in relation to the MySuper product.

MySuper product characteristics

- 21A.3 The following rules apply to the MySuper product:
- 21A.3.1 the Trustee must adopt a single diversified investment strategy for the MySuper assets (as determined by the Trustee from time to time);
 - 21A.3.2 all MySuper Members must have access to the same options, benefits and facilities (as determined by the Trustee from time to time), except that the terms of insurance offered to the MySuper Members may differ as permitted under the SIS Act;
 - 21A.3.3 the Trustee must allocate the gains or losses attributable to the MySuper assets by attributing them to the Member Accounts of all MySuper Members, except as otherwise permitted by the SIS Act;
 - 21A.3.4 the Trustee must adopt the same process for attributing other amounts permitted to be debited or credited to the Member Accounts of MySuper Members, except as otherwise permitted by the SIS Act;
 - 21A.3.5 the Trustee must not limit the sources or kinds of contributions that may be made to the MySuper product, except as otherwise permitted by the SIS Act;

- 21A.3.6 a MySuper Member's MySuper product cannot be replaced with another class of interest in the Fund unless:
- (a) the replacement interest is another MySuper product in the Fund; or
- the MySuper Member consents in writing to the replacement;
- 21A.3.7 a MySuper Member's MySuper product cannot be replaced with a beneficial interest in another superannuation entity unless:
- (a) the new interest is a MySuper product and the replacement is permitted by the Relevant Law;
 - (b) the replacement is otherwise permitted or required by the Relevant Law; or
 - (c) the MySuper Member consents in writing to the replacement;
- 21A.3.8 the Trustee must not pay a pension from the MySuper assets, other than by payment of a benefit provided to the Fund by an insurer in the event of a MySuper Member ceasing work due to ill-health or as otherwise permitted by the SIS Act; and
- 21A.3.9 any other rules determined by the Trustee for the MySuper product from time to time.
- 21A.4 The Trustee must ensure that the rules applicable to the MySuper product comply with the SIS Act. Any inconsistent provisions of this clause 21A shall be deemed to be amended or deleted and any additional requirement shall be deemed to be included in this clause 21A to the extent necessary to ensure compliance.

MySuper product fees and payments

- 21A.5 The Trustee must charge fees in relation to the MySuper product in the manner required by the SIS Act and only as permitted by the SIS Act.
- 21A.6 The Trustee must not pay any conflicted remuneration (within the meaning of the Relevant Law) in relation to the MySuper product.
- 21A.7 The Trustee must ensure that any arrangement for the payment of a performance fee to an investment manager for the investment of one or more of the MySuper assets complies with the SIS Act.

MySuper Insured Benefits

- 21A.8 The Trustee must provide insured benefits for MySuper Members to the extent and on the basis required by the SIS Act and only as permitted by the SIS Act.

Publication of information

- 21A.9 The Trustee must publish on its website information about the MySuper product as required by the Relevant Law.

Transfer of Accrued Default Amounts

- 21A.10 Unless the MySuper Member directs the Trustee in writing not to do so, the Trustee must attribute to the MySuper Member's MySuper product any Accrued Default Amount held in the Fund for the MySuper Member within the period required by the SIS Act.

Definitions

- 21A.11 In this clause 21A:

Accrued Default Amount has the meaning given to that expression under the SIS Act.

Member Account means:

- (a) where a sub-account is maintained within a Member's Member Account for the MySuper Member, that sub-account; or

the Member's Member Account for the MySuper Member.

MySuper assets means the Fund assets attributable to the MySuper product.

MySuper Member means a Member who holds a MySuper product in respect of all or part of their interest in the Fund.

21B MySuper products for Large Employers

Application

- 21B.1 If the Trustee is authorised to offer and determines to offer a class of beneficial interest in the Fund (including within a Division of the Fund) as a MySuper product that relates to a Large Employer (within the meaning of the SIS Act), clause 21A, as modified, varied or added to by this clause 21B, shall apply to the extent that a Member's interest in the Fund is an interest in the MySuper product that relates to the Large Employer, notwithstanding anything expressed or implied to the contrary in this Deed.

Identification of Large Employers

- 21B.2 The Trustee must identify the Large Employer in respect of whom a class of beneficial interest in the Fund that is a MySuper product is intended to relate.

Eligibility for membership

- 21B.3 The Trustee must only offer a MySuper product that relates to a Large Employer to:
- (a) an employee or former employee of the Large Employer;
- (b) an employee or a former employee of an associate of the Large Employer; or
- (c) a relative or dependant of an employee or a former employee mentioned in subparagraph (a) or (b) above.

Participation requirements

- 21B.4 The Trustee must ensure that, if it offers a class of beneficial interest in the Fund that is a MySuper product that relates to a Large Employer:
- (d) where the Large Employer or an associate of the Large Employer contributes to the Fund or would, apart from a temporary cessation of contributions, contribute to the Fund for an employee of the Large Employer, any employee of the Large Employer may hold an interest of that class of beneficial interest in the Fund; and
 - (e) where the Large Employer or an associate of the Large Employer contributes to the Fund or would, apart from a temporary cessation of contributions, contribute to the Fund for an employee of an associate of the Large Employer, any employee of that associate may hold an interest of that class of beneficial interest in the Fund.

22 Participating Employer

Admission of Participating Employer

- 22.1 The Trustee may, in its absolute discretion, admit as a Participating Employer, an Employer who consents to be bound by the terms of this document in a form approved by the Trustee.

Removal of Participating Employer

- 22.2 The Trustee in its absolute discretion, may at any time by notice in writing remove a Participating Employer as a Participating Employer.
- 22.3 An Employer may give the Trustee 30 days' notice in writing of its intention to cease its participation in the Fund and at the end of the 30 days it will cease to be a Participating Employer.

New Employer

- 22.4 If:
- 22.4.1 a Participating Employer is dissolved or being a company is wound up and a company person or firm shall agree to undertake the obligation of such Participating Employer in respect of the Fund; or
 - 22.4.2 another company person or firm acquires all or a substantial part of the undertaking and assets of an Participating Employer and agrees to undertake the obligations of such Participating Employer or otherwise becomes bound to perform the obligations of the Participating Employer in respect of the Fund,

then that Participating Employer shall upon the happening of either such event be released from all obligations in respect of the Fund and this document shall thereafter have effect as if such other company, person or firm had been a party to this document instead of the then Employer.

Successor Fund Transfers

- 22.5 Where an Employee's superannuation entitlement is transferred into the Fund from a Transfer Fund on the basis that the Fund is a Successor Fund, pursuant to Clause 17.1, the Employee and its Employer are deemed to be admitted as a Member and a Participating Employer respectively of the Fund on the date of that transfer.

Employer not an agent of the Trustee

- 22.6 An Employer is not the agent of the Trustee for any purpose.

23 Dissolution of the fund

Date of dissolution

- 23.1 If there shall cease to be any Members or if the Trustee resolves to terminate the Fund, the Fund shall be dissolved as from the date on which the last person ceases to be a Member of the Fund or date determined by the Trustee.

Benefits on dissolution

- 23.2 On the dissolution of the Fund the Trustee shall after deducting expenses deal with benefits in accordance with clause 18.3.6.

Surplus

- 23.3 If after providing benefits for Members under the provisions of this document a surplus remains, such surplus or part thereof may, at the discretion of the Trustee, be credited to Member or former Member Accounts by way of further benefits and dealt with in accordance with clause 18.3.6.

Final accounts

- 23.4 The Trustee shall cause final accounts of the Fund to be prepared and shall have those accounts audited by an approved auditor.

24 Payment of Benefits

Benefits to be paid in accordance with the Rules

- 24.1 The entitlement of Members and Beneficiaries to payment of Benefits is determined in accordance with the Rules for payment of benefits in respect of the Member's applicable division.

Evidence of entitlement

- 24.2 As a precondition to payment, the Trustee may require the payee of any Benefit to produce satisfactory evidence of his or her entitlement and to execute documents and do other things reasonably required by the Trustee. Payment of the Benefit payable in respect of a Member to the person entitled will discharge the Trustee and satisfy that Member's rights under the Trust.

Payment to Reversionary Beneficiary

- 24.3 On the death of a Member, the Trustee may continue to pay a Benefit in accordance with the Rules in the form of a pension to one or more Reversionary Beneficiaries in such proportion as agreed between the Trustee and the Member. A Reversionary Beneficiary is a person in relation to whom the following conditions are satisfied:
- 24.3.1 they are the Spouse or Dependent Child of the Member or a person in an Interdependency Relationship with the Member specified to be the Member's reversionary pensioner in the Member's application form given to the Trustee prior to the commencement of a pension;
 - 24.3.2 the Spouse or Dependent Child of the Member or person in an Interdependency Relationship with the Member specified to be the Member's reversionary pensioner in the Member's application form may not be varied once specified and the pension commences to be paid; and
 - 24.3.3 the person specified to be the Member's reversionary pensioner in the Member's application form is the Spouse or Dependent Child of the Member or in the opinion of the Trust in an Interdependency Relationship with the Member at the date of specification in the Member's application form given to the Trustee.
- 24.4 A Reversionary Beneficiary is deemed to be a Member on the death of the Member specifying them to be their Reversionary Beneficiary.

Establishing Total and Permanent Disability

- 24.5 A Member shall not be treated as Totally and Permanently Disabled unless and until the Member has supplied the Trustee with such medical and other evidence as the Trustee requires to satisfy itself that the Member is Totally and Permanently Disabled.

Establishing Temporary Total Disability

- 24.6 A Member shall not be treated as Temporarily Totally Disabled unless and until the Member has supplied the Trustee with such medical and other evidence as the Trustee requires to satisfy itself that the Member is Temporarily Totally Disabled.

Legal incapacity of recipient

- 24.7 Where any amount is payable or transferable to a person who is a minor or who, in the opinion of the Trustee, is unable to give a good receipt or is otherwise under a legal incapacity, then the Trustee may in its discretion:
- 24.7.1 defer payment of such moneys or any part thereof until such time as such person is in the opinion of the Trustee able to give a good receipt thereof and in the meantime invest such moneys in any investment authorised hereunder; or

24.7.2 pay the amount or any part thereof to any parent guardian or legal personal representative of such first mentioned person or to any person with whom he is residing for his maintenance, education, advancement or benefit;

24.7.3 pay the amount to the public trustee or a trustee company or two or more trustees to be held by it upon trust to pay or apply the amount for the maintenance education, advancement or benefit of the person with power for such Trustee to pay or transfer the same to any parent guardian or legal personal representative of the person.

Death of former Member prior to Benefit payment

24.8 The Trustee may pay a Benefit in accordance with Rule 18 where the Member has become entitled to payment of a Benefit and before payment has been made by the Trustee, the Member or former Member dies.

Trustee receipt

24.9 No Trustee shall be concerned to see to the application of any amount paid in accordance with clause 24.7 and the receipt of the recipient shall be a complete discharge for any moneys so paid or any assets so transferred.

25 Complaints

Complaints procedure

25.1 The Trustee will establish a complaints procedure to deal with complaints by beneficiaries in a manner as required by the Act. The procedure will be determined by the Trustee in its absolute discretion.

Complaint to delay payment

25.2 The Trustee shall have no obligation to pay any Benefit on the death of a Member until:

25.2.1 the time to lodge a Complaint by the persons notified by the Trustee under the Complaints Act has lapsed; and

25.2.2 if a Complaint is lodged under the Complaints Act, that Complaint has been dealt with.

26 Applicable law

26.1 This document and the trusts created under it are governed and construed in accordance with the laws of Victoria.

26.2 The Trustee at any time and from time to time may declare by deed or in writing or by oral declaration that this document and the trusts created under it from the date of the declaration take effect in accordance with the law of another country, state or territory in any part of the world not being a place under the law of which:

- 26.2.1 any of the trusts powers and other provisions expressed in or implied by this document would not be enforceable or capable of being exercised or take effect; or
- 26.2.2 the provisions of this document would be revocable.
- 26.3 As from the date of a declaration in accordance with clause 26.2 this document and its trusts, powers and provisions are construed, administered and take effect according to the laws of the country, state or territory named in the declaration and the court of the country, state or territory is the forum for the administration of the trusts under this document subject to the power conferred by this clause until any further declaration is made under the provisions of this clause.
- 26.4 The Trustee is at liberty to make consequential alterations or additions in or to the trusts, powers or provisions expressed in or implied by this document as the Trustee may consider necessary or desirable to ensure the trusts powers or provisions are as valid and effective as they are as at the date of this document under the laws of Victoria.

27 Notices

Giving notices etc

- 27.1 A communication between the Trustee and a Member or Employer may be made in any of the following ways:
- 27.1.1 by personal delivery to the recipient;
- 27.1.2 by being left at the recipient's address;
- 27.1.3 by being sent to the recipient's address by pre-paid mail;
- 27.1.4 by being sent by fax to the recipient's fax number;
- 27.1.5 by any other means permitted under an applicable law.

Time communication is made

- 27.2 If a communication is made by post to an Australian address, it is to be treated as having been made 3 Business Days after it was posted. If a communication is made by post to another address, it is to be treated as having been made 5 Business Days after it was posted. If a communication is made by fax, it is to be treated as having been made when the sender receives an error free transmission report from the sender's fax machine.

28 Definitions and interpretation

Definitions

- 28.1 In this document the following definitions apply:

Act means the SIS Act and where applicable the Corporations Act 2001 and the Corporations Regulations.

Actuary means a person who is a fellow or an accredited member of the Institute of Actuaries of Australia or who is otherwise qualified under the SIS Act to perform the function of an actuary.

Adjustment Amounts means for the Fund, or a Fund Investment Pool:

- (a) estimated costs and expenses of realising or acquiring investments;
- (b) allowances for future losses or depreciation in respect of any investment for which the market value cannot be fairly or accurately assessed;
- (c) allowance for the averaging of the earnings of the Fund whether on income or capital account, to take into account possible or actual periodic fluctuations in those earnings and any losses of the Fund not otherwise deducted; and
- (d) allowances for any other purpose or purposes that the Trustee considers desirable or necessary,

as determined by the Trustee.

Account-Based Pension has the meaning ascribed to it in the SIS Act.

Allocated Pension means a pension that meets the standards of regulation 1.06(4) of the SIS Act.

Application means any application for Units or a withdrawal of Units, as applicable.

Associated Employer means any corporation or partnership or person which or who may be nominated in writing by a Participating Employer to the Trustee as a party entitled to make contributions to a Division in respect of certain of its Employees.

AustChoice Super means AustChoice Super, which was established by a trust deed dated 1 August 1996, as amended from time to time.

AustChoice Super Members means the members and participants of AustChoice whose membership was transferred to Division VI of the Fund as part of a Successor Fund transfer and any other person who otherwise joins as a member or participant of Division VI in accordance with the governing rules of that Division.

Benefit means in relation to a Member the Vested Amount standing to the Member's Account.

Benefit Specification means in relation to a Division IV Participating Employer the details prescribed in relation to:

- (a) the basis of funding for and payment of any Benefit to be provided in respect of an Employer's participation in a Division; and
- (b) the extent to which Members can make an Investment Direction in lieu of the Participating Employer.

Beneficiary means a Member and a person whom the Trustee:

- (a) has determined to pay a Benefit in respect of a Member; or
- (b) is required to pay a Benefit in respect of a Member in accordance with Rule 20 or Rule 18 (including a Binding Death Benefit Nomination or Non-Lapsing Nomination), in which case such a person does not become a Beneficiary until the date of death of the Member.

Binding Death Benefit Nomination means a notice given by a Member to the Trustee in accordance with this document which:

- (a) elects one or more of the Member's Dependants or legal personal representative to receive the Member's Benefit on the Member's death; and
- (b) complies with the requirements of the Act for binding beneficiary elections so that the Trustee must act in accordance with the election.

Business Day means a day other than Saturday, Sunday, a bank holiday or public holiday in Victoria.

Child in relation to a person includes:

- (a) an adopted child, step-child or an ex-nuptial child of the person;
- (b) a child of the person's Spouse; and
- (c) someone who is a child of the person within the meaning of the Family Law Act 1975.

Class means a class of Units.

Compassionate Ground has the same meaning as under the SIS Act.

Complaint means a complaint made to the Superannuation Complaints Tribunal in accordance with the Complaints Act.

Complaints Act means the Superannuation (Resolution of Complaints) Act 1993.

Complying Fund means a superannuation fund that complies in terms of section 42 of the SIS Act.

Contributions-Splitting ETP has the same meaning as in the Tax Act.

Contributions Spouse of a person means:

- (a) the husband or wife of that person; or
- (b) another person who, although not legally married to the person lives with the person on a bona fide basis as the husband or wife of the person; or
- (c) in the case of a person who is deceased the widow or widower or a person who was at the date of death of the person living with the Member on a bona fide domestic basis as the husband or wife of the person,

but does not include such a person who lives separately and apart from the first person on a permanent basis.

Dependant means:

- (a) Child;
- (b) Spouse; and
- (c) any person who in the opinion of the Trustee was in relation to a Member at the time of the Member's death in an Interdependency Relationship;
- (d) any other person who in the opinion of the Trustee is wholly or partially financially dependent on a Member or in the case of a deceased Member was wholly or partially financially dependent on the Member at the time of the Member's death.

Dependent Child means a Child who is aged less than 18 years unless the Child is:

- (a) aged less than 25 years and was financially dependent on the Member as at the date of the Member's death; or
- (b) disabled within the meaning of section 8(1) of the Disability Services Act 1986.

Defined Benefit means in relation to Division IV, that the Benefit Specification details or that the Participating Employer has otherwise specified to the Trustee that any Benefit payable in respect of a person is to be calculated wholly or partially by reference to either or both of:

- (a) the amount of the annual salary payable to the person in respect of whom the Benefit is payable:
 - (i) at the date of the person's retirement from the workforce;
 - (ii) at a date prior to such retirement;averaged over a period of employment prior to such retirement; or
- (b) a specified amount.

Designated Time means, in respect of an Application for Units or a Withdrawal Request (as the case may be), the time during each Business Day designated from time to time by the Trustee pursuant to clause 4.10 or clause 4.14 (as the case may be). The Designated Time applicable to Applications for Units and to Withdrawal Requests may be the same or different.

Direct Share Facility means the facility offered by the Trustee in accordance with clauses 3.4 and 3.5.

Disqualified Person has the same meaning as in Part 15 of the SIS Act.

Due Date means the date for payment of contributions agreed to between the Trustee and the Employer and otherwise fourteen days after the end of the month in which salary or wages the subject of contributions to the Fund were paid to the Employee.

Eligible Temporary Resident Visa has the same meaning as in the SIS Act.

Employee means a person employed by an Employer and any other person who is an 'employee' for the purposes of the SIS Act.

Employer means a person who is an 'employer' for the purposes of the SIS Act.

Employer-sponsored Member means a person employed by a Participating Employer and the Participating Employer (or an associate of the employer) contributes to the Fund in respect of the person or would contribute to the Fund apart from a temporary cessation of contributions.

Employment or **Employed** means employed or self-employed for gain or reward in any business, trade, professions, vocation, calling, occupation or employment.

Executive Choice Superannuation Category means the Executive Choice Superannuation Category of the Lifetime Superannuation Fund, which was established by a trust deed dated 9 July 1992, as amended from time to time.

Executive Choice Superannuation Category Member means a member from the Lifetime Superannuation Fund, whose membership was transferred to the Executive Choice Superannuation Category of Division IV (IOOF Super and Pension) of the Trust Deed.

Expense Reserve Account means the account established in accordance with clauses 8.12, 8.13 and 8.14

Family Law Spouse means a spouse entitled to a payment split under the Family Law Act 1975.

Family Law Spouse Amount means the amount of the payment split determined in accordance with a Family Court order, Superannuation Agreement or Flag Lifting Agreement provided that such amounts are calculated in accordance with the requirements of the Family Law Act 1975 and SIS Act.

Executive Choice Superannuation Category means the Executive Choice Superannuation Category of the Lifetime Superannuation Fund, which was established by a trust deed dated 9 July 1992, as amended from time to time.

Financial Year means a period of twelve months ending on 30 June or such other period of twelve months as the Trustee shall determine.

Flag Lifting Agreement has the same meaning as in the Family Law Act 1975 and the Act.

Fund Expenses means all amounts or costs to be taken into account in operating the Fund including without limitation:

- (a) taxation of contributions, the Fund or its income;
- (b) administration costs, charges or expenses;
- (c) costs and expenses of investing the Fund;
- (d) custody expenses;
- (e) insurance premiums;
- (f) any transfer fee payable to any person in relation to the transfer of benefits to the Fund; and
- (g) any other liability the Trustee determines should be a fund expense whether or not a contingent liability, in respect of the Fund.

Fund means the superannuation fund governed by this document and consists of all money, investments and insurance policies held by the Trustee subject to this document.

Fund Investment Pool means a pool of investments established and maintained in accordance with clause 3.

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

In-house Asset has the meaning ascribed to it in the Act.

Interdependency Relationship has the meaning ascribed to it in the SIS Act.

Investment Direction means a request in a form approved by the Trustee issued from a Member or Division IV Participating Employer to the Trustee requesting the Trustee invest contributions, earnings or distributions in respect of the Member or group of Members, or investments held for the benefit of a Member or group of Members in accordance with clause 3.7.

Legal Personal Representative has the same meaning as under the SIS Act.

LifeTrack means the LifeTrack Superannuation Fund, which was established by a trust deed dated 2 September 1986, as amended from time to time.

LifeTrack Members means the members of LifeTrack whose membership was transferred to Division V of the Fund as part of the Successor Fund transfer.

Mandated Employer Contributions means:

- (a) all contributions an employer is required to make to a superannuation fund pursuant to any law or industrial agreement or industrial award of any State or the Commonwealth of Australia;
- (b) Superannuation Guarantee contributions; and
- (c) any other amount that under the Act is a mandated employer contribution.

Maximum Splittable Amount has the same meaning as in the SIS Regulations.

Member means a person who becomes a Member in terms of clause 6.13 and whose membership has not ceased in terms of clause 6.25 and for purposes of divisions III and IV may include a Beneficiary whom the Trustee has agreed to pay the Benefit as a pension or is a person paid a pension as a Reversionary Beneficiary and may include the Spouse of a Member.

Member Account means the account maintained in accordance with clause 8 and where applicable will also be a reference to a Pension Account.

Member Information means the disclosure documents required by the Act published by the Trustee from time to time.

Minimum Amount means \$200 or such other amount as is determined by the Trustee from time to time.

Minimum Information means name of the person, date of birth, address, and date of commencement of employment and any other information the Trustee determines.

Minimum Vested Benefit means so much of a Member's Account as represents the amount of the Member's "minimum benefits" within the meaning of Part 5 of the SIS Regulations that must be maintained in the Fund under regulation 5.08 of the SIS Regulations.

Nomination means a Binding Death Benefit Nomination or Non-Lapsing Nomination or a Non-Binding Nomination.

Non-Binding Nomination means a notification to the Trustee by the Member that meets the description in clause 6.28, and includes a notice that was, or was intended by the Member to be, a Binding Death Benefit Nomination but which does not satisfy paragraph (b) of that definition.

Non-Commutable Allocated Pension has the same meaning as in the SIS Regulations.

Non-Commutable Term Allocated Pension has the same meaning as “non-commutable pension” in the SIS Regulations insofar as that term applies to a pension provided under rules relating to subregulation 1.06(8).

Non-dependant Benefit means a benefit which may be paid in accordance with regulation 6.22(3) of the SIS Act.

Non-Lapsing Nomination means a notice given by a Member to the Trustee under Rule 20A which:

- (a) is in a form and manner approved by the Trustee, as determined by the Trustee from time to time;
- (b) is clear that the Member does not intend for the nomination to expire after any fixed period of time;
- (c) nominates one or more of the Member’s Dependants or legal personal representative to receive the Member’s Benefit on the Member’s death;
- (d) can be revoked by the Member at any time in a form and manner approved by the Trustee; and
- (e) was given to the Trustee after 1 December 2017.

and for which the Trustee has provided its consent under Rule 20A.2.

Participating Employer means any Employer approved as such in accordance with clause 22.1 who has not ceased to be an Employer.

Payment Flag has the same meaning as in the *Family Law Act 1975*.

Payment Split has the same meaning as in the *Family Law Act 1975*.

Pension Account means an account maintained in accordance with Rule 9.

Policy Committee has the same meaning as set out in Section 10 of the SIS Act.

Preserved Benefit means a benefit which is required to be preserved by the Act or this document or has been classified as such by the Trustee.

Regulator means the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission, the Commissioner of Taxation and includes any other relevant Australian government authority that has regulatory jurisdiction in respect of the Fund or the Trustee.

Relevant Law means the Act, the Tax Act, the Superannuation (Unclaimed Money and Lost Members) Act 1999, the Family Law Act 1975, the Anti-Money Laundering and Counter Terrorism Financing Act 2006, the Bankruptcy Act 1966 and any other applicable legislation or other lawful requirement (as amended from time to time) with which the Trustee or the Fund must comply (whether to avoid breaching the relevant legislation or other lawful requirement or to qualify

for Tax or other concessions which the Trustee determines to be desirable or for any other purpose).

Reserve Account means an account created or maintained in accordance with clause 8.19.

Responsible Officer has the same meaning as in the SIS Act.

Reversionary Beneficiary has the same meaning as set out in clause 24.3.

Rules means the rules established in relation to a division of the Fund.

Sector means any separate trust constituted or confirmed in accordance with this document.

Severe Financial Hardship has the same meaning as under the SIS Act.

Shortfall component has the same meaning as in the Superannuation Guarantee (Administration) Act 1992.

SIS Act means the Superannuation Industry (Supervision) Act 1993 and the SIS Regulations and any prudential standards made thereunder.

SIS Regulations means the Superannuation Industry (Supervision) Regulations 1994.

Social Security Act means the Social Security Act 1991.

Splittable Contribution has the same meaning as in the SIS Regulations.

Spouse of a Member means:

- (a) the husband or wife of that Member; or
- (b) another person of the same sex or different sex with whom the Member is in a relationship that is registered under a law of a State or Territory prescribed for the purpose of s.22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; or
- (c) another person who, although not legally married to the Member, lives with the Member of a genuine domestic basis in a relationship as a couple; or
- (d) in the case of a deceased Member the widow or widower or a person who was at the date of death of the Member living with the Member on a genuine domestic basis in a relationship as a couple.

Successor Fund means a fund which satisfies the following conditions:

- (a) the fund confers on the member equivalent rights to the rights that the Member had under the Fund in respect of member benefits; and

- (b) before the transfer, the trustee of the transferor fund has agreed with the Trustee that the fund will confer on the member equivalent rights to the rights that the member had under the Fund in respect of his or her benefits.

Superannuation Agreement has the same meaning as in the Family Law Act 1975 and in the SIS Act.

Superannuation Contributions Surcharge means the tax imposed under the Superannuation Contributions Tax Imposition Act 1997.

Tax means a governmental impost (including without limitation a tax, duty or levy) which is or might become payable in connection with the Fund, income of the Fund, realisation of assets of the Fund, payment or transfer of money or property to or from the Fund, this document or anything done or which may be done under this document, including any tax, surcharge, duty or levy payable in respect of a Member that must or may be paid or collected by the Trustee or the Fund.

Tax Act means the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997.

Term Allocated Pension means a pension that is payable under division III or IV that at the time the Trustee accepted the application for the pension the Trustee intended that the pension meet the standards of regulations 1.06(8) and 1.07C of the SIS Regulations.

Total and Permanent Disability means, in relation to a Member:

- (a) if insurance cover for total and permanent disablement benefits applies to the Member, the same meaning as the corresponding term in the contract of insurance for that Member; and
- (b) where (a) does not apply to the benefit claimed, in relation to a Member who has ceased to be gainfully employed, means ill health (whether physical or mental) where the Trustee is reasonably satisfied that the Member is unlikely, because of the ill health, ever again to engage in gainful employment for which the member is reasonably qualified by education, training or experience.

Temporary Total Disablement:

- (a) has the same meaning as contained in any insurance contract effected by the Trustee with an insurer for this purpose in respect of the Member and in force at the time of the Temporary Total Disablement of the Member; or
- (b) if there is no insurance contract effected in respect of the Member for this purpose then such physical or mental incapacity of a temporary nature (whether due to ill-health, accident or injury or other cause) that renders the Member incapable of continuing to be employed in the position or Gainful Employment in which the Member was employed

immediately prior to the date of becoming incapacitated but shall not include Total and Permanent Disablement and "Temporarily Totally Disabled" shall have a corresponding meaning. All questions regarding whether or not the Member is Temporarily Totally Disabled and the payment of any income Benefit upon the Member becoming Temporarily Totally Disabled shall be determined by the Trustee and without limiting the generality of any of the foregoing the Trustee may determine not to provide any Temporary Total Disablement Benefits in respect of all or any Members;

Transfer Fund means a Complying Fund, an exempt public sector superannuation scheme, an approved deposit fund that is a complying approved deposit fund for the purposes of section 43 of the SIS Act, a Retirement Savings Account, a deferred annuity or a foreign fund.

Transition to Retirement Pension has the same meaning as in the SIS Act.

Trustee means the trustee who is a party to this document and shall include the trustee or trustees for the time being of the Fund.

Unit means that interest in a Fund Investment Pool as is provided for in clause 4 of this document.

Unit Holder means a Member in respect of whose Member Account a Unit in the Fund is held.

Value means:

- (a) in relation to an asset, the current market value of that asset determined having regard to the applicable law, the nature and characteristics of the asset and the market for that asset at the time of valuation and the basis of that determination;
- (b) in relation to a Fund Investment Pool for the purpose of calculating the pool's Unit, the Value of the assets attributable to the Fund Investment Pool less the accrued expenses and other liabilities attributable to the Fund Investment Pool and plus or less Adjustment Amounts as applicable; and
- (c) in relation to the Fund, the Value of the assets of the Fund less the accrued expenses, allowances and other liabilities of the Fund and plus or less Adjustment Amounts as applicable.

Valuer means an independent adviser appointed by the Trustee to Value an asset of the Fund.

Valuation Date means the time the Trustee has determined in accordance with clause 5.4.

Vested Amount means:

- (a) the Minimum Vested Benefit; and

- (b) all other amounts standing to the Member Account unless there is an agreement as to vesting with the Employer - in which case it is the amount determined in accordance with that agreement.

Interpretation

28.2 A reference to:

28.2.1 a business day means a day during which banks are open for general banking business in the state or territory the laws of which apply in the construction of this document; and

28.2.2 this document includes the recitals of and any schedules, annexures and exhibits to this document and where amended means this document as so amended.

28.3 Unless the context otherwise requires a word which denotes:

28.3.1 the singular includes the plural and vice versa;

28.3.2 any gender includes the other genders; and

28.3.3 a person includes an individual and a body corporate.

28.4 Unless the context otherwise requires a reference to:

28.4.1 any legislation includes any regulation or instrument made under it and where amended re-enacted or replaced means that amended re-enacted or replacement legislation;

28.4.2 any other agreement or instrument where amended or replaced means that agreement or instrument as amended or replaced;

28.4.3 a clause, schedule, annexure or exhibit is a reference to a clause of, annexure to, schedule to or exhibit to this agreement;

28.4.4 a group of persons includes any one or more of them;

28.4.5 a regulation is a reference to a regulation made under the Act;

28.4.6 any thing or amount is a reference to the whole and each part of it; and

28.4.7 a word or phrase appearing in a certain context which when used in a similar context in the Act would have a particular meaning, has that meaning in this document.

Successors and assigns

28.5 A person includes the trustee, executor, administrator, successor in title and assign of that person. This clause must not be construed as permitting a party to assign any right under this document.

Headings and table of contents

28.6 Headings and the table of contents must be ignored in the interpretation of this document.

Rules for payment of Benefits

Division I (IOOF Portfolio Service Employer Superannuation)

Division II (IOOF Portfolio 0Service Personal Superannuation)

1 Payment

- 1.1 Benefits payable under divisions I and II of this document will be by way of lump sum or, if the Trustee agrees, payment of a pension or a purchase of an annuity.

2 Payment of division I and II Benefits as a pension or pensions

- 2.1 Where a Member wishes to be paid a pension or pensions and the Trustee agrees, the Trustee shall transfer the balance standing to the Member's Account and membership to division III. If a Member only wishes to fund a pension or pensions with a portion of the Member's Benefit, only that portion shall be transferred to division III.
- 2.2 Where a Beneficiary wishes to be paid a pension or pensions and the Trustee agrees, the Trustee shall transfer the balance of the Benefit payable to the Beneficiary to division III and the Beneficiary shall become a Member of division III. If a Beneficiary only wishes to fund a pension or pensions with a portion of the Benefit payable to the Beneficiary, only that portion shall be transferred to division III.

3 Total and Permanent Disablement

- 3.1 The Trustee may pay a Benefit to the Member on the Trustee being satisfied the Member is Totally and Permanently Disabled in accordance with clause 24.5.

4 Temporary Total Disablement

- 4.1 In the event that a Member is Temporarily Totally Disabled in the opinion of the Trustee in accordance with clause 24.6, the Trustee may pay a non-commutable income stream equal to:
- 4.1.1 the insurance proceeds payable to the Trustee in respect of the Member under an insurance contract effected by the Trustee for the Temporary Total Disablement of the Member; or
 - 4.1.2 an income Benefit determined by the Trustee provided that the total income Benefit received by the Member may not reduce the Member's Benefit payable on any other ground and any payment of an income

Benefit under this clause shall be subject to the limitations contained in the Act.

Ceasing to be Temporarily Totally Disabled

- 4.2 A Member shall cease to be Temporarily Totally Disabled in the event that the Member:
- 4.2.1 ceases to satisfy the definition of Temporary Total Disablement;
 - 4.2.2 attains age 65; or
 - 4.2.3 becomes entitled to another Benefit payable under this document.

Payment of Income Benefit

- 4.3 An income Benefit under this clause shall:
- 4.3.1 in the case of a Benefit payable under an insurance contract be paid in accordance with, and shall cease in the circumstances set out in the insurance contract;
 - 4.3.2 in any other case shall be paid in the manner and in the circumstances determined by the Trustee for this purpose from time to time; and
 - 4.3.3 in all cases comply with the requirements of the Act which are prescribed for this purpose from time to time.

Contribution suspended

- 4.4 Payment of contributions to the Fund by the Member (if any) may be suspended during such period in which any income Benefit is payable under this clause.

Membership continues

- 4.5 The Member will continue to be a Member of the Fund during the period in which the Member is Temporarily Totally Disabled and for the eligibility period as is specified in the insurance contract in respect of the Temporary Total Disablement and the aggregate of those periods will for the purpose of the Fund be deemed to be included in the Member's period of membership of the Fund.

Division III (IOOF Portfolio Service Pension)

5 Types of pension payable by trustee

- 5.1 The Trustee may pay a pension under this division as:
- 5.1.1 an Allocated Pension;
 - 5.1.2 a Non-Commutable Allocated Pension;
 - 5.1.3 a Term Allocated Pension;

- 5.1.4 a Non-Commutable Term Allocated Pension; or
 - 5.1.5 an Account Based Pension;
 - 5.1.6 a Transition to Retirement Pension; or
 - 5.1.7 any other form of pension that is approved by the Trustee and permitted by the Act.
- 5.2 Where a Member or Beneficiary has elected to be paid a pension in accordance with these Rules, notwithstanding any other Rule in this division III, the pension may be paid in such manner as is agreed between the Trustee and the Member or Beneficiary, provided the pension satisfies the standards of a pension referred to the Act.
- 5.3 In the case of a pension payable as an Allocated Pension, an Account Based Pension, a Transition to Retirement Pension or a Non-Commutable Allocated Pension this division is deemed to include each requirement of the SIS Regulations and any other requirement of the SIS Act that the Rules under which a pension is provided must satisfy for the pension to be an Allocated Pension, an Account Based Pension, a Transition to Retirement Pension or a Non-Commutable Allocated Pension (as the case may be), and a pension for the purposes of the SIS Act.
- 5.4 To the extent that there is any inconsistency between:
- 5.4.1 a requirement deemed to be included in this division by Rule 5.3 and any other provision of this document (other than clause 21), the relevant requirement prevails; or
 - 5.4.2 a provision of Rules 5 to 21 that applies to an Allocated Pension, an Account Based Pension, a Transition to Retirement Pension or a Non-Commutable Allocated Pension (as the case may be) and any other provision of this document (other than Rules 5.3 or 5.4.1 or clause 21), the relevant provision of the Rule that applies to the Allocated Pension Account Based Pension, Transition to Retirement Pension or Non-Commutable Allocated Pension prevails.
- 5.5 In the case of a pension payable as a Term Allocated Pension or Non-Commutable Term Allocated Pension, this division is deemed to include each requirement of regulation 1.06(8) and regulation 1.07C of the SIS Regulations and any other requirement of the SIS Act that the rules under which a pension is provided must satisfy for the pension to be a Term Allocated Pension or Non-Commutable Term Allocated Pension (as the case may be) and a pension for the purposes of the SIS Act.
- 5.6 To the extent that there is an inconsistency between:
- 5.6.1 a requirement deemed to be included in this division in relation to a Term Allocated Pension or Non-Commutable Term Allocated Pension by Rule 5.5 and any other provision of this document (other than clause 21), the relevant requirement in relation to the Term Allocated Pension

or Non-Commutable Term Allocated Pension (as the case may be) prevails; or

- 5.6.2 a provision of Rules 5 to 21 that applies to a Term Allocated Pension or Non-Commutable Term Allocated Pension and any other provision of this document (other than Rules 5.5 or 5.6.1 or clause 21), the relevant provision of the Rule that applies to the Term Allocated Pension or Non-Commutable Term Allocated Pension (as the case may be) prevails.

6 Contributions

- 6.1 A Member may only make such contributions or rollovers to this division as are permitted by the SIS Act.

7 Application to convert to pension

- 7.1 At such time as a Benefit or part of a Benefit becomes payable to a Member or Beneficiary under the terms of this document and in accordance with the SIS Act, the Trustee may, at the request of the Member or Beneficiary but otherwise in its absolute discretion, determine to pay a pension or pensions from the Fund to the Member or Beneficiary (as the case might be) on the conditions set out in this division III:
- 7.1.1 in lieu of the whole or a portion of any lump sum Benefit which is otherwise payable to the Member or Beneficiary; or
- 7.1.2 in respect of any amounts credited to a Pension Account of a Member or Beneficiary under sub-Rule 8.1.

8 Establishment of Pension Account

- 8.1 Where a Member or a Beneficiary has made an application under sub-Rule 7.1 above and the Trustee determines to pay all or any part of the Benefit to the Member or the Beneficiary as a pension or pensions, the Trustee must establish a Pension Account for each pension in respect of the Member or the Beneficiary to which Pension Account the Trustee shall transfer amounts determined in accordance with this document which the Trustee believes are necessary in order to provide the Benefits as a pension or pensions.

9 Operation of Pension Account

- 9.1 The following amounts shall be credited to a Pension Account of a Member:
- 9.1.1 any amount transferred under sub-Rule 8.1 above;

- 9.1.2 any amount paid into the Fund in respect of a Member as a transfer, a roll over of a benefit or a contribution which the Trustee considers it appropriate to credit to the Pension Account;
 - 9.1.3 the proceeds of any insurance contract effected by the Trustee in respect of the Member and paid to the Trustee which the Trustee considers it appropriate to credit;
 - 9.1.4 the Value of any Units (if any) held for the Member;
 - 9.1.5 the Value of any investments including any shares or units held for the benefit of the Member, or Units (if any) held for the Member;
 - 9.1.6 any Shortfall Component paid in respect of the Member receiving the pension;
 - 9.1.7 such other amount as the Trustee may determine from time to time.
- 9.2 The following amounts are to be debited to a Pension Account of a Member:
- 9.2.1 any amount transferred out of the Fund in respect of a Member as a transfer or a roll over payment which the Trustee considers it appropriate to debit;
 - 9.2.2 any payments made to or in respect of the Member or a Reversionary Beneficiary pursuant to the provisions of this document;
 - 9.2.3 the costs of any insurance contract effected by the Trustee in respect of the Member receiving a pension which are not debited to a Member's Account;
 - 9.2.4 such proportion of any amount payable by way of taxation in respect of the earnings of the Fund credited to the Pension Account of a Member or arising as a result of a roll over payment as the Trustee shall determine;
 - 9.2.5 such Fund Expenses as the Trustee shall determine to be equitable;
 - 9.2.6 a proportion of any loss sustained on the disposal of any investments of the Fund as the Trustee shall determine to be equitable;
 - 9.2.7 except where the Pension Account is maintained in respect of a Term Allocated Pension or Non-Commutable Term Allocated Pension, any amount transferred to the Member's Account of a Beneficiary;
 - 9.2.8 such other amounts as the Trustee shall from time to time determine.

10 Segregation of pension assets

- 10.1 In relation to each pension payable to a Member or a Beneficiary, the Trustee may:

- 10.1.1 segregate or set apart the assets which represent the Pension Account of the Member or Beneficiary for the sole purpose of enabling the discharge of the whole or part of the current or non-current liabilities in relation to the payment of pensions as those liabilities fall due for payment; and
- 10.1.2 constitute the segregated assets as segregated current and non-current pension assets within the meaning of Section 273A and Section 273B of the Tax Act and obtain such certificates in relation to the adequacy of the assets segregated and set apart to meet the current and non current pension liabilities as the Trustee considers necessary for the purposes of the Tax Act or as the Act shall require.

11 Miscellaneous

- 11.1 In determining any pension amount or commutation amount payable under this division, the Trustee may take and rely upon such advice including actuarial advice as it thinks fit.
- 11.2 No Term Allocated Pension or Non-Commutable Term Allocated Pension has a residual capital value.
- 11.3 The capital value of a Term Allocated Pension or Non-Commutable Term Allocated Pension, and the income from it, must not be used as security for a borrowing.

12 Commutation of pension

- 12.1 A Member may commute the whole or a part of the Member's pension at any time by notifying the Trustee in a manner approved by the Trustee, subject to Rules 12.2 and 12.3, and to the requirements of the Act, the SIS Regulations, or the Social Security Act, if applicable.
- 12.2 An election made in accordance with Rule 12.1 shall be irrevocable.
- 12.3 No amount of an Allocated Pension, an Account Based Pension, a Transition to Retirement Pension, Non-Commutable Allocated Pension, Term Allocated Pension or Non-Commutable Term Allocated Pension shall be commuted if:
 - 12.3.1 the commutation is prohibited by, or the amount to be commuted exceeds the amount permitted by, Part 1A of the SIS Regulations or any other requirement of the SIS Act or Regulations;
 - 12.3.2 the cashing of the commutation is prohibited by, or exceeds the amount permitted by, Part 6 and Schedule 1 of the SIS Regulations or any other requirement of the SIS Act or Regulations.

13 Term of pension

- 13.1 The Trustee must pay to each Member a separate pension for each Pension Account in accordance with this Rule 13 that:
- 13.1.1 commences on the date specified in the Member's application in respect of this division which must be not later than necessary to comply with the Act's requirements;
 - 13.1.2 terminates when the capital value of the Member's Account is nil; and
 - 13.1.3 in the case of a Term Allocated Pension or Non-Commutable Term Allocated Pension, is paid by the Trustee throughout the period determined by the Trustee in accordance with the SIS Act.
- 13.2 Rule 13.1.2 applies in relation to a Term Allocated Pension or Non-Commutable Term Allocated Pension only if it does not affect the status of the pension as a Term Allocated Pension or Non-Commutable Term Allocated Pension.

14 Frequency of pension payments

- 14.1 Subject to Rule 14.4, the Trustee must pay the pension to a Member at the times set out in the Member's application.
- 14.2 A Member may change the frequency of the pension payments if:
- 14.2.1 the change is approved by the Trustee; and
 - 14.2.2 is in a form approved by the Trustee.
- 14.3 If at any time a Member has not made a selection as to the frequency of the pension payments, subject to Rule 14.5.1 the Trustee must pay the pension annually.
- 14.4 Subject to Rule 14.5, for so long as the pension is payable, the Trustee must ensure that at least one payment is made during each Financial Year, unless the SIS Act permits otherwise.
- 14.5 In the case of a Term Allocated Pension, an Account Based Pension, a Transition to Retirement Pension or a Non-Commutable Term Allocated Pension:
- 14.5.1 if the commencement date of the pension is on or after 1 June in a Financial Year, no pension is required to be paid in relation to the pension for that Financial Year; and
 - 14.5.2 subject to Rule 14.5.1, the pension must be paid at least annually.

15 Selecting Pension level

- 15.1 For each Financial year (or part of a Financial year), the pension payments to a Member must not be:
- 15.1.1 larger than the maximum limits (if any); nor
 - 15.1.2 smaller than the minimum limits,
- set out in the SIS Act for pension benefits of the kind provided by the Fund.
- 15.2 As at the time a Member becomes a division III Member and each 1 July, the Trustee must notify the Member of the minimum and any maximum levels for pension payments for the financial year in which that date occurs.
- 15.3 At any time during a Financial year a Member may select the level of pension payments for that Financial year within the limits of this Rule. The selection must be in a manner approved by the Trustee.
- 15.4 Rules 15.1 to 15.3 do not apply to Term Allocated Pensions or Non-Commutable Term Allocated Pensions.
- 15.5 The total amount of payments of a Term Allocated Pension or Non-Commutable Term Allocated Pension to be made in each Financial Year during the pension's term (excluding payments by way of commutation but including payments made under a payment split) must be calculated in accordance with Schedule 6 to the SIS Regulations.

16 Default allocated pension level

- 16.1 If at any time during a Financial Year no selection has been made for that year under Rules 15.1 to 15.3 and a pension that is subject to those Rules was being paid in the previous Financial Year, the Trustee must either:
- 16.1.1 pay the pension for the current year calculated according to any previous agreement between the Trustee and Member; or
 - 16.1.2 if the Member's application does not contain a direction for the current year, continue to pay the pension at the level prevailing at the end of the previous Financial Year.
- However, the Trustee may adjust the level up to the minimum or down to any maximum so as to comply with Rule 15.1 to 15.3.
- 16.2 If, at the time of joining the Fund, a Member has not made a selection under Rule 15.1 to 15.3, the Trustee must pay a pension that is subject to those Rules at the minimum level required under Rule 15.1 to 15.3.

Rules for payment of Benefits applicable to all divisions

17 Rules for payment of Benefits applicable to Divisions I to IV

17.1 If, in the opinion of the Trustee, an amount:

- (a) must be paid from the Fund to or in respect of a Member in order to satisfy the Relevant Law, the Trustee must pay that amount subject to such conditions as are necessary to satisfy the Relevant Law; or
- (b) may be paid from the Fund in respect of a Member without causing a breach of the Relevant Law the Trustee may pay that amount subject to such conditions as the Trustee may determine (either generally or in a particular case),

and, for the purposes of determining the amount of, or eligibility for payment of, any Benefit payable in respect of an event or circumstance occurring or arising after the date the amount is paid, the Trustee may take into account, as it determines appropriate, the previous amount paid under this clause.

17.2 On the death of a Member the Benefit shall be applied in accordance with Rules 18 and 21.

17.3 A Member's Benefit must be released for the benefit of the Member:

17.3.1 if the Benefit is unrestricted non-preserved:

- (a) on the Member leaving the Fund; or
- (b) where the Trustee has determined that such benefits should be available for payment before the Member leaves the Fund – on request by the Member;

17.3.2 where the Member is the holder of an Eligible Temporary Resident Visa and all other requirements of the SIS Act have been satisfied; and

17.3.3 as determined by the Trustee, in such other circumstances permitted by the Act.

17.4 The Trustee may pay a single lump sum from the Member's Benefit not exceeding the amount permitted under the SIS Act or determined by the Regulator and where the Trustee's restrictions on payment are met:

17.4.1 in circumstances of Severe Financial Hardship of the Member; or

17.4.2 on satisfying a Compassionate Ground where the Regulator approves the payment.

18 Death of a Member

18.1 Subject to Rules 18.2 and 18.3, where a Member has died, who was not in receipt of a Benefit to which clause 24.3 applies:

18.1.1 The Trustee must subject to the SIS Act and SIS Regulations pay the benefit in accordance with the Member's Binding Death Benefit Nomination or Non-Lapsing Nomination where such a Nomination exists.

18.1.1A Where:

- (a) a member is transferred to the Fund in accordance with a successor fund transfer arrangement between the trustee of the transferor fund and the Trustee; and
- (b) the member has given the trustee of the transferor fund a binding death benefit nomination (**Previous Nomination**) which, in the Trustee's opinion, would have complied with the SIS Act and SIS Regulations had the Previous Nomination been given to the Trustee,

the Trustee must pay the Benefit in accordance with that Previous Nomination until the earlier of:

- (c) the expiry of 3 years after the day that the Previous Nomination was first signed or last confirmed or amended by the Member, as notified to the Trustee by the trustee of the transferor fund;
- (d) the revocation of the Previous Nomination by the Member; or
- (e) the provision of a valid Binding Death Benefit Nomination by the Member to the Trustee.

18.1.2 In the event that no Binding Death Benefit Nomination exists in relation to the Member, but a Non-Binding Nomination exists in relation to the Member, the Trustee must pay the Benefit to or for the benefit of such of the Dependants and/or the Legal Personal Representative of the deceased Member, and in such proportions, as the Trustee in its absolute discretion considers appropriate;

18.1.3 Subject to Rule 18.1.4, in the event that no Nomination exists in relation to the Member, the Trustee must pay the Benefit to the Member's Legal Personal Representative;

18.1.4 Despite Rule 18.1.3, if the Trustee is aware that proceedings have been commenced for the administration of the deceased Member's estate pursuant to Part XI of the *Bankruptcy Act 1966* it must pay the Benefit to or for the benefit of such of the Dependants and/or the Legal Personal Representative of the deceased Member, and in such proportions, as the Trustee in its absolute discretion considers appropriate;

18.1.5 Where Rules 18.1.1 to 18.1.4 do not apply, because there is neither a Nomination nor a Legal Personal Representative, subject to Rule 18.1.6, the Trustee must pay the Benefit to or for the benefit of such of

the Dependants of the deceased Member and in such proportions as it in its absolute discretion considers appropriate;

18.1.6 For the purposes of Rule 18.1.5, where, after reasonable enquiries, the Trustee determines that there are no Dependants eligible to receive the Benefit the Trustee may pay a Non-dependant Benefit to one or more individuals whom the Trustee in its absolute discretion considers appropriate.

18.2 Where a Member dies, who was in receipt of a Benefit to which clause 24.3 applies:

18.2.1 in the case of a Member who was the primary beneficiary, the pension shall revert to the Reversionary Beneficiary and the Trustee shall continue to pay the pension to the Reversionary Beneficiary in which case the pension must not have a reversionary component greater than 100% of the Benefit that was payable immediately before the reversion. The applicable provisions of division III shall apply to a pension paid to a Reversionary Beneficiary; and

18.2.2 in the case where the Member was a Reversionary Beneficiary the balance of the pension as at the date of death of that Member shall be commuted to a lump sum and paid in accordance with Rule 18.1. For this purpose, a reference to Member in that Rule is taken to be a reference to Reversionary Beneficiary.

18.3 A Term Allocated Pension or Non-Commutable Term Allocated Pension payable to a Member may be transferred only if the Trustee consents and the Member has died. The Term Allocated Pension or Non-Commutable Term Allocated Pension may be transferred to only one of the Dependants or the Legal Personal Representative of the Member, unless the SIS Act permits otherwise.

18.4 In the case of a Term Allocated Pension or Non-Commutable Term Allocated Pension, despite the death of the Member, if the term of the pension is worked out by the reference to the life expectancy of the Spouse of a Member that is not a Reversionary Beneficiary, the pension cannot be commuted until the death of both the Member and Spouse, unless the SIS Act permits otherwise.

19 Discharge of Trustee

19.1 The receipt by a Dependant, the Legal Personal Representative or other person of a Benefit or Non-dependant benefit paid under this clause shall be a complete discharge to the Trustee in respect of any amount paid to that person and the Trustee shall not be bound to see to the application thereof.

20 Binding death benefit nomination

20.1 A Member may upon admission and from time to time thereafter, in a manner approved by the Trustee, give to the Trustee a Binding Death Benefit Nomination.

- 20.2 The Trustee may determine that rule 20.1 does not apply to a category of membership created under clause 6.6A.

20A Non-Lapsing Nomination

- 20A.1 A Member may give the Trustee a notice which is intended by the Member to be a Non-Lapsing Nomination.
- 20A.2 If a Member gives a notice to the Trustee under Rule 20A.1 or Rule 20A.4 and the Trustee is satisfied that the notice is an exercise of discretion by the Member, the Trustee may consent to the exercise of that discretion (which includes the giving of the notice) on any grounds that Trustee considers appropriate.
- 20A.3 A Non-Lapsing Nomination remains current until:
- (a) it is revoked by the Member in accordance with Rule 20A.4; or
 - (b) the Member gives the Trustee a subsequent Non-Lapsing Nomination.

To avoid doubt, a Member's Non-Lapsing Nomination revokes any previous Nomination made by the Member.

- 20A.4 Subject to Rule 20A.2 a Member may, at any time, by notice in writing to the Trustee, amend or revoke an existing Non-Lapsing Nomination.

21 Form of payment of death benefit

- 21.1 On identification of the person or persons to whom the Trustee is to pay a death Benefit, the Trustee must determine, having regard to the preferences of the Member or Beneficiary and such other matters as the Trustee in its absolute discretion determines as relevant, whether the Benefit will be used to pay a lump sum or a pension, or to purchase an annuity, or as a combination thereof subject to any requirement of the SIS Act to pay a lump sum death Benefit to any Beneficiary who is not a Dependent Child.

Additional rules for payment of Benefits and other matters applicable to Division IV (IOOF Super and Pension)

22 Eligibility and Application

Participation in Division IV will be restricted to:

- 22.1 Employers wishing to obtain retirement and/or other approved ancillary benefits from a regulated superannuation fund.
- 22.2 Members or other eligible persons wishing to obtain retirement and/or other approved ancillary benefits from a regulated superannuation fund.

23 Admission of Division IV Participating Employers and their Employees

Form of application for admission

- 23.1 Admission to Division IV of a Participating Employer is set out under Rule 22.1. In addition, at the time of lodgement the Employer applicant:
- (a) must complete the Benefit Specification;
 - (b) must:
 - (i) unless the Employer applicant has specified pursuant to Rule 3.7 that its Employees admitted as Members of Division IV are able to make Investment Directions; or
 - (ii) the Trustee has not given the Employer applicant a choice of investment strategies to choose from,

Then the Employer applicant must complete an Investment Direction.

Eligibility and Application for Membership

- 23.2 Membership of Division IV will be restricted, subject to Rule 24 of this document, to the Employees of a Division IV Participating Employer or of any associated employer of that Participating Employer.
- 23.3 Each Division IV Participating Employer may from time to time nominate to the Trustee any of its Employees or Employees of any Associated Employer for membership of Division IV.
- 23.4 The Trustee may at the request of the Division IV Participating Employer impose special terms, conditions and restrictions on the membership of an Employee who has been admitted as a Member without completing a Member application, including (but not limited to) restrictions on contributions to be paid for a Member and restrictions on Benefits payable in respect of the Member.

24 Admission of persons wishing to obtain benefits for themselves

Form of Application

- 24.1 A person or group of persons who is neither a Division IV Participating Employer nor an Employee of a Division IV Participating Employer may apply for membership of this division by submitting the information required under clause 6.10 of the Deed.

25 Contributions

- 25.1 A Division IV Member and/or Division IV Participating Employer may only make such contributions or rollovers to Division IV as are permitted by the SIS Act and in accordance with clause 7 of this Deed.

26 Types of benefits payable

Lump sum or pension

- 26.1 Benefits payable under Division IV of this document will be by way of lump sum or, if the Trustee agrees, payment of a pension or a purchase of an annuity or combination thereof.

Payment of benefit as a pension

- 26.2 Rules 5 to 16 applying to the payment of pension benefits under Division III will also apply to the payment of pension benefits under this Division IV.

27 Total and Permanent Disablement

- 27.1 Rule 3 set out in this document shall also apply to Division IV.

28 Temporary Total Disablement

- 28.1 Rule 4 set out in this document shall also apply to Division IV.

29 Actuarial Investigation

Requirement for Actuarial Investigation

- 29.1 In the event that the Benefit Specification of a Division IV Participating Employer prescribes that all or part of the Benefits payable are to be calculated as Defined Benefits, the provisions of this rule 28 will apply.
- 29.2 The Trustee must instruct an Actuary to carry out an actuarial investigation of the financial condition of Division I as it relates to the Division I Participant at the times required by the SIS Act and must instruct the Actuary to report on the matters prescribed in the SIS Act including such of the following matters as the Trustee determines appropriate:
- (a) a statement of the assets of the Division held on behalf of the Division IV Participating Employer;

- (b) a statement that whether or not in the Actuary's opinion the value of those assets is adequate to meet the liabilities in respect of the relevant Vested Benefit entitlements;
- (c) the Actuary's recommendation as to the amount of the contributions to be made by the Division IV Participating Employer for the three (3) year period immediately following the period to which the report relates;
- (d) a statement that in the Actuary's view the recommended contributions to be made by the Division IV Participating Employer together with the assets of the Division held on behalf of the Division IV Participating Employer and any prescribed Member contributions will provide adequately for expected liability of any Benefits provided in respect of the Division IV Participating Employer during the three (3) year period referred to in sub-rule 28.3(c) hereof; and
- (e) such other matters as are required to meet the requirements imposed by the Operational Standards or as the Actuary may otherwise consider appropriate.

29.3 The Trustee shall provide a copy of the Actuary's report to the Division IV Participating Employer and upon their request to the relevant Members.

Action on Unsatisfactory Financial Condition

29.4 If:

- (a) an Employer fails at any time to make the level of contributions recommended in the last Actuary's report; or
- (b) the Actuary having conducted an actuarial investigation reports that the Actuary is unable to provide a funding and solvency certificate as required under the SIS Act, or the Actuary withdraws a funding and solvency certificate previously issued,

the Trustee must take whatever steps are prescribed under the SIS Act and may consult the Actuary to determine the appropriate course of action as prescribed by the SIS Act.

Surplus and Deficiencies

29.5 Subject to the SIS Act and its restrictions on payments to Employers, the Trustee may upon the advice of the Actuary and with the approval of the Division IV Participating Employer deal with any surplus or deficiency disclosed by the valuation by increasing or decreasing the rates of contributions or increasing or subject to the SIS Act decreasing the Benefits provided for in the Benefit Specification or in any other manner including a reversion of all or part of the surplus to one or more of the Division IV Participating Employers or its Associated Employers where:

- (a) the Actuary has certified in writing to the Trustee that the payment will not have the effect that that part of Division IV which relates to the division IV Participating Employer will become technically insolvent for the purposes of the SIS Act; and
- (b) the procedures required for authorisation of a payment to the Division IV Participating Employer or Associated Employer under the SIS Act are followed.

Division V (LifeTrack)

30 Application of this Division

- 30.1 This Division V applies to LifeTrack Members only.

31 Governing Rules

- 31.1 The rules that govern this Division V of the Fund are set out in 'Annexure A' to this Deed.
- 31.2 The governing rules of LifeTrack Corporate Superannuation, a sub-trust of LifeTrack, are set out in Schedule 1 of 'Annexure A' to this Deed.

Division VI (AustChoice)

32 Application of this Division

- 32.1 This Division VI applies to AustChoice Super Members only.

33 Governing Rules

- 33.1 The rules that govern this Division VI of the Fund are set out in 'Annexure B' to this Deed.

ANNEXURE A

Division V: LifeTrack

CHAPTER 1 PRELIMINARY

Definitions

1.1 The following words or expressions where used in this Deed and the Schedules hereto and in any certificate or document issued hereunder (regardless of whether any of the letters therein are capitalised or not) shall, unless the contrary intention appears in the subject matter or context, have the following meanings:

"Account" means, as the context requires, a Member's Individual Account or a Participating Employer's Plan Account, referred to in Clauses 4.11, 4.12 and 9.24.

"Act" means the Superannuation Industry (Supervision) Act 1993, the Superannuation Industry (Supervision) Regulations, the Corporations Act 2001, the Corporations Regulations, the Income Tax Assessment Act 1997, the Income Tax Assessment Regulations, the Superannuation (Unclaimed Money and Lost Members) Act 1999, the Family Law Act 1975, the Anti-Money Laundering and Counter Terrorism Financing Act 2006, the Bankruptcy Act 1966, the Social Security Act 1993 or the Veteran's Entitlement Act 1986, as the context requires and includes any other applicable legislation or other lawful requirement (as amended from time to time) with which the Trustee or the Fund must comply (whether to avoid breaching the relevant legislation or other lawful requirement or to qualify for tax or other concessions which the Trustee determines to be desirable or for any other purpose).

"Accrued Benefit" means an accrued benefit as defined in Clause 4.11 or Clause 9.24, as the case requires.

"Actuary" means a Fellow of the Institute of Actuaries of Australia or London who is appointed and instructed by the Trustee to give any report or advice or to perform any other service which is required to be or which may be given or performed by an actuary hereunder, who is certified by the Trustee to be independent of the Trustee.

"ADF Fund" means the fund constituted pursuant to Clause 9.13.

"ADF Member" means any person who has been accepted for membership of the ADF Fund pursuant to Clause 9.7 and who has not ceased to be an ADF Member pursuant to Clause 9.7(e).

"ADF Redemption Period" is the period (if any) specified by the Act or nominated by the Commissioner as that period within which the Trustee must discharge its obligations under the Modified Buy-Back Arrangements.

"Adopted Child" in relation to a person, means a person adopted by the first-mentioned person:

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

"Adult Child" means a Child who is aged 18 years or more unless the Child is:

- (i) aged less than 25 years and was financially dependent on the Member as at the date of the Member's death; or
- (ii) disabled within the meaning of section 8(1) of the Disability Services Act 1986.

"Adviser Service Fee" means:

- (i) in the case of a Member who is not an Employee, the fee payable to the Trustee if agreed to by the Member; and
- (ii) in the case of an Employee, the fee payable to the Trustee if agreed to by the Employer (Adviser Service Fee – Employer) and/or the fee payable to the Trustee if agreed to by the Member (Adviser Service Fee – Member).

The Adviser Service Fee will be calculated daily and charged each month to a Member's Individual Account.

"Approved Deposit Fund" has the meaning given to that term by Section 10 of the Act.

"Approved Purposes" has the meaning given to that term by Section 10 of the Act.

"Approved Rules" has the meaning given to that term by Section 10 of the Act.

"Approved Trustee" has the meaning given to that term by Section 10 of the Act.

"Approved Valuer" means a person who is appointed and instructed by the Trustee to value any or all of the investments of the Fund, who is certified by the Trustee to be independent of the Trustee, who does not, in respect of any of the property which that person will be required to value, have any pecuniary or other interest that could be reasonably regarded as being capable of affecting the valuer's ability to give an unbiased valuation and who has warranted to the Trustee that the valuer is suitably qualified to carry out the valuation and:

- (i) holds a Dealer's Licence; or
- (ii) is employed by a person who holds a Dealer's Licence and holds a Proper Authority in respect of that person; or
- (iii) in the case of a valuer appointed solely for the purpose of valuing any estate or interest in any Property Investment holds a licence entitling the holder thereof to value real property and has experience in valuing real property in the locality where the real property is situated or in valuing properties of a similar nature.

"APRA" means the Australian Prudential Regulation Authority.

"ASIC" means the Australian Securities and Investments Commission.

"Associate" has the meaning given to that term by Section 9 of the Corporations Law.

"Auditor" means the auditor for the time being of the Fund appointed pursuant to Clause 6.6.

"Australian Bank" has the meaning given to that term by Section 9 of the Corporations Law.

"Authorised Investments" means and includes Authorised Investment Fund Assets forming part of the Fund.

"Authorised Investment Fund" means each of the authorised investment funds created pursuant to Clause 4.3.3 or Clause 9.16.

"Authorised Investment Fund Assets" means and includes any assets or other property of a type designated by the Trustee as Authorised Investment Fund Assets for that relevant Authorised Investment Fund.

"Bank" means and includes a corporation authorised under the Banking Act, 1959 or pursuant to the legislation of any State or Territory of Australia to carry on the business of a bank including the general business of banking and any other corporation carrying on the general business of banking in any jurisdiction

in which there is a Recognised Market and having shareholders' funds on a consolidated basis (as shown in its most recently published audited consolidated financial statements) in excess of the equivalent (at the date of those statements) of 500,000,000 Australian Dollars.

"Benefit Entitlement" refers to a benefit payable to the Member in accordance with Chapter 5 of the Deed.

"Binding Death Nomination" means a notice given by a Member to the Trustee in accordance with this document which:

- (a) elects one or more of the Member's Dependants or legal personal representative to receive the Member's Benefit on the Member's death; and
- (b) complies with the requirements of the Act for binding beneficiary elections so that the Trustee must act in accordance with the election.

"Cash" includes cheque, bank cheque and any balance standing to the credit of any current account or cash management account maintained by the Trustee, and any investment by the Trustee in any income trust or other income producing assets, but does not include application monies received by the Trustee pursuant to Clause 6.9(ix).

"Cashback Pension" means a pension payable from the Member's Individual Pension Account.

"Chapter" means a chapter of this Deed.

"Child", in a relation to a person, includes:

- (a) an Adopted Child, a step-child or an ex-nuptial child of the person; and
- (b) a child of the person's Spouse; and
- (c) someone who is a child of the person within the meaning of the Family Law Act 1975.

"Class of Membership" of a Member or ADF Member as the case may be on any date ("the relevant date") means the class of membership described in the Plan Specifications applicable to that person:

- (a) of which the Trustee was advised at the time at which that person's application for membership of the Fund was submitted, or failing such advice, which the Trustee determined to be that person's Class of

Membership upon approving that person's application for membership;
or

- (b) where the Trustee has been advised prior to the relevant date in accordance with paragraphs (h) or (i) of Clause 2.1 or paragraph (h) of Clause 9.2 that that person's Class of Membership has changed to another Class of Membership, that other Class of Membership.

"Clause" means a clause of this Deed.

"Commencement Date" means the first day on which the Trustee accepts contributions or Deposits, as the case may be, to the Fund.

"Commissioner" means APRA, ASIC, the Australian Taxation Office and any other relevant Australian government authority that has regulatory jurisdiction in relation to the Trustee or the Fund.

"Company" includes any company, corporation, corporation sole and public or semi-government body or authority which is incorporated in or under the laws of a country in which there is a Recognised Market.

"Complying Approved Deposit Fund" in relation to a Fund Year of an Approved Deposit Fund means a year in respect of which the conditions of the Act in relation to complying approved deposit funds have been met.

"Complying Income Stream" means an income stream that is paid to the Trustee for the purpose of funding a Complying Pension that also conforms with the requirements of Section 9B of the Social Security Act 1993 (Cth); Section 5JB of the Veteran's Entitlement Act 1986 (Cth); Section 140L of the Income Tax Assessment Act 1936 (Cth) or Regulation 1.06 of the Superannuation Industry (Supervision) Regulations 1993 (Cth), Chapter 5a of the Deed and the Current Customer Information Brochure.

"Complying Pension" means a pension which meets the requirements of Section 9B of the Social Security Act 1993 (Cth); Section 5JB of the Veteran's Entitlement Act 1986 (Cth); Section 140L of the Income Tax Assessment Act 1936 (Cth) or Regulation 1.06 of the Superannuation Industry (Supervision) Regulations 1993 (Cth) as amended from time to time.

"Complying Pension Product" means a product that is to pay a Complying Income Stream.

"Constitutional Corporation" has the meaning attributed to it in the Act.

"Contract" means this Deed.

“Contributions-Splitting ETP” has the same meaning as in the Income Tax Assessment Act 1936.

"Corporations Law" has the meaning, given to that term in the Corporations (New South Wales) Act 1990.

“Corporations Regulations” means the regulations made pursuant to the Corporations Law, as amended.

"Cost" of an Authorised Investment means the total cost thereof to the Fund including all stamp duty brokerage and commission, incurred in the acquisition thereof.

“Current Customer Information Brochure” means the customer information brochure and accompanying key features statement issued by the Trustee, that is current at the time a Pensioner purchases a Complying Pension Product that is to be funded by a Complying Income Stream.

“Current Transfer Value” means the value of the remaining Pension payments, including the Top Up Reserve, current and available to be paid to the Pensioner at the time of commutation of the Pension.

“Custodian” means any custodian appointed by the Trustee pursuant to Clause 7.1 to receive, hold and retain registration of Authorised Investments in the name of the Trustee or, with the approval of the Trustee, in the name of the custodian as nominee for the Trustee and which is a corporation having the net tangible assets or approved guarantee prescribed by the Act or falling within the exception to those requirements in the Act and which carries on in any jurisdiction in which it is to be appointed so to act as its principal business the business of banking or the provision of trustee services and either:

- (a) has shareholders funds on a consolidated basis (as shown in its most recently published consolidated financial statements) in excess of the equivalent (at the date, of those statements) of 100,000,000 Australian Dollars; or
- (b) is a wholly owned subsidiary of a corporation with a shareholders fund on a consolidated basis (as shown in its most recently published financial statements) in excess of the equivalent (at the date of those statements) of 100,000,000 Australian Dollars,

and includes any Sub-Custodian appointed pursuant to Clause 7.2.

“Date of Entitlement” means the date on which the payment of a benefit is made.

"this Deed" or "Deed" means this Annexure A to Division V whether in original form or as amended, altered, modified, added to or collateral herewith time to

time in accordance with the provisions hereof and any Deed supplemental hereto or collateral herewith.

"Dealer's Licence" means a dealer's licence issued pursuant to the provisions of the Corporations Law or a previous corresponding law.

"Debenture" has the meaning given to that term by Section 27A(1) of the Tax Act.

"Dependent" means:

- (a) Child;
- (b) Spouse; and
- (c) any person who in the opinion of the Trustee was in relation to a Member at the time of the Member's death in an Interdependency Relationship;
- (d) any other person who in the opinion of the Trustee is wholly or partially dependent on a Member or in the case of a deceased Member was wholly or partially financially dependent on the Member at the time of the Member's death.

"Deposit" means an amount paid in respect of a person to the ADF Fund during the Roll Over Period that has not been repaid to the person or the Personal Representative of the person.

"Eligible Bank" means a bank as defined in the Banking Act, 1959 (or any modification thereof or substitution therefore) or as constituted under any law of the Commonwealth of Australia or any State or Territory thereof.

"Eligible Money Market Dealer" has the meaning given to that term by Section 9 of the Corporations Law.

"Eligible Rollover Fund" has the same meaning as in the Act.

"Eligible Termination Payment" means a payment that can be rolled over within the superannuation system in accordance with the Act.

"Employee" means a person who is in the employment of an Employer and in the case of an Employer which is a company, includes a Director of the company.

"Employee Financed Benefit" of any Member means the aggregate of:

- (a) the contributions made by the Member, plus
- (b) the value of any transfer to the Fund in respect of that Member from another superannuation fund or an Approved Deposit Fund attributable to contributions made by the Member to that other superannuation fund or Approved Deposit Fund (as the case may be),

increased or decreased by the Fund Earning Rate each Income Calculation Period PROVIDED THAT the Employee-Financed Benefit shall at all times be calculated in accordance with all current relevant guidelines from time to time published by the Commissioner.

"Employer" means a person who is approved by the Trustee to participate in the Fund as an Employer pursuant to Clause 2.8.

"Employer-Financed Vested Benefit" of any Member means any part or all of the contributions made by the employer of that Member which has been specified by that employer to be vested in the Member.

"EPSSS" means an Exempt Public Sector Superannuation Fund.

"Exempt Dealer" has the meaning given to that term by Section 9 of the Corporations Law.

"Flexible Complying Income Stream" means a Complying Income Stream that is used by the Trustee to fund a LifeTrack Flexible Pension as described in the Current Client Information Brochure.

"Forfeited Benefits Register" means the Forfeited Benefits Register established and maintained in accordance with Clause 4.13.

"Fund" unless the context otherwise requires, means:

- (a) where used in Chapters 2, 3, 4 and 5, the LifeTrack Superannuation Fund;
- (b) where used in Chapters 1, 6, 7 and 8, any trust constituted under the provisions of this Deed, including the LifeTrack Superannuation Fund and the LifeTrack ADF; and
- (c) where used in Chapter 9, the LifeTrack ADF.

"Fund" means LifeTrack, a division of the IOOF Portfolio Services Superannuation Fund.

"Fund Earning Rate" for any Income Calculation Period means in respect of each Authorised Investment Fund the earning rate of the assets of each Authorised Investment Fund during that period as determined by the Trustee having regard to the calculations required to be made in accordance with Clause 4.5(b) and Clause 9.19(b), as the case may be.

"Fund Service" of a Member or ADF Member means the completed calendar months (expressed as years or fractions thereof) of the continuous period commencing on the date the Member or ADF Member was admitted as a Member or ADF Member of the Fund, as the case may be and terminating on the date the Member or ADF Member ceased to be a Member or ADF Member of the Fund, as the case may be.

"Fund Year" means and includes the period of twelve months ending on the 30th day of June each year PROVIDED THAT the first Fund Year of the Fund shall be deemed to be the period commencing on the Commencement Date and terminating on the succeeding 30th day of June and the last Fund Year of the Fund shall be deemed to be the period commencing on the 1st day of July immediately before the date of termination of the Fund and terminating on the date of termination of the Fund.

"Futures Contract" has the meaning given to that term by Section 9 of the Corporations Law.

"Gainfully Employed Person" means a person who is engaged in a form of employment which satisfies the definition of gainfully employed in the Act and/or the Regulations under the Act and includes an Employee.

"General Reserve" means the general reserve established pursuant to Clause 4.7 or 9.22A.1, as the case requires.

"Group Contract" means the Superannuation Investment Contract S106 between Lifetrack Management Limited and AM Life Limited for the Lifetrack Superannuation Fund.

"Guarantee Act" means the Superannuation Guarantee Charge Act 1992 (C'th), as amended from time to time.

"Income" means income as defined in Clause 4.5 or Clause 9.19, as the case requires.

"Income Calculation Date" means income calculation date as defined in Clause 4.5 or Clause 9.19, as the case requires.

"Income Calculation Period" means income calculation period as defined in Clause 4.5 or Clause 9.19, as the case requires.

"Individual Account" means the separate account or accounts maintained for each Member or ADF Member of the Fund pursuant to Clause 4.11 or Clause 9.24, as the case requires.

"Insured Benefit" means the proceeds of any insurance policy effected by the Trustee on the life of a Member or ADF Member or against the Temporary Disablement or Permanent Disablement of a Member or ADF Member and any transfers to the Member's or ADF Member's Individual Account after the date of the Member's or ADF Member's death, Permanent Disablement or Temporary Disablement from the Mortality Fluctuation Reserve in accordance with Clause 4.8(b) or Clause 9.22, as the case may be. The amount of the Insured Benefit will be determined by the Plan Specifications applicable to the Member or ADF Member, and where a Member or ADF Member is not acceptable at standard rates by the Trustee or any Insurer the Trustee may reduce the Insured Benefit by such amount as the Trustee considers appropriate.

"Individual Pension Account" means the individual pension account as defined in Clause 4.11.

"Insurer" means any company or society registered under the Life Insurance Act, 1945 or any friendly society for the purposes of the Friendly Societies Act.

"Investment Fluctuation Reserve" means the investment fluctuation reserve established pursuant to Clause 4.7 or 9.21, as the case requires.

"Investment Fund" means any unit trust or similar entity which is managed and controlled in any country in which there is a Recognised Market and which the trustee or manager of that fund or entity certifies in writing to the Trustee as having assets not less than 75 % of which (as at the date on which an investment is made by the Trustee in such units) consist of Authorised Investments.

"Investment Register" means the register kept pursuant to Clause 4.4 or Clause 9.18, as the case requires.

"Issue Price" in relation to a Unit means the value of a Unit determined under clause 4.3A.11.

"LIS" refers to the LifeTrack Investment Service operated by IOOF Investment Management Limited ABN 53 006 695 021 and its successors and assigns.

"Legal Personal Representative" has the same meaning as in Section 10 of the Superannuation Industry (Supervision) Act 1993.

"Life Expectancy" means the life expectancy tables published and prescribed for use by the Department of Social Security and the Department of Veteran's Affairs.

"LifeTrack" means the trusts collectively constituted under this Deed, and includes the LifeTrack Superannuation Fund and the LifeTrack Approved Deposit Fund.

"LifeTrack ADF" or "LifeTrack Approved Deposit Fund" means the ADF Fund.

"LifeTrack Superannuation Fund" means the fund constituted pursuant to Clause 4.1 and includes any administrative structuring or grouping within that fund as maybe established, modified or referred to in any prospectus in relation to the Fund from time to time by the Trustee, including any administrative structuring or grouping, the "LifeTrack Roll-Over Pension Plan" and the "LifeTrack Superannuation Plan".

"Life Pension" means a pension payable from the Pension Benefit Account.

"Maximum Commutable Value" means the maximum value of the remaining Pension payments allowable under the Act and capable of being paid to the Pensioner at the time of commutation.

"Maximum Splittable Amount" has the same meaning as in the *Superannuation Industry (Supervision) Regulations 1994*.

"Member" means the following:

- (a) an Employee, Gainfully Employed Person, Transferred Retiree Member or such other person who may be entitled under the Act to make application to join the Fund who has applied to join the Fund in accordance with Clause 2.2 and whose membership has commenced in accordance with Clause 2.4;
- (b) a person who is entitled to receive a pension from the Fund; and
- (c) a person who has ceased to be an Employee or Gainfully Employed Person but continues to have rights or contingent rights to benefits under the Fund,

and, in each case, who has not ceased to be a Member in accordance with Clause 2.4(c).

"Modified Buy-Back Arrangements" means the buy-back arrangements referred to in Clause 9.28(b).

"Month" means calendar month.

"Mortality Fluctuation Reserve" means the Mortality Fluctuation Reserve established and maintained in accordance with Clause 4.7.

"Net Income" means net income of the Fund as defined in Clause 4.5 or Clause 9.19, as the case requires.

"Net Proceeds of Sale" means net proceeds of sale as defined in Clause 4.5 or Clause 9.19, as the case requires.

"Nomination" means a Binding Death Nomination or Non-Lapsing Nomination or a Non-Binding Nomination.

"Non-Binding Nomination" means a notification to the Trustee by the Member that meets the description in clause 6.28 of the IOOF Portfolio Service Trust Deed, and includes a notice that was, or was intended by the Member to be, a Binding Death Benefit Nomination but which does not satisfy paragraph (b) of that definition.

"Non-Commutable Cashback Pension" means a "non-commutable allocated pension" or a "transition to retirement income stream" within the meaning of the *Superannuation Industry Supervision Regulations*, paid from the Member's Individual Pension Account.

"Non-dependant Benefit" means a benefit which may be paid in accordance with regulation 6.22(3) of the Superannuation Industry (Supervision) Act 1993.

"Non-Lapsing Nomination" means a notice given by a Member to the Trustee under Clause 2.15 which:

- (a) is in a form and manner approved by the Trustee, as determined by the Trustee from time to time;
- (b) is clear that the Member does not intend for the nomination to expire after any fixed period of time;
- (c) nominates one or more of the Member's Dependants or legal personal representative to receive the Member's Benefit on the Member's death;
- (d) can be revoked by the Member at any time in a form and manner approved by the Trustee; and
- (e) was given to the Trustee after 1 December 2017.

and for which the Trustee has provided its consent under Clause 2.16.

"Non-member Spouse", in relation to a Member, refers to the spouse of the Member being a party to a Superannuation Agreement with the Member or a Splitting Order in relation to the Member's Account.

"Normal Retirement Date" means in respect of a Member the day on which that Member attains the age 65 years or such other age as may be determined in the Plan Specifications applicable to that Member and that is acceptable to the Commissioner.

"Operating Standards" means the Act, the regulations made pursuant to the Act and such other circulars, rulings and prudential and reporting standards published from time to time by the Commissioner or announced or proposed by the Commissioner or the Treasurer of the Commonwealth of Australia in respect of the operation and taxation of Approved Deposit Funds and their members.

"Ordinary Resolution" means a resolution passed at a meeting of Members or ADF Members as the case may be passed by a majority of at least half of such Members or ADF Members as the case may be who being entitled to do so vote in person or by proxy at that meeting.

"Participant" means any person, Member or Employer who originally became a Member or Employer (as the case may be) by completing an application form attached to a copy of a prospectus.

"Payment Flag" has the meaning given by section 90MD of the Family Law Act 1975.

"Payment Split" has the meaning given by section 90MD of the *Family Law Act 1975*.

"Pension" means an income stream that is funded by the Trustee and payable to a Pensioner, out of the proceeds of the initial Purchase Price paid by the Pensioner to the Trustee to obtain the income stream.

"Pension Benefit Account" means the Pension Benefit Account established and maintained pursuant to Clause 4.9.

"Pensioner" means any member of the Fund that is eligible to receive a Pension.

"Permanent Building Society" means a Building Society registered under the Permanent Building Societies Act, 1967 of the State of New South Wales and which has not by its rules any fixed date or certain event when it shall terminate and includes any similar Building Societies registered under corresponding legislation in any other Australian State or Territory.

"Permanent Disablement" means

- (A) (where such Permanent Disablement would or would upon the Trustee making a payment hereunder entitle the Trustee to claim the payment of an Insured Benefit), Permanent Disablement for the purposes of the insurance policy under which the Trustee is entitled to claim; or
- (B) in any other case:
 - (a) the Member or ADF Member, as the case may be having suffered the loss of two limbs, or the sight of both eyes or the loss of one limb and the sight of one eye (where limb includes the whole hand or foot), or
 - (b) the Member or ADF Member, as the case may be being absent from his work through injury or illness for six consecutive months and in the opinion of the Trustee, after consideration of medical evidence, having become incapacitated to such an extent as to render the Member or ADF Member unlikely ever to resume work or, attend to any gainful profession or occupation, or
 - (c) such other incapacity as the Trustee shall regard as Permanent Disablement,.

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

"Personal Representative" means in relation to a Member or ADF Member a legal personal representative of that Member or ADF Member as defined in Section 10 of the Superannuation Industry (Supervision) Act, 1993 (Cth).

"Plan Specifications" means in relation to each Member the details of the following matters determined in accordance with Clause 2.1:

- (a) eligibility requirements
- (b) contribution levels by the Member
- (c) contribution levels by the Employer (if any)
- (d) the Retirement Benefit Category
- (e) the Death Benefit Insured Benefit level
- (f) the Permanent Disablement Benefit Insured Benefit level

- (g) the Withdrawal Benefit level
- (h) the Class of Membership of that Member
- (i) the respective proportions of that Member's Individual Account and of any amounts received by the Trustee in respect of that Member to be invested in each Authorised Investment Fund
- (j) any other requirements, benefit levels or other matters as the Trustee considers appropriate

and in relation to each ADF Member the details of the following matters determined in accordance with Clause 9.2:

- (k) the Death Benefit Insured Benefit level
- (l) the Permanent Disablement Benefit Insured Benefit level
- (m) the Class of Membership of that ADF Member
- (n) the respective proportions of that ADF Member's Individual Account and of any amounts received by the Trustee in respect of that ADF Member to be invested in each Authorised Investment Fund.
- (o) any other requirements, benefit levels or other matters as the Trustee considers appropriate.

"Policy Committee" means a board, committee or other body that:

- (a) represents a particular Employer and the Members employed by that Employer; and
- (b) is appointed for the purpose of advising and consulting with the Trustee on matters relating to the participation in the Fund of the Members employed by that Employer.

"Prescribed Interest" has the meaning given to that term by the Corporations Law.

"Preservation Age" means 55 years or such other age as is permitted or required by the Act or the Commissioner.

"Preservation Requirement" means, in relation to a contribution, Deposit, entitlement or benefit under the Fund, a requirement under the Act that, except to the extent to which Lieth contribution, Deposit, entitlement or benefit hereunder is to be payable on the retirement of the person entitled to

the contribution, Deposit, entitlement or benefit hereunder from the workforce before attaining the Preservation Age in the form of a non-commutable pension or annuity payable for life, payment of the contribution, Deposit, entitlement or benefit hereunder shall be retained until:

- (a) the contribution, Deposit, entitlement or benefit hereunder is transferred directly to, for preservation in relation to the person, in:
 - (i) another superannuation fund nominated by the person, being a superannuation fund of which the person is, or intends to become, a member and that is required to preserve the amount in accordance with the Act;
 - (ii) an Approved Deposit Fund nominated by the person, being an Approved Deposit Fund that is required to preserve the amount in accordance with the Act; or
 - (iii) a Deferred Annuity nominated by the person, being a Deferred Annuity which cannot be surrendered or assigned before the person attains the Preservation Age and does not pay benefits earlier than the happening of the circumstances referred to in paragraph (b) or (c) of this definition; or
- (b) the person's retirement from the workforce at or after the Preservation Age; or
- (c) the contribution, Deposit, entitlement or benefit hereunder becomes payable to the person in one of the following circumstances:
 - (i) the person's retirement from the workforce caused by the person's total and permanent disablement which disablement and the proof thereof must meet the requirements prescribed by the Act;
 - (ii) the person's death;
 - (iii) the person's permanent departure from Australia;
 - (iv) the person becoming entitled or required to receive the contribution, Deposit, entitlement or benefit hereunder pursuant to the Act;
 - (v) such other circumstances as may be specified from time to time by the Act or the Commissioner; or
 - (vi) such other circumstances as may be determined by the Trustee and approved by the Trustee and the Commissioner.

"Preserved Benefit" of any Member or any ADF Member as the case may be means that part of the Member's or ADF Member's Accrued Benefit that is subject to a Preservation Requirement.

"Proper Authority" has the meaning given to that term in Section 9 of the Corporations Law.

"Property Investment" means the purchase, leasing or other acquisition, of any Land or real property of any description (including all furniture, carpets, fittings, machinery, plant and other movables installed or to be installed in any building thereon or used in connection therewith) and the laying out of monies for the purpose of erecting buildings thereon, making improvements thereto or developing, improving or otherwise exploiting the same and for the purposes of this definition "Land" shall include, without limitation, tenements :and hereditaments wheresoever situated and whether corporeal or incorporeal and every estate or interest therein whether vested or contingent, freehold or leasehold (having in the case of any leasehold, an unexpired term of 25 years or more), whether at law or in equity, in severalty or otherwise.

"Proposal" means an Investment Proposal or an Investment Fund Proposal, or both as the case requires.

"Purchase Price" means the amount paid by the Pensioner to the Trustee as the purchase price of a pension product paying an income stream.

"Recognised Market" means any market approved by the Trustee in any of the jurisdictions listed below which brings buyers and sellers of Authorised Investments together for the purpose of buying and selling Authorised Investments including without limitation any Stock Exchange or other market in which bargains are made on a trading floor or by direct contact between buyer and seller (or their respective agents) or a market which is made by means of listing (by electronic or other means) prices of which persons are willing to buy or sell Authorised Investments PROVIDED THAT such market operates in compliance with the laws of the country in which it is situated. The jurisdictions above referred to are Australia, the United States of America, United Kingdom, Japan, . Hong Kong;, Singapore, Malaysia, Taiwan, South Korea, Canada, New Zealand, Italy, France, Switzerland, West Germany, Holland and Belgium and such other jurisdictions as the Trustee may from time to time determine in writing.

"Register" .,means the Registers of Members, Dependants, Employers or ADF Members or any or all of them, as the case requires, maintained pursuant to Clauses 6.3 and 6.4.

"Registered Company Auditor" has the meaning given to that term by Section 9 of the Corporations Law.

"Related Entity" in relation to the Fund, means a corporation that would be deemed to be related to the Trustee under the Corporations Law.

"Residual Capital Value" means the amount that is the lesser of the Current Transfer Value and the Maximum Commutable Value, in the event that a Complying Income Stream is terminated before the end of its Term.

"Retirement Benefit Category" means the retirement benefit category of a Member of the Fund who in his Plan Specifications has been designated to be a Member in Retirement Benefit Category lump sum, Cashback Pension, Non-Commutable Cashback Pension or Life Pension or Complying Pension Product or such other Categories as the Trustee may determine from time to time.

"Reversionary Dependant" means a person nominated pursuant to the relevant section of the Lifetrack Complying Pensions Application Form.

"Roll-Over Payment Notification" means the Roll-Over Payment Notification referred to in Clause 9.4(c).

"Roll-Over Period" has the meaning given to that term in Section 27A(1) of the Tax Act.

"Salary" of any Member means the salary as defined by the Act and/or the Commissioner as advised by the Employer or Member as the case maybe.

"Securities System" means Australia Limited.

"Special Resolution" means a resolution passed at a meeting of Members or ADF Members as the case may be passed by a majority of at least three-quarters of such Members. or ADF Members as the case may be who being entitled to do so vote in person or by proxy at that meeting.

"Splittable Contribution" has the same meaning as in the *Superannuation Industry (Supervision) Regulations 1994*.

"Splitting Order" means a court order made under section 90MT of the Family Law Act 1975.

"Spouse" in relation to a person, includes:

- (a) another person of the same sex or different sex with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of s. 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; and

- (b) another person who, although not legally married to the person, lives with the person on a bona fide genuine domestic basis as the husband or wife of the person in a relationship as a couple.

"Statement, of Termination Payment" means the Statement of Termination Payment referred to in Clause 9.4(b).

"Superannuation Agreement" has the meaning given by section 90MH of the Family Law Act 1975.

"Superannuation Fund" means the LifeTrack Superannuation Fund.

"Surviving Spouse" means any person (who is a spouse as that term is defined in Section 10 of the Superannuation Industry (Supervision) Act 1993) nominated by the Member as the recipient of:

- (a) the remaining payments due under a Pension, or
- (b) the Residual Capital Value of a Pension,

in the event of the death of the Member.

"Suspended Benefits Register" means the Suspended Benefits Register established and maintained in accordance with Clause 4.14.

"Tax" means a governmental impost (including without limitation a tax, duty or levy) which is or might become payable in connection with the Fund, the income of the Fund, realisation of assets of the Fund, payment or transfer of money or property to or from the Fund, this Deed or anything done or which may be done under this Deed, including any tax, surcharge, duty or levy payable in respect of a Member that must or may be paid or collected by the Trustee or the Fund.

"Tax Act" means the Income Tax Assessment Act 1936.

"Temporary Disablement" means:

- (a) (where such Temporary Disablement would entitle or would upon the Trustee making a payment hereunder entitle the Trustee to claim, the payment of an Insured Benefit), Temporary Disablement for the purposes of the insurance policy under which the Trustee is entitled to claim; or
- (b) in any other case, continuous disability of a Member or ADF Member as the case may be due to physical or mental disability, bodily injury, illness, disease or infirmity rendering a Member or ADF Member unable to work and not incurred or inflicted for the purpose of obtaining a benefit from the Fund.

Every question of Temporary Disablement shall be decided by the Trustee after consideration of medical evidence and its decision shall be conclusive and binding upon all parties concerned.

“Term” means a term equivalent to the Life Expectancy or such period stipulated by the Act, for which Pension payments will be made to a Pensioner who has purchased a Complying Pension Product.

“Top Up Reserve” means that part of the purchase price of a Flexible Income Stream referred to in clause 5a.3, that is used by the Trustee to fund increases in the level of payments.

"Transferred Retiree Member" has the meaning given to that term by Section 3(1) of the Occupational Superannuation Standards Act.

"Trustee" means the Trustee of the Fund for the time being appointed under the provisions of this Deed. Such Trustee will always be a Constitutional Corporation.

“Underlying Assets” refers, for the purpose of Clause 2.7(3), to the assets held by another investment trust or fund that are referable an investment by the Trustee and the Member’s Individual Account, and in respect of which the Trustee is entitled to receive a transfer of assets in lieu of a distribution or other payment.

"Valuation Date" means and includes any date on which the Trustee causes a valuation of the Fund or of an Authorised Investment Fund to be made.

"Value of the Fund" or “Value of an Authorised Investment Fund” means the value of the Fund or the value of an Authorised Investment Fund as defined in Clause 4.2(iv) or Clause 9.14(d), as the case requires.

"Voluntary Contribution" means a voluntary contribution as defined in Clause 3.3.

“Withdrawal Price” means in relation to a Unit the value of a Unit determined under clause 4.3A.13.

"Working Day" means any day on which Banks are open for business in Sydney PROVIDED THAT in respect of any monies received or any obligation (including an obligation to pay monies) arising in a capital city in Australia other than Sydney on a working day on which Banks in that capital city are not open for business, those monies shall be deemed to be received and that obligation shall be deemed to arise on the next following Working Day on which such Banks are so open.

Interpretations

- 1.2 In the Deed, unless inconsistent with the subject matter or context, words importing the singular number shall include the plural number and words importing the masculine, feminine or neuter gender shall include each of the other genders. A reference to a "person" shall be a reference to a natural person, body corporate, corporation sole, trust or partnership.
- 1.3 All references in this Deed to other provisions or Clauses shall be deemed to be references to such other provisions or Clauses as altered, added to, modified or cancelled from time to time pursuant to the provisions of Clauses 1.8, 6.15 or 8.12.
- 1.4 The Index to this Deed and headings inserted in any Clause are for convenience only and shall not affect the interpretation of the provisions of that Clause.
- 1.5 If any term defined in the Act, the Tax Act, Corporations Law or the Corporations Regulations is used in this Deed but not defined therein then such term shall have the same meaning that it has for the purposes of the Act, the Tax Act, Corporations Law or the Corporations Regulations as the case may be.
- 1.6 References to statutes shall include all statutes amending, replacing or consolidating the statutes referred to. References to statutory definitions shall include those definitions as amended or replaced from time to time.
- 1.7 This Deed in force from time to time extends to the successors and assigns of each of the parties hereto and of each such other party as shall by instrument in writing adopt this Deed.

CHAPTER 2 MEMBERSHIP

Classes of Membership

- 2.1 (a) [Deleted]
- (b) At any time the Plan Specifications applicable to a Member shall be:
- (i) in the case of an Employee, the Plan Specifications then in force in relation to the Employer of that Employee; and
 - (ii) in the case of a Member who is not an Employee, the Plan Specifications then in force in relation to that Member.
- (c) The Plan Specifications in force in relation to a Member on any date ("the relevant date") shall be the Plan Specifications determined for

that Member in accordance with this Clause 2.1 at the time of his becoming a Member or, where those Plan Specifications have been amended in accordance with this Clause 2.1 prior to the relevant date, the Plan Specifications as amended most recently prior to the relevant date.

- (d) [Deleted]
- (e) The Plan Specifications for a Member shall be the Plan Specifications determined in writing by the Trustee prior to that person becoming a Member provided that those Plan Specifications may be altered from time to time by notice in writing from the Trustee to the Member; and,
 - (i) where the alteration will not adversely affect any benefits to which that Member has or will become entitled hereunder prior to the date on which the alteration becomes effective, by the Trustee; or
 - (ii) in any other case, by the Trustee with the prior written approval of the Member,

and that alteration shall become effective on the date specified in the said notice which date shall not be earlier than the date which is fourteen (14) days after the said notice was given to the Member and shall be a date approved in writing by the Trustee.

- (f) The Employer of an Employee shall advise the Trustee of the Class of Membership for each Employee at the time of submitting that Employee's application for membership provided that if such advice is not given then upon approval by the Trustee of the Employee's application the Trustee shall determine the Class of Membership.
- (g) A Member who is not an Employee shall advise the Trustee of his Class of Membership at the time of submitting his application for membership provided that if such advice is not given then upon approval by the Trustee of the application the Trustee shall determine the Class of Membership.
- (h) A Member shall advise the Trustee in writing that he has ceased to be an Employee or a Gainfully Employed Person or become an Employee or a Gainfully Employed Person as soon as reasonably practicable after the occurrence of any such event and the Trustee shall determine the date the change becomes effective for the, purposes of that Member's rights hereunder.

- (i) The Employer of a Member who is an Employee of the Employer shall advise the Trustee when a Member's Class of Membership has changed.
- (j) A Member who is not an Employee shall advise the Trustee of any change in that Member's Class of Membership prior to the effective date of such a change.
- (k) A Member may not at any one time be a Member of more than one Class of Membership.
- (l) Where the Trustee purports to alter the Plan Specifications of a Member pursuant to sub-paragraph (i) of paragraph (e) of this Clause, the Trustee shall ensure that the alteration will not adversely affect any benefits to which that Member has or will become entitled hereunder prior to the date on which the alteration is to become effective.

Transfer of Member from one Plan Specification to another

- 2.1A Where a Member ceases to be an Employee and where the amount in the Member's Individual Account is greater than the amount specified from time to time by the Trustee in the applicable Plan Specification and is a Preserved Benefit, the Plan Specification which is to apply to that Member is the Plan Specification that applies to a Member who is not an Employee pursuant to Rule 2.1 of this Deed.

Admission of a Member

- 2.2 (a) A person who wishes to participate in the Fund shall apply in writing to the Trustee on a form approved from time to time by the Trustee for admission to membership of the Fund. The Trustee shall have an unfettered discretion as to whether to accept or not to accept the application of a person for admission to membership of the Fund. The Trustee shall not be obliged to issue to Members or Employers any certificate evidencing their membership in the Fund.
- (b) The Trustee may accept an Employee selected by an Employer as a Member without requiring the Employee to complete a membership application form in accordance with paragraph (a), if the Employer has made an application for membership or behalf of the Employee and has provided the Trustee with such information that the Trustee may require, including the name, address and age of the Employee.
- (c) Where the Employee is being admitted to membership so that the Employer can comply with its superannuation obligations under

the industrial award or industrial agreement which governs the terms and conditions of the Employee's employment by that Employer, the Employee shall, after 14 days employment by the Employer (or such other period specified in the award or agreement) become a Member, provided the Employer complies with the requirements of paragraph (b).

- (d) Upon acceptance of such an Employee as a Member, the Employee is bound by this Deed in all respects as if he were an original party to this Deed. The Trustee shall, as soon as practicable, advise the Member in writing that he or she has been accepted as a Member and provide to the Member such other information as is required by the Act.
- (e) Where the Individual Account of a Member is split pursuant to a Superannuation Agreement or a Splitting Order within the meaning of the Family Law Act 1975, the Trustee may create for the Non-member Spouse a new interest in the Fund and accept the Non-member Spouse as a Member without requiring the Non-member Spouse to complete a membership application form in accordance with paragraph (a).
- (f) Upon acceptance of the Non-member Spouse as a Member, the Non-member Spouse is bound by this Deed in all respects as if they were an original party to this Deed. The Trustee shall, as soon as practicable, advise the member in writing that he or she has been accepted as a Member and provide the Member such other information as is required by the Act.

2.3 Subject to Clause 2.2, the completed and signed application of an applicant shall upon acceptance by the Trustee constitute agreement by that applicant and his Dependants:

- (a) to become a Member of the Fund; and
- (b) to be bound by the terms and conditions of this Deed so far as they are applicable to Members and the Plan Specifications in force from time to time in relation to that Member.

2.4 (a) The Trustee shall notify in writing each applicant for membership of the Fund, within fourteen (14) days of receiving that applicant's application, of the Trustee's decision either to accept or not to accept that application.

- (b) Where the Trustee has notified an applicant that his application has been accepted that applicant shall become a Member of the Fund on the date specified by the Trustee in the notice to the applicant under paragraph (a) of this Clause (being a date not earlier than

the date the Trustee received the application) or where no such date is specified, on the date the Trustee received the application.

- (c) A Member shall cease to be a Member on his death or upon the Trustee having paid to or for the benefit of that Member and/or his Dependents and in accordance with this Deed all moneys to which that Member and/or his Dependents are or are contingently entitled to hereunder.
 - (d) A Member may be a member of, or participate in, any other trust fund constituted under this Deed.
- 2.5
- (a) No Member shall receive any benefit while remaining an employee of an Employer who has contributed to the Fund on his behalf except in circumstances allowed by the Commissioner.
 - (b) No Member shall receive any benefit from the Preserved Benefit part of his Individual Account except in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.

Portability: Transfer from another Fund

- 2.6
- (a) The Trustee may make such arrangements as it thinks proper with a Member or any previous employer other Member or with an ADF Member or with any previous employer of the ADF Member or the trustee of any Fund, superannuation fund or Approved Deposit Fund of which the Member or ADF Member (as the case may be) is or was a member for any transfer (itof assets (including Cash) to the Fund and may make arrangements about any other matter which in its opinion is incidental to or consequent on the admission of such Member to membership of the Fund PROVIDED THAT so much of the value of any assets so transferred in respect of a Member as are subject to a Preservation Requirement shall be recorded in the Preserved Benefit section of that Member's Individual Account.
 - (b) Any transfer of assets to the Fund other than by cash must be with the prior approval of the Trustee and must be accompanied by such evidence of title and other matters (including a valuation of the benefits or assets by an Approved Valuer) as the Trustee may require together with duly executed and stamped transfers or conveyances where appropriate. Where any transfer is paid by assignment or transfer of ownership of any benefits or assets the Employer, or Member entitled to same shall be responsible for all stamp duty, brokerage fees, commission and other costs, charges and expenses in respect of such assignment or transfer and the Trustee shall be entitled to deduct same from the said assignment

or transfer. The provisions of Clause 4.3.1 shall apply to any such assignments or transfer as if the relevant benefits or assets were Authorised Investments in which the Trustee intends to invest cash available from the Fund.

- (c) If any transfer made by a Member or Employer is not acceptable to the Commissioner the Trustee may refund such transfer to that Member or Employer or any other Fund, superannuation fund or Approved Deposit Fund they may direct in accordance with Clause 2.7.
- (d) The Trustee may accept into the Fund for a Member the roll-over or transfer of a Contributions-Splitting ETP.

Portability: Transfer to another Fund

- 2.7 (A1) The Trustee may pay all or part of a Member's benefit to another fund without the consent of the Member if permitted by the Act. The Trustee may pay all or part of a Member's benefit to an Eligible Rollover Fund in the circumstances permitted by the Act.
- (1) Should a Member become eligible to join another Fund, superannuation fund, Approved Deposit Fund or purchase an annuity or if the Trustee is directed to refund a transfer in accordance with Clause 2.6(c) the Trustee may, or the Member may request in writing the Trustee to, transfer part or all of the monies in that Member's Individual Account to the trustees of that Fund, superannuation fund or Approved Deposit Fund, or apply part or all of those monies towards the purchase of an annuity (either immediate or deferred) (as the case requires)..
 - (2) Subject to Clause 2.7(3), where the Trustee receives a Member request or direction in writing to, transfer part or all of the monies in that Member's Individual Account to the trustee of another Fund, superannuation fund or Approved Deposit Fund, or apply part or all of those monies towards the purchase of an annuity, the Trustee shall unless the transfer is to a successor fund within the meaning of the Act, transfer in cash any benefit to which the Member may be entitled under this Deed to the trustee of the other Fund, superannuation fund or Approved Deposit Fund or to the life office or other financial institution granting that annuity (as the case may be).
 - (3) Where the Trustee receives a Member request or direction in writing to, transfer part or all of the monies in the Member's Individual Account to the LIS account of the trustee of a Fund of which the Member is or will be the sole beneficiary, the Trustee may transfer in specie all or part of such Underlying Assets held for the benefit of

the Member and in respect of which the Member has a Benefit Entitlement under this Deed where such assets are not liquid within the meaning of section 601KA of the Corporations Act 2001.

- (4) The Trustee shall advise the trustee of that other Fund, superannuation fund or Approved Deposit Fund or life office or other financial institution granting that annuity the proportion if any of the account so paid which is deemed to be an Employee-Financed Benefit PROVIDED HOWEVER THAT the transfer of that part (if any) of the total benefit being transferred that is recorded in the Preserved Benefit section of the Member's Individual Account may only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.
- (5) The Trustee may pay a benefit (other than a pension) to an eligible rollover fund in the circumstances permitted by the Act and must make such payment if the Act so requires. However if the benefit is required to be treated as unclaimed money under the Act, the Trustee must pay the benefit to the Commissioner in accordance with the Act.
- (6) Should the Non-member Spouse of a Member, following the splitting of the Individual Account of the Member pursuant to a Superannuation Agreement or Splitting Order, direct the Trustee in writing to transfer the entitlement of the Non-member Spouse to the trustees of another regulated superannuation fund or Approved Deposit Fund, or to an EPSSS or Retirement Savings Account, the Trustee shall pay in Cash any benefit to which the Non-member Spouse may be entitled to the trustees of the regulated superannuation fund, Approved Deposit Fund, or to the EPSSS or Retirement Savings Account, to be held for the benefit of the Non-member Spouse.

Participating Employer

- 2.8 A person who wishes to participate in the Fund as an Employer shall apply in writing to the Trustee on a form approved from time to time by the Trustee so to participate in the Fund and shall complete such other documents (including Plan Specifications) as the Trustee shall require and on the written approval of such application by the Trustee being given to that person shall become an Employer.
- 2.9 The completed and signed application form of an Employer shall constitute agreement by that Employer:
 - (a) to become an Employer; and

- (b) to be bound by the terms and conditions of this Deed so far as they apply to Employers and the Plan Specifications in force from time to time in relation to Employees of that Employer.

Information

2.10 (a) Every Member and Employer when requested by the Trustee shall promptly furnish any information the Trustee shall deem necessary for the purposes of any investigation or otherwise in connection with the Fund and without limiting the generality of the foregoing such information shall include:

- (i) evidence of age of that Member or of any Employee of that Employer;
- (ii) in the case of a Member, medical evidence of the state of his health at the commencement of his membership of the Fund or at the date of any commutation of any Pension Benefit;
- (iii) in the case of a Member receiving a pension, evidence that he has not died;
- (iv) in the case of a Dependant; evidence of the death of the Member or any other Dependant;
- (v) in the case of a Member receiving a benefit, evidence of the Member's entitlement (including any medical information reasonably required to establish the member's entitlement to any Insured Benefit) and such other information or evidence as the Trustee may require under the Act.

If any Member or Employer fails to comply with the before mentioned, the Trustee may suspend the payment of any benefits or pension to that Member or, as the case may be, to such of the Employees of that Employer as the information requested by the Trustee relates. The amount of any benefits or pension the payment of which is suspended in accordance with this paragraph shall be recorded by the Trustee in the Suspended Benefits Register and shall be held and dealt with by the Trustee in accordance with clause 5.28.

- (b) Where the information furnished by or in respect of a Member in any statement submitted to the Trustee is fraudulently incorrect in any material particular the benefits payable to or in respect of such Member may cease or may be adjusted to such amounts as shall be determined by the Trustee acting on the advice of an Actuary.

- 2.11 (a) The Trustee shall provide the Members and prospective Members, or cause the Members and prospective Members, to be provided with such statements, notices, documents and information concerning the administration of the Fund as is required by the Act, including prescribed information on request and information concerning significant events. The Trustee shall retain for so long as they are relevant and, in any event, for at least 10 years or for such other period as required by the Act, copies of all reports given to the Members.
- (b) If the Trustee causes someone else to provide a Member or prospective Member with such a statement, notice, document or such information, the Trustee shall if required by the Act, obtain from that person a written declaration stating that the person has provided the Member or prospective Member with a statement, notice, document or information, as the case may be.
- 2.12 The Trustee shall provide the Employers and the Commissioner with such notices, statements, reports and other information as are required by the Act.
- 2.13 (a) In this clause "regulated document" has the meaning attributed to it in the Act.
- (b) The Trustee may not issue a regulated document which contains a statement by an expert unless that expert has given written consent.
- (c) Copies of written consents given by experts must be retained for at least 10 years.
- 2.14 Without limiting the means by which notices, statements, documents or information may be given, the Trustee may give notice or provide statements, documents or information by any form of data or image transmission or communication facility or medium, including without limitation facsimile, electronic mail and the internet, in which case the notice will be considered to have been received when transmitted, accessed or published (as the case may be).

Non-Lapsing Nomination

- 2.15 A Member may give the Trustee a notice which is intended by the Member to be a Non-Lapsing Nomination.
- 2.16 If a Member gives a notice to the Trustee under Clause 2.15 or Clause 2.18 and the Trustee is satisfied that the notice is an exercise of discretion by the Member, the Trustee may consent to the exercise of that discretion (which includes the giving of the notice) on any grounds that Trustee considers appropriate.

- 2.17 A Non-Lapsing Nomination remains current until:
- (a) it is revoked by the Member in accordance with Clause 2.18; or
 - (b) the Member gives the Trustee a subsequent Non-Lapsing Nomination.

To avoid doubt, a Member's Non-Lapsing Nomination revokes any previous Nomination made by the Member.

- 2.18 Subject to Clause 2.16 a Member may, at any time, by notice in writing to the Trustee, amend or revoke an existing Non-Lapsing Nomination

CHAPTER 3 CONTRIBUTIONS

Employer Contribution

- 3.1 (a) An Employer shall contribute to the Fund from time to time in respect of its Employees or any other persons for whom it may contribute in accordance with the Act such amount as it determines in accordance with the Plan Specifications applicable to its Employees and in accordance with the requirements of the Act and/or the Commissioner PROVIDED THAT the Employer may at any time vary, suspend or terminate its contributions.

The Employer shall advise the Trustee on such form as required by the Trustee the level of contributions made to this Fund by the Employer and Employee who is a Member which will be claimed as a tax deduction by that Employer or Employee.

Member Contribution

- 3.2 (a) The Member may contribute to the Fund such amount as is determined by the Plan Specifications applicable to that Member and in accordance with the requirements of the Act and/or the Commissioner.
- (b) The Member who is not an Employee shall advise the Trustee in such form as required by the Trustee the level of contributions made to this Fund which will be claimed as a personal tax deduction by that Member.
 - (c) If the Member is an Employee the Member's Employer shall deduct the Members Contributions from his remuneration from time to time unless otherwise agreed between the Member and the Member's Employer and the Trustee.

Voluntary Contributions

- 3.3 (a) An Employer and/or Member with the approval of the Trustee and subject to such terms and conditions as it decides may make additional contributions to the Fund, to increase that Member's benefits under the Fund.
- (b) Any additional contributions in accordance with paragraph (a) of this Clause, will be treated as additional Employer's or Member's (as the case may be) contributions for the purposes of this Deed.
- (c) Any additional contribution in accordance with this Clause, will be hereinafter called a Voluntary Contribution.

Payment of Contributions

- 3.4 (a) An Employer shall pay its Employer and Member contributions to the Trustee in such a manner and at such times as are agreed upon between the Employer and the Trustee.
- (b) A Member who is a Gainfully Employed Person shall pay his Member contributions to the Trustee in such a manner and at such times as is applicable for his Class of Membership.
- 3.5 Any contribution may be paid by Cash or assignment or transfer of ownership of any benefits or assets (including insurance policies) which are Authorised Investments provided that any contribution other than by Cash must be with the prior approval of the Trustee and must be accompanied by such evidence of title and other matters (including a valuation of the benefits or assets by an Approved Valuer) as the Trustee may require together with duly executed and stamped transfers or conveyances where appropriate. Where any contribution is paid by assignment or transfer of ownership of any benefits or assets the Employer or Member paying the same shall be responsible for all stamp duty, brokerage fees, commission and other costs, charges and expenses in respect of such assignment or transfer and shall reimburse the Trustee for any such amounts paid by it. The provisions of Clause 4.3.1 shall apply to any such assignment or transfer as if the relevant benefits or assets were Authorised Investments in which the Trustee intends to invest Cash available from the Fund.
- 3.6 The Trustee may refund any contribution made by a Member or Employer to that Member or Employer (less any negative earnings or decrease in Unit price and an amount for reasonable administration and transaction costs, including an appropriate proportion of any insurance premium paid in respect of the Member or not recoverable by the Trustee) if required by the Act or the Commissioner to make such a refund or if the Trustee determines not to accept contributions of a particular type or in particular circumstances.

- 3.7 The Trustee shall refuse to accept contributions to the Fund from persons other than the persons permitted to contribute to the Fund under the Act. The Trustee shall refuse to accept contributions where the acceptance of the contributions is contrary to the requirements of the Act. The Trustee also shall refuse to accept contributions, in respect of a Member after the Member has, for a continuous period of 2: years, not been employed or self-employed on a part-time basis or full-timeune basis, unless the contributions are made by an Employer pursuant to an industrial agreement or award or are made in lieu of the Employer paying the superannuation guarantee charge under the Guarantee Act or are made in other circumstances provided for in the Act

Spouse Contributions–splitting amounts

- 3.8 A Member may, subject to clause 3.9 and to the Act, apply after 30 June 2006 to the Trustee, in a manner approved by the Trustee, to roll over, transfer or allot an amount of benefits that is not subject to a Payment Split or to the operation of a Payment Flag, for the benefit of the Member's Spouse.

- 3.9 The application may not be in respect of an amount that exceeds the amount of the Splittable Contributions made by, for, or on behalf of the Member in:

- (a) the last financial year that ended before the application; or
- (b) the financial year in which the application is made – where the Member's entire Benefit is to be rolled over or transferred in that year,

and may not be in respect of an amount that exceeds the Maximum Splittable Amount.

- 3.10 The Trustee may accept an application made pursuant to clause 3.8 in its absolute discretion, including after the application of any conditions it considers appropriate, subject to the Act. If the Trustee accepts an application it must implement it in accordance with the Act.

CHAPTER 4 THE FUND

4A.1 Divisions

The Fund shall consist of one or more Divisions. Until the Trustee determines otherwise, there shall be one Division. A Division shall be administered in accordance with this Deed and any Schedules to this Deed. The assets of a Division shall be vested in and held by the Trustee upon trust, in accordance with the Deed.

4A.2 New Divisions

The Trustee may establish a new Division by executing a document constituting the new Division and containing the following particulars:

- (a) the name of the new Division;
- (b) the rules for the new Division; and
- (c) such other matters as the Trustee may specify, including the remuneration of the Trustee,

and the new Division shall be constituted on the date specified in the document.

In addition, the Trustee may determine that an existing Division shall consist of two or more subdivisions, whether or not that Division previously had any subdivisions.

4A.3 Division Assets

In respect of each Division (but not the subdivisions, if any, of a Division), the Trustee shall:

- (a) apportion the assets, the liabilities, the income and the outgoings of the Fund amongst the Divisions in the proportions that the Trustee considers to be appropriate; and
- (b) determine the benefits and entitlements of a Participant of that Division as if the assets, liabilities, income and outgoings of that Division were the only assets, liabilities, income and outgoings of the Fund and the Participants in that Division were the only Participants of the Fund,

and for this purpose, the Trustee shall cause separate accounts, registers and other records of the Participants to be established in respect of each Division.

4A.4 One Trust Fund

For the avoidance of doubt and despite any new Divisions being created pursuant to Clause 4A.2:

- (a) the Fund constitutes one trust fund;
- (b) all amendments to the Deed made to comply with statutory requirements, or that are made to enable the Fund to be more efficiently or effectively administered or managed, shall prevail over any inconsistent provisions in the rules for a new Division established under Clause 4A.2; and
- (c) paragraph (b) of this Clause shall apply despite any other provision of this Deed or requirement to the contrary.

4B.1 Sub-Trusts

An Existing Trust may become a Sub-Trust of the Fund in accordance with this clause 4B.

4B.2 Pre-conditions for an Existing Trust to become a Sub-Trust

An Existing Trust will become a Sub-Trust of the Fund if and only if all of the following have taken place:

- (a) the Trustee has amended this Deed in accordance with **clause 4B.3** to add a Sub-Trust Schedule in relation to the Existing Trust; and
- (b) the Trustee has been duly appointed as the sole trustee of the Existing Trust; and
- (c) the Trustee in its capacity as trustee of the Existing Trust, has duly amended the Existing Trust Deed so that the Existing Trust will be governed by the terms of this Deed; .and
- (d) the Trustee in its capacity as trustee of the Existing Trust has declared that the Existing Trust will be a Sub-Trust of the Fund

4B.3 Schedules to the Deed in respect of Sub-Trusts

Without limiting clause 6.15 of this Deed, the Trustee may from time to time amend this Deed by adding a Sub-Trust Schedule as a schedule to this Deed.

A Sub-Trust Schedule shall specify:

- (a) that it is the Sub-Trust Schedule in relation to a particular Existing Trust;
- (b) the name of the new Sub-Trust;
- (c) the governing rules of the new Sub-Trust; and
- (d) such other matters as the Trustee may specify.

4B.4 Exclusive application of schedules to particular Sub-Trusts

- (a) The rights, benefits and entitlements applicable to members of a Sub-Trust will be determined in accordance with the corresponding Sub-Trust Schedule to the exclusion of all other provisions of this Deed.
- (b) The powers and duties of the Trustee in respect of a Sub-Trust will be determined in accordance with the corresponding Sub-Trust Schedule to the exclusion of all other provisions of this Deed.

- (c) Without limiting **clause 4B.4(a)** and **(b)**, a Sub-Trust will in all respects be governed by the corresponding Sub-Trust Schedule to the exclusion of all other provisions of this Deed.

4B.5 Sub-Trust Assets

The Trustee shall:

- (a) keep the assets, the liabilities, the income and the outgoings of each Sub-Trust separate to the assets, the liabilities, the income and the outgoings of the Fund and each other Sub-Trust; and
- (b) determine the benefits and entitlements of a member of that Sub-Trust as if the assets, liabilities, income and outgoings of that Sub-Trust were the only assets, liabilities, income and outgoings of the Fund and the members in that Sub-Trust were the only members of the Fund,

and for this purpose, the Trustee shall cause accounts, registers and other records of members to be established in respect of the Fund and each Sub-Trust.

Without limiting any other provision of this document or any principle of law or equity, if the Trustee incurs a liability in its capacity as Trustee of, or which is solely for the benefit of or otherwise relates solely to, the Fund or any Sub-Trust (each of which is, in this clause 4B.6, included in the expression "Trust") the Trustee is not entitled to reimburse itself from the assets of, or be indemnified by the members or other beneficiaries of; any other Trust in respect of that liability. Nothing in this clause 4B.6 is to be taken to imply that members or other beneficiaries of the Fund or any Sub-Trust are obliged to indemnify the Trustee.

4B.6 Definitions

In this **clause 4B**:

"**Existing Trust**" means a duly constituted and existing trust.

"**Existing Trust Deed**" means the trust deed of an Existing Trust.

"**Sub-Trust**" means an Existing Trust which has become a Sub-Trust pursuant to this **clause 4B**.

"**Sub-Trust Schedule**" means in relation to an Existing Trust and the related Sub-Trust, a schedule added to this Deed in accordance with **clause 4B.3** which specifies that it is the Sub-Trust Schedule in relation to the relevant Existing Trust

Constitution of the Fund

- 4.1 (i) The Trustee is hereby expressly appointed as Trustee of the Fund for the Members on the terms and conditions herein contained and subject to the provisions of Clauses 6.8 and 7.1 shall retain the Fund vested in it in safe custody and hold it as Trustee for the Members upon the terms of this Deed as they apply to the Fund.
- (ii) The Fund shall consist of all the Cash and Authorised Investments for the time being held by the Trustee upon the trusts of this Clause including:
- (a) the proceeds of sale of any Authorised Investments; and
 - (b) all additions or accretions (if any) thereto which may arise by any interest, premium, dividend distribution or otherwise received and for the time being retained,
- EXCEPT THAT any application monies received by the Trustee pursuant to Clause 6.9(ix) shall not form part of the Fund.
- (iii) The Fund shall be vested in and held upon trust by the Trustee for the Members subject to the terms and conditions of this Deed as they apply to the Fund.
- (iv) A Member shall be entitled as herein provided to a beneficial interest in the Fund but such interest shall not entitle the Member other than as herein provided:
- (a) to interfere with the rights or powers of the Trustee in its dealings with the Fund or any part thereof;
 - (b) to exercise any rights powers or privileges in respect of any Authorised Investments of the Fund; or
 - (c) to any interest in any particular part of or particular investment of the Fund.
- (v) The Fund is to be known as "LifeTrack", a division of the IOOF Portfolio Services Superannuation Fund.
- (vi) The Trustee of the Fund shall always be a Constitutional Corporation.

Valuation of the Fund

- 4.2 (i) The Trustee shall cause the value of the Fund and of each Authorised Investment Fund (rounded downwards to the nearest dollar) to be determined as at the Commencement Date and as at the last Working Day of each month and also whenever in its opinion it is necessary or desirable so to do for the proper administration of the Fund.
- (ii) In causing the value of the Fund and of each Authorised Investment Fund to be determined the Trustee shall obtain a valuation of all the Authorised Investments of the Fund and of each Authorised Investment Fund at the relevant Valuation Date by an Approved Valuer and shall add to the value of the Authorised Investments as so determined any Cash in the hands of the Trustee in respect of the Fund and each of Authorised Investment Fund and all monies recoverable or receivable by the Trustee in respect of the Fund and of each Authorised Investment Fund less all sums owing by the Fund and by each Authorised Investment Fund on any account including any charges or expenses accrued or unpaid.
- (iii) The Trustee shall cause the value of the Fund and of Each Authorised Investment Fund to be determined where it has reason to believe that there has been a significant change in the value of any real property held in the Fund.
- (iv) The calculation made by the Trustee in accordance with sub-Clause (i) shall be the value of the Fund and of each Authorised Investment Fund for the period commencing on the Valuation Date and ending on the day immediately prior to the next Valuation Date and shall be final and binding on all persons.
- (v) Where any asset of the Fund or of any Authorised Investment Fund required to be taken into account in ascertaining the value of the Fund or of an Authorised Investment Fund is denominated in a foreign currency the value of the same shall be calculated by converting its value into Australian dollars by such conversion method as the Trustee may, from time to time, agree with the Auditor.
- (vi) The value of an interest under a Futures Contract shall be the net profit or loss (after allowing for deposits, margin calls, costs and other disbursements in respect of the acquisition or disposal of the Futures Contract as estimated by the Trustee) which would have been realised in respect of the Futures Contract by executing a transaction at the official closing market quotation of the relevant Recognised Market on that day in respect of Futures Contracts of the specification of the Futures Contract being valued so as to eliminate

the interest held by the Futures Contract from the investments of the Fund or of each Authorised Investment Fund in accordance with the business rules of the relevant Recognised Market.

Investment of the Fund

- 4.3.1 (i) The Trustee may hold such percentage as it determines of a Member's benefit in Cash. Subject to the foregoing and to the Act, and provided investments are made on an arm's-length basis, the Trustee may, at any time and in its absolute discretion, arrange for the investment of any remaining Cash constituting or available from the Fund for the acquisition, lease or sale of Authorised Investments. Without limiting the generality of the foregoing, such investments may include any extensions, additions or alterations to any Authorised Investments already forming part of the Fund and the erection and installation of buildings, improvements, fixtures or fittings on land already forming part of the Fund or to be acquired as Authorised Investments (such erection and installation as aforesaid being hereinafter referred to as "the erection of new improvements").
- (ii) Subject to paragraph (c), the Trustee must obtain a valuation of an intended investment by an Approved Valuer where the investment entails:
- (a) the purchase of or leasing of land or investment in the mortgage or the purchase of unlisted preference or ordinary shares or unlisted Debentures of any Company. Such valuation, in the case of shares which are not listed on a stock exchange, must be on the basis of the net asset backing as shown in the last audited consolidated balance sheet of that Company and its subsidiaries, subject only to such adjustments as the Approved Valuer in its discretion considers necessary; or
 - (b) extensions, additions or alterations to existing Authorised Investments or the erection of new improvements, provided that a commercial appraisal will be a sufficient substitute for a valuation; but
 - (c) such valuations need only be obtained where they are necessary to ensure that the limitations imposed by this Deed upon the Trustee's investment power are not exceeded.
- (iii) The Trustee shall not acquire assets from Members or relatives of Members except in the circumstances permitted under the Act.

- (iv) The Trustee shall, from time to time, formulate and give effect to an investment strategy in accordance with the requirements of the Act. Such strategy shall have regard to the whole of the circumstances of the Fund including, but not limited to, the following.:
 - (a) the risk involved in making, holding and realising, and the likely return from, the Fund's investments having regard to its objectives and its expected cashflow 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;
 - (d) the ability of the Fund to discharge its existing and prospective liabilities.

- (v) Where an intended investment entails extensions, additions or alterations to existing Authorised Investments or the erection of new improvements the Trustee may, in its discretion:
 - (a) engage any person to plan, control, co-ordinate and erect the carrying out of such works or to perform any one or more of such functions;
 - (b) appoint any duly qualified person or persons to report to the Trustee on the progress and completion of such extensions, additions and alterations to existing Authorised Investments and/or the erection of new improvements;
 - (c) subject to its being satisfied that the terms thereof are not prejudicial to the interests of Members or Employers, award the contract for the carrying out of such works to any person or persons. Every such engagement or contract shall, if the Trustee so requires, include provision for the making of progress payments for services rendered or work performed or goods or materials supplied thereunder.

- (vi) If the Trustee appoints or has appointed an investment manager for the Fund or any part of it, the investment manager must be a body corporate, and the agreement with the investment manager must be in writing and contain provisions which comply with the Act.

- (vii) The Trustee shall not give a charge over, or in relation to, an asset of the Fund except in the circumstances permitted under the Act.
 - (viii) Neither the Trustee nor any investment manager appointed may lend money of the Fund or give any other financial assistance using the resources of the Fund, to a Member or a relative of a Member of the Fund.
- 4.3.2
 - (i) The cost of acquisition or sale of any Authorised Investment (including stamp duty, brokerage and commission) shall be paid by the Trustee out of the Fund.
 - (ii) Notwithstanding anything else in this Deed contained the Trustee covenants that it shall not invest or cause to be invested the Fund or any part thereof in any investments which are of a type which the Commissioner has indicated are not acceptable or appropriate investments for a complying superannuation fund (as defined in the Act).
 - (iii) Notwithstanding anything else in this Deed contained the Trustee covenants that it shall not invest or cause to be invested any assets of the Fund in the purchase or leasing of any real property ("the proposed investment") if immediately following the acquisition of the proposed investment the value of that part of the Fund (as determined for the purpose of determining the Value of the Fund on the last Valuation Date) which immediately prior to that acquisition consisted of any freehold or leasehold interest in real property together with the cost of acquisition of the proposed investment would equal 20% or more of the Value of the Fund as at the date of the acquisition.
 - (iv) The Trustee covenants that any investments made in respect of the Fund pursuant to Clause 4.3.1(i) will be limited to Authorised Investment Fund Assets.
- 4.3.3
 - (i) Whenever the Trustee makes an investment or a group of investments there shall be created an Authorised Investment Fund comprising that investment or group of investments.
 - (ii) The Authorised Investment Fund shall be given a name fairly reflecting the investment policy of the investment or group of investments and which distinguishes the Authorised Investment Fund from other Authorised Investment Funds.
 - (iii) The Trustee may, at any time, change the name of an Authorised Investment Fund.

Unitisation of an Authorised Investment Fund

- 4.3A.1 The Trustee may divide the interests in one or more Authorised Investment Funds into Units.
- 4.3A.2 If a Trustee divides an Authorised Investment Fund into Units under clause 4.3A.1, the Units in each Authorised Investment Fund will be a separate Class of Units from the Units in another Authorised Investment Fund. The Trustee may also decide to divide an Authorised Investment Fund into one or more Classes of Units, in which event the Units and Classes of Units of the relevant Authorised Investment Fund will carry such rights and entitlements, including a Unit pricing mechanism, as determined by the Trustee.
- 4.3A.3 Each Unit of a Class shall:
- (a) represent an undivided interest in the Authorised Investment Fund referable to that Class of Units that shall be equal to that conferred by every other Unit of that Class; and
 - (b) have an equal Unit Value to each other Unit of that Class.
- 4.3A.4 Subject to this Deed, each Unit of a Class of Units shall rank *pari passu* with all other Units of the Class.
- 4.3A.5 The Trustee shall not issue any certificates for Units.
- 4.3A.6 The Trustee may allocate parts of Units. A part of a Unit has rights appropriate to the proportion of the Unit.
- 4.3A.7 The Trustee may consolidate or divide an Authorised Investment Fund into any number of Units but the consolidation or division must not affect the relativity between the Members' interest in the Authorised Investment Fund.

Allocation of Units

- 4.3A.8 When the Trustee receives contributions from a Member or Employer, the Trustee will allocate to the Member's Individual Account Units in the relevant Class in accordance with the Plan Specifications applicable to that Member.
- 4.3A.9 The number of additional Units of a Class that are allocated shall be the number determined by dividing the contribution or the amount transferred from another Authorised Investment Fund by the current Issue Price for that Class at the time the investment is processed.

Issue Price

4.3A.11 The Issue Price of a Unit in an Authorised Investment Fund which is to apply for a period determined by the Trustee is:

$$(V + ITC)/U$$

where:

V = the Value of the Authorised Investment Fund determined under clause 4.2 of this Deed and applicable for the period;

ITC = the Trustee's estimate of the transaction costs which would have been incurred if all the assets of the Authorised Investment Fund had been purchased or acquired;

U = the number of Units in issue in the Authorised Investment Fund.

Cancellation of Units

4.3A.12 When the Trustee transfers an amount out of an Authorised Investment Fund under this Deed, the Trustee will cancel the number of Units which is equal to the amount to be paid out of each Authorised Investment Fund divided by the Withdrawal Price of the Units in that Authorised Investment Fund.

Withdrawal Price

4.3A.13 The Withdrawal Price of the Units in an Authorised Investment Fund is:

$$(V - WTC)/U$$

where:

V = the Value of the Authorised Investment Fund determined under clause 4.2 of this Deed and applicable for the period;

WTC = the Trustee's estimate of the transaction costs which would have been incurred if all the assets of the Authorised Investment Fund had been sold or disposed of;

U = the number of Units in issue in the Authorised Investment Fund.

Rounding

4.3A.14 The amounts in Clauses 4.3A.11 and 4.3A.13 may be rounded as the Trustee considers appropriate.

Time of Unit price determinations

4.3A.15 The Issue Price and Withdrawal Price of Units in an Authorised Investment Fund may be determined by the Trustee at any time (including more than once a day) and must be determined by the Trustee at least once each month.

Time during which prices are to apply

4.3A.16 The Issue Price and the Withdrawal Price calculated under this clause will apply for the period of time that the Trustee determines.

Unforeseen circumstances

4.3A.17 If in the opinion of the Trustee:

- (a) it is impracticable for it to calculate the Value of an Authorised Investment Fund because of the closure of a securities or other exchange or trading restriction on a securities or other exchange, or because of the existence of an emergency or other similar state of affairs or because of an event outside the reasonable control of the Trustee, or because of the requirements of any law; or
- (b) there would be insufficient cash retained in the assets of an Authorised Investment Fund after paying an amount out of the Authorised Investment Fund to meet other liabilities of the Authorised Investment Fund and in its opinion it is not in the interests of Members for any assets of the Authorised Investment Fund to be sold; or
- (c) sufficient assets of an Authorised Investment Fund cannot be realised at an appropriate price or on adequate terms or otherwise due to one or more circumstances outside the control of the Trustee; or
- (d) the Trustee has taken all reasonable steps to realise sufficient assets of an Authorised Investment Fund in order to be able to pay an amount out of the Authorised Investment Fund and is unable to do so due to one or more circumstances outside its control such as restricted or suspended trading in the market for an asset of the Authorised Investment Fund; or
- (e) it is appropriate to suspend the allocation of Units or cancellation of Units for a period of time;

then, the Trustee may suspend the allocation of Units (under clauses 4.3A.8 and 4.3A.9) and cancellation of Units (under clause 4.3A.12) for such period as the Trustee determines.

Investment Register

4.4 (i) The Trustee shall keep in respect of the Fund separate registers of all Authorised Investments of the Fund comprising the Authorised

Investment Funds showing in respect of each Authorised Investment:

- (a) the nature of the Authorised Investment;
 - (b) the date of acquisition thereof by the Fund; and
 - (c) the cost thereof.
- (ii) The register kept pursuant to sub-Clause (1) of this Clause shall be available for inspection by Members without charge at any time on any Working Day.

Income of the Fund

4.5 (a) **For the purposes of this Clause:**

- (i) "Income Calculation Date" means the last Working Day of each Income Calculation Period.
- (ii) "Income Calculation Period" means in the case of the first Income Calculation Period the period from the Commencement Date up to and including the last Working Day of the month of June, 1987 (or such other date as the Trustee may from time to time determine) and in the case of each subsequent Income Calculation Period, the period of twelve (12) months (or such period as the Trustee may from time to time determine) commencing on the day following the last day of the preceding Income Calculation Period. The Income Calculation Period determined by the Trustee in respect of any particular reference in the Deed may be different from another reference.
- (iii) "Income" means in respect of an Income Calculation Period:
 - (a) the total of all the income, earnings or other gains received or receivable with respect to the Fund during that Income Calculation Period;
 - (b) any unrealised gains or losses accrued during that Income Calculation Period; and
 - (c) the amount, if any, by which the Net Proceeds of Sale of any Authorised Investment sold, redeemed or realised during that Income Calculation Period exceeds the cost of that Authorised Investment or where that Authorised

Investment has been valued hereunder since its acquisition the value thereof as at the previous Income Calculation Date together with any income accrued thereon but unpaid on the date of sale redemption or realisation.

- (iv) "Net Income" means in respect of an Income Calculation Period the amount (whether positive or negative) calculated by adding to the Income for that Income Calculation Period any amounts transferred from the Investment Fluctuation Reserve and the General Reserve in accordance with Clause 4.8 in that Income Calculation Period and by deducting from that sum the following:
 - (a) all expenses, costs, commissions, fees, taxes (including financial institutions duties, debits taxes) land taxes and income and capital gains taxes, insurance premiums and other proper outgoings which have been properly paid out of the Fund or which have become payable out of the Fund but are unpaid during the relevant Income Calculation Period and which have not been debited to the Member's Individual Accounts, Individual Pension Accounts and Participating Employer's Plan Accounts in accordance with Clauses 4.11 and 4.12; and
 - (b) where the cost of Authorised Investments plus income referred to in sub-paragraph (iii)(b) of this Clause exceeds the Net Proceeds of Sale of those Authorised Investments, the whole of that excess.
 - (v) "Net proceeds of sale" in relation to an Authorised Investment, means the proceeds of sale or realisation or redemption of that Authorised Investment after deduction of all costs and expenses necessarily incurred in connection with that sale realisation or redemption.
- (b) Within 28 days of each Income Calculation Date, the Trustee shall calculate.:
- (i) the Net Income of the Fund during the Income Calculation Period within which that Income Calculation Date falls;
 - (ii) the amount of the Net Income to be transferred to the:

- Investment Fluctuation Reserve

- Mortality Fluctuation Reserve
 - General Reserve
 - Pension Benefit Account;
- (iii) the entitlement at that Income Calculation Date of each Member's:
- Individual Account
 - Account in the Forfeited Benefits Register
 - Account in the Suspended Benefits Register.
- (c) If on any Income Calculation Date the Trustee decides to write-off (wholly or partially) the value of an Authorised Investment, then the amount so written-off shall be treated as an outgoing of the Fund during the Income Calculation Period in which that Income Calculation Date falls.
- (d) The Trustee shall be entitled to deduct from the Individual Account of any Member the amount of any tax levy or duty which the Trustee is required by or entitled at law to deduct therefrom.
- (e) The Trustee hereby covenants with the intention that the benefit of this covenant shall ensure to the benefit of all Members, Dependants and Employers that it shall transfer or cause to be transferred the Net Income between the various Accounts and Reserves in accordance with its calculations under paragraph (b) of this Clause.
- (f) (i) Notwithstanding anything else in this Deed contained, for the purpose of paying any of the amounts referred to in Clauses 4.5(a)(iv), 4.11(c)(vi), 4.11(d)(v) and 41.2(vi), the Trustee shall be entitled to pay those amounts from any of the proceeds of realised assets from any Authorised Investment Fund that the obligation to pay any such amounts was incurred in respect of assets forming the whole or part of the other of those categories of assets.
- (ii) The Trustee in exercising its discretion in accordance with paragraph (i) and in all cases shall ensure:
- (a) If the amount payable is attributable to any Authorised Investment Fund the payment shall be recorded in the accounts and registers of the

Authorised Investment Fund to which it relates;
and

- (b) If the amount payable is not attributable to any Authorised Investment Fund the payment shall be recorded in the ' accounts and registers of each Authorised Investment Fund and shall be apportioned between the Authorised Investment Funds and/or the income in the proportions of the respective values of each Authorised Investment Fund as they bear to each other.

Borrowing Power

- 4.6 Subject to Clause 6.8(ee) the Trustee shall have the power to borrow or raise money only for the purposes and in the circumstances permitted by the Act, and only up to ten per cent (10 %) (or such other percentage permitted by the Act) of the value of the Fund as at the time at which the borrowing or raising of money is made and may secure the repayment thereof by charge or mortgage over all or any of the assets or property comprised in the Fund or in such other manner as it thinks fit PROVIDED THAT such borrowing or raising of money is in accordance with the requirements of the Act.

Reserve Accounts

- 4.7 The Trustee shall establish and maintain in respect of the Fund the following Reserve Accounts:

- (i) Investment Fluctuation Reserve,
- (ii) Mortality Fluctuation Reserve, and
- (iii) General Reserve, which may include such sub-accounts as the Trustee determines necessary,

and the Trustee shall determine for each Reserve Account the respective portions thereof included in each Authorised Investment Fund which determination shall, if the Trustee so requires, be in accordance with the advice of an Actuary.

- 4.8 (a) The Trustee may transfer or cause to be transferred the whole or any part of the Net Income for any Income Calculation Period to the Investment Fluctuation Reserve in order to avoid excessive fluctuations in Income between Income Calculation Periods and the Trustee may in any Income Calculation Period transfer part or all of

the Investment Fluctuation Reserve to the Income for that Income Calculation Period.

- (b) The Trustee, after receiving the advice of an Actuary so to do may transfer part or all of the Individual Account for any one or more of the Members, the Pension Benefit Account, contributions to the Fund or Net Income to the Mortality Fluctuation Reserve in order to ensure that any liability of the Fund arising as a result (whether directly or indirectly) of the death or the Permanent Disablement or the Temporary Disablement of a Member which is not fully insured with an Insurer is adequately covered by the Fund and the Trustee, after receiving the advice of an Actuary so to do may transfer part or all of the Mortality Fluctuation Reserve to the Individual Account of one or more of the Members, the Pension Benefit Account or Net Income.

- (c) The Trustee may:
 - (i) transfer or cause to be transferred the whole or any part of the Net Income for any Income Calculation Period to the General Reserve. The Trustee may in any Income Calculation Period transfer part or all of the General Reserve to the Income for that Income Calculation Period;

 - (ii) record and hold in the General Reserve Account amounts identified as expenses, costs, commissions, fees (including the Adviser Service Fee), taxes (including financial institution duties and debits taxes), land taxes and income and capital gains taxes, insurance premiums and other proper outgoings which have become payable out of the Fund but are unpaid. The Trustee may use part or all of the General Reserve to make payments in respect of such amounts in order to discharge Fund liabilities;

 - (iii) record and hold in the General Reserve Account amounts identified as the costs of death and/or permanent disablement and/or temporary disablement benefits. The Trustee may use part or all of the General Reserve to discharge the Fund's liabilities in respect of death and/or permanent disablement and/or temporary disablement benefits; and

 - (iv) record, hold and apply in the General Reserve such other amounts as the Trustee deems appropriate.

- (d) The Trustee shall formulate from time to time and give effect to a strategy for the prudential management of the Reserve Accounts in accordance with the requirements of the Act.

Pension Benefit Account

4.9 (a) The Trustee shall establish and maintain a Pension Benefit Account in respect of the Fund which shall not be allocated between Members and shall record in relation thereto promptly after the close of each Income Calculation Period:

(A) the accrual of -

- (i) any amounts transferred from the Members' Individual Accounts, and
- (ii) any annuity payments received from any annuity policy effected by the Trustee, and
- (iii) any allocations from the Forfeited Benefits Register in accordance with Clause 5.27, and
- (iv) any transfers from a Reserve Account in accordance with Clause 4.8(b), and
- (v) any transfers from the Net Income in accordance with Clause 4.5(b), and

(B) the deduction of -

- (vi) each of the pensions paid by the Fund from the Pension Benefit Account, and
- (vii) the cost of any annuity policies effected by the Trustee, and
- (viii) any transfers to a Reserve Account in accordance with Clause 4.8, and
- (ix) any transfers to the Net Income in accordance with Clause 4.5(b),

and the Trustee shall determine the respective portions of the Pension Benefit Account included in each Authorised Investment Fund which determination may, if the Trustee so chooses, be in accordance with the advice of an Actuary.

(b) Should a Member become entitled to a benefit from the Fund and part or all of that benefit is to be a pension benefit then the Trustee shall invite that Member to elect in writing on a form provided by

the Trustee for that purpose whether the pension benefit shall be paid from his Individual Pension Account (payable while there is a credit balance) or from the Pension Benefit Account (payable for his life in accordance with Chapter 5).

- (c) Should a Member choose his pension benefit to be payable from the Pension Benefit Account, that part of the Member's Individual Account that is equivalent in value to the pension benefit (determined by the Trustee in accordance with normal actuarial principles) must be credited to the Pension Benefit Account and deducted from the Member's Accrued Benefit as defined in Clause 4.11.
- (d) Should a Member choose his pension benefit to be payable from his Individual Pension Account, that part of the Member's Individual Account that is equivalent in value to the pension benefit (determined by the Trustee in accordance with normal actuarial principles) must be credited to the Individual Pension Account and deducted from the Member's Accrued Benefit as defined in Clause 4.11.

Fund Account

- 4.10 The Trustee shall establish and maintain in respect of the Fund a Fund Account in which shall be recorded:
- (a) the total annual contributions by the Members;
 - (b) the total annual contributions by the Employers;
 - (c) the total interest, dividends and other proceeds arising from any investment of the Fund;
 - (d) the total expenses incurred in operating the Fund;
 - (e) payments from any insurance policy relating to the Fund;
 - (f) the amount (if any) of the Investment Fluctuation Reserve;
 - (g) the amount (if any) of the Mortality Fluctuation Reserve;
 - (h) the amount (if any) of the General Reserve;
 - (i) the amount (if any) of the Pension Benefit Account; and
 - (j) the Fund assets.

Member's Individual Account

- 4.11 (a) The Trustee shall establish and maintain an Individual Account for each Member of the Fund which shall record the following:
- (i) the Accrued Benefit as hereinafter defined,
 - (ii) the Employee-Financed Benefit, and
 - (iii) the Employer-Financed Vested Benefit, and
 - (iv) the Preserved Benefit, and
 - (v) the amounts (if any) transferred to the Pension Benefit Account,
 - (vi) the Individual Pension Account (if any) as hereinafter defined, and
 - (vii) the number of Units held in each Authorised Investment Fund,

and the respective numbers of Units held in the Individual Account in each Authorised Investment Fund shall be in accordance with the respective proportion of the Individual Account required to be invested in each Authorised Investment Fund under the Plan Specifications applicable to that Member

- (b) Deleted.
- (c) For the purpose of this Deed, Accrued Benefit shall mean the aggregate of:
- (i) the contributions by the Member, plus
 - (ii) the contributions by any employer of the Member, plus
 - (iii) any transfers from a Reserve Account in accordance with Clause 4.8, plus
 - (iv) any transfers in accordance with Clause 2.6, plus:
 - (v) any allocations from the Forfeited Benefits Register in accordance with Clause 5.27, plus
 - (vi) Amounts that are Contributions-Splitting ETPs to the Member.

less the aggregate of:

- (vii) the proportion of all expenses, costs, commissions, fees (including the Adviser Service Fee), Taxes, insurance premiums and other proper outgoings which the Trustee determines to be attributable to the Member's Individual Account; and
- (viii) the cost of the death and/or permanent disablement and . or temporary disablement benefits (as determined by the Trustee); and
- (ix) the amounts of any retirement and/or death and/or Permanent Disablement and/or Temporary Disablement pension benefit paid to the Member; and
- (x) any transfer to a Reserve Account in accordance with Clause 4.8;
- (xi) Amounts that are Contributions-Splitting ETPs from the Member.

during the period of Fund Service, increased or decreased by the Fund Earning Rate for each Authorised Investment Fund (if applicable) for each Income Calculation Period by applying that rate to the respective portions of the Member's Individual Account invested in each Authorised Investment Fund.

(d) For the purpose of the Fund, Individual Pension Account shall mean the aggregate of:

- (i) any transfer from the Accrued Benefit of the Member, plus
- (ii) Deleted.
- (iii) any transfers from a Reserve Account in accordance with Clause 4.8, plus
- (iv) any allocations from the Forfeited Benefits Register in accordance with Clause 5.27,

less the aggregate of:

- (v) the proportion of all expenses, costs, commissions, fees, Taxes, insurance premiums and other proper outgoings which the Trustee determines to be attributable to the Member's Individual Pension Account; and

- (vi) the amount of the pension benefit paid to the Member or his Dependents in accordance with Chapter 5, and
- (vii) any transfers to a Reserve Account in accordance with Clause 4.8

during the period of entitlement to a pension benefit under this Deed, increased or decreased by the Fund Earning Rate for each Authorised Investment Fund (as applicable) for each Income Calculation Period by applying that rate to the respective portions of the Member's Individual Account invested in each Authorised Investment Fund.

Participating Employer's Plan Account

4.12 The Trustee shall establish and maintain an Employer's Plan Account for each Employer participating in the Fund which shall record the following:

- (i) total contributions by the Employer;
- (ii) total contributions by the Employer's employees who are Members;
- (iii) any transfer from any other superannuation fund established by the Employer;
- (iv) any payments arising from any Insured Benefits in respect of Members who were Employees of the Employer;
- (v) any allocations of forfeited benefits in accordance with Clause 5.27;
- (vi) the proportion of all expenses, costs, commissions, fees, Taxes, insurance premiums and other proper outgoings which the Trustee determines to be attributable to the Employer's Account;
- (vii) benefit payments to Members who are the Employer's employees; and
- (viii) the total cost of the death and/or permanent disablement and or temporary disablement benefits (as determined by the Trustee)

during the period the Employer is participating in the Fund, increased or decreased by the Fund Earning Rate each Income Calculation Period.

Forfeited Benefits Register

4.13 The Trustee shall establish and maintain a Forfeited Benefits Register in respect of the Fund and shall record:

- (a) for a particular Member,
 - (i) the amount of benefit forfeited as increased or decreased promptly after the close of each Income Calculation Period by the Trustee applying generally accepted actuarial principles and having regard to the Fund Earning Rate for the most recently expired Income Calculation Period, and
 - (ii) the manner in which the Trustee has applied the whole or any part of such forfeited amount (increased or decreased as aforesaid) in accordance with Clause 5.27, and
- (b) for the Employer of a Member who forfeits any benefits
 - (i) the amount of the total benefits forfeited in a Fund Year, and
 - (ii) the manner in which the Trustee has applied the amount of the total forfeited benefits in accordance with Clause 5.27.

Suspended Benefits Register

4.14 The Trustee shall establish and maintain a Suspended Benefits Register in respect of the Fund and shall record:

- (a) for a particular Member,
 - (i) the amount of any benefit suspended pursuant to Clause 2.10(a) as increased or decreased promptly after the close of each Income Calculation Period by the Trustee applying generally accepted actuarial principles and having regard to the Fund Earning Rate for the most recently applied Income Calculation Period, and
 - (ii) the manner in which the Trustee has applied the whole or any part of such amount (increased or decreased as aforesaid) in accordance with Clause 5.28, and
- (b) for the Employer of any Member whose benefits are suspended as aforesaid,
 - (i) the amount of the total benefits suspended in a Fund Year, and
 - (ii) the manner in which the Trustee has applied the amount of the total suspended benefits in accordance with Clause 5.28,

and the Trustee shall determine the respective portions of the Suspended Benefits Register invested in each Authorised Investment Fund, which determination may, if the Trustee so chooses, be in accordance with the advice of an Actuary.

Trustee's Accounts and Registers - General

4.15 The Trustee covenants (and with the intent that the benefit of this covenant shall ensure to all Members, Dependents and Employers) that it will keep true and up to date all accounts and registers which the Trustee is required to establish and maintain pursuant to Clauses 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13 and 4.14 and will properly and fully record all transfers to and from and all other dealings with and all information to be entered in those accounts and registers. In exercising its discretions and powers as contemplated in the definitions of "Fund Earning Rate", "Authorised Investment Fund", and in accordance with Clauses 4.7, 4.9(a) and 4.14 the Trustee shall act in the utmost good faith having regard to the interests of all Members.

CHAPTER 5 BENEFIT ENTITLEMENT

5A Where the Benefit Entitlement of a Member under this Deed is subject to a Superannuation Agreement or Splitting Order, the Trustee shall take such action in respect of and deal with that Benefit Entitlement to give effect to the rights of the Non-member Spouse under the Superannuation Agreement or Splitting Order.

Retirement Benefit

5.1 A Member who retires on or after his Normal Retirement Date shall be entitled to a Retirement Benefit PROVIDED THAT the Preserved Benefit as recorded in the Member's Individual Account shall only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.

- 5.2
- (a) The Retirement Benefit shall be payable in the form of a lump sum Cashback Pension, Life Pension or Complying Pension as notified by the Member to the Trustee in writing and agreed by the Trustee PROVIDED THAT such Cashback Pension, Life Pension and/or Complying Pension satisfy the requirements of the Act.
 - (b) The Retirement Benefit shall be payable or commence to be payable at any time that meets the requirements of the Act, and
 - (c) The Retirement Benefit shall be of an actuarial value determined by the Trustee equivalent to the amount of the Accrued Benefit as recorded in the Member's Individual Account at the date of payment of the lump sum or transfer to the Member's Individual Pension Account or the Pension Benefit Account as the case maybe.

Death Benefit

5.3 Should a Member die before being entitled to a Retirement Benefit, a Death Benefit will be payable in accordance with Clause 5.7.

5.4 The Death Benefit shall be a benefit equal to the amount of:

- (a) the Accrued Benefit as recorded in the Member's Individual Account at the Date of Entitlement, plus
- (b) any Insured Benefit on the life of that Member.

5.5 Should a Member die while entitled to a Retirement Benefit which is a lump sum and the benefit has not been paid or transferred to the Pension Benefit Account, the Death Benefit shall be a lump sum equal to the amount to which the Member would have been entitled had he lived, payable in accordance with Clause 5.7.

5.6 (a) Should a Member die while entitled to a Deferred Benefit (as defined in Clause 5.15) (whether or not the Member has been paid part thereof) a Death Benefit shall be payable in accordance with Clause 5.7 and shall be a lump sum equal to the amount of the Accrued Benefit as recorded in the Member's Individual Account at the date of death.

A Member who is entitled to a Deferred Benefit as herein provided shall not be eligible for an Insured Benefit.

5.7 (a) If permitted by the Act, the Trustee must pay the Death Benefit of a Member for whom it holds a Binding Death Nomination or Non-Lapsing Nomination at death in accordance with the Member's Binding Death Nomination or Non-Lapsing Nomination.

(b) Where:

- (i) a member is transferred to the Fund in accordance with a successor fund transfer arrangement between the trustee of the transferor fund and the Trustee; and
- (ii) the member has given the trustee of the transferor fund a binding death benefit nomination (**Previous Nomination**) which, in the Trustee's opinion, would have complied with the Act had the Previous Nomination been given to the Trustee,

the Trustee must pay the Benefit in accordance with that Previous Nomination until the earlier of:

- (1) the expiry of 3 years after the day that the Previous Nomination was first signed or last confirmed or amended by the Member, as notified to the Trustee by the trustee of the transferor fund;
 - (2) the revocation of the Previous Nomination by the Member; or
 - (3) the provision of a valid Binding Death Benefit Nomination by the Member to the Trustee.
- (c) In the event that no Binding Death Benefit Nomination exists in relation to the Member, but a Non-Binding Nomination exists in relation to the Member, the Trustee must pay the Benefit to or for the benefit of such of the Dependants and/or the Legal Personal Representative of the deceased Member, and in such proportions, as the Trustee in its absolute discretion considers appropriate;
- (d) in the event that no Nomination exists in relation to the Member, the Trustee must pay the Benefit to the Member's Personal Representative;
- (e) Despite sub-clause (d) above, if the Trustee is aware that proceedings have been commenced for the administration of the deceased Member's estate pursuant to Part XI of the *Bankruptcy Act 1966* it must pay the Benefit to or for the benefit of such of the Dependants and/or the Legal Personal Representative of the deceased Member, and in such proportions, as the Trustee in its absolute discretion considers appropriate;
- (f) Where sub-clauses (a), (c) or (d) do not apply, because there is neither a Nomination nor a Personal Representative, subject to sub-clause (g) below, the Trustee must pay the Benefit to or for the benefit of such of the Dependants of the deceased Member and in such proportions as it in its absolute discretion considers appropriate;
- (g) For the purposes of sub-clause (f), where, after reasonable enquiries, the Trustee determines that there are no Dependants eligible to receive the Benefit the Trustee may pay a Non-dependant Benefit to one or more individuals whom the Trustee in its absolute discretion considers appropriate.

5.8 The receipt by a Dependand, the Personal Representative or other person of a Benefit or Non-dependand benefit paid under this clause shall be a complete discharge to the Trustee in respect of an amount paid to that person and the Trustee shall not be bound to see the application thereof.

Permanent Disablement Benefit

- 5.9 Should a Member retire before being entitled to a Retirement Benefit on the grounds of Permanent Disablement he shall be entitled to a Permanent Disablement Benefit.
- 5.10 The Permanent Disablement Benefit shall be a lump sum equal to the amount of:
- (a) the Accrued Benefit as recorded in the Member's Individual Account at the date of Permanent Disablement, plus
 - (b) any Insured Benefit on the life of that Member.

Temporary Disablement Benefit

- 5.11 Should a Member remain a Gainfully Employed Person but be absent from work for a period of not less than four (4) weeks on the grounds of Temporary Disablement he shall be entitled to a Temporary Disablement Benefit.
- 5.12 The Temporary Disablement Benefit shall be a pension of such amount as is specified in the Member's- Class of Membership PROVIDED THAT the amount of the said Temporary Disablement Benefit shall not exceed the Member's Salary at the date of Temporary Disablement and shall be not less than any Insured Benefit on the life of that Member and in all cases such benefits payable cease at the time the Member recovers from his Temporary Disablement and PROVIDED FURTHER THAT the said Temporary Disablement Benefit shall not be payable for in excess of two years from the date of commencement of the Temporary Disablement Benefit.

Withdrawal Benefit

- 5.13 Should the employment of a Member who is an Employee terminate before becoming entitled to a benefit under this Deed and the Member ceases to be an employee then the Member will be entitled to a Withdrawal Benefit PROVIDED THAT the Preserved Benefit shall be paid in accordance with the requirements of the Act. If the Trustee is permitted under the Act to pay a benefit to a Member who is not an employee, the Trustee may pay a Withdrawal Benefit to the Member PROVIDED THAT the Preserved Benefit shall be paid in accordance with the requirements of the Act.
- 5.14 The Withdrawal Benefit shall be a lump sum equal to the amount as determined by the Class of Membership applicable to that Member PROVIDED THAT the amount of the said Withdrawal Benefit shall not be less than the aggregate of the Employee-Financed Benefit and the Employer Financed Vested Benefit as recorded in the Member's Individual Account at the date of withdrawal and

PROVIDED FURTHER THAT the said Withdrawal Benefit shall not be greater than the Accrued Benefit as recorded in the Member's Individual Account at the date of withdrawal.

Transition to Retirement Benefit

- 5.15 If the Trustee agrees, a Member who meets the conditions under the *Superannuation Industry (Supervision) Regulations 1994* for payment of a Non-Commutable Cashback Pension, will be entitled to be paid such a pension, on the terms agreed with the Trustee.
- 5.16 The initial capital value of the pension shall not be greater than the Accrued Benefit as recorded in the Member's Individual Account at the date of commencement of the pension.

Other Form of Benefits

- 5.17 (a) The Death Benefit, Permanent Disablement Benefit and Withdrawal Benefit may be paid in one or more of the following alternate forms:
- (i) capital sum or sums at the Date of Entitlement or any later date or dates;
 - (ii) a Cashback Pension, and/or a Life Pension commencing on the Date of Entitlement or any later date; or
 - (iii) any other form of benefit payable at any time in accordance with any requirements of the Act,

PROVIDED THAT both the Trustee and the person who is entitled to the Benefit agree on the alternate form of Benefit and PROVIDED FURTHER THAT each form of Benefit is of equivalent value (as determined by the Trustee in accordance with normal actuarial principles) and PROVIDED ULTIMATELY THAT the deferral of payment of a capital sum or the last payment of capital sums or the deferred commencement of a pension is not later than the date required by the Act for that Member and that the Benefit payable to an Adult Child of a Member or to any person who is not a Dependant of a Member must be paid as a lump sum.

- (b) Where the form of benefit involves payment of the Benefit after the date of entitlement the Benefit shall be called a Deferred Benefit.

Form of Pension Death Benefits

- 5.18 (a) For a Cashback Pension that commences on or before 9 March 2004, the Member may specify in writing the form of the Death Benefit should

the Member die while in receipt of a Cashback Pension which may be payable either:

- (i) as a benefit equal to the remaining amount (if any) of the Individual Pension Account at the date of the Member's death in accordance with Clauses 5.7 and 5.8, or
- (ii) as a continuing pension to a Member's surviving nominated Dependant.

If the Member does not so specify the form in which the benefit is to be paid, the Trustee shall, in the event of the death of a Member who was entitled to a Cashback Pension, determine whether to pay a Cashback Pension to one or more of the deceased Member's Dependants. If the Trustee, in exercising its discretion, decides to pay a Cashback Pension to a deceased Member's Dependant, it shall be paid in accordance with Clause 5.17. If the Trustee decides not to pay a Cashback Pension to a Member's surviving Dependant or if the deceased Member does not have a surviving Dependant, the balance of the Member's Individual Pension Account shall be paid as a lump sum or as lump sums in accordance with Clauses 5.7 and 5.8.

In the event of the death of a Member's surviving Dependant who was in receipt of a continuing Cashback Pension the Death Benefit shall be a lump sum equal to the remaining, amount (if any) of the Individual Pension Account at the date of the Dependant's death or such other form of benefit acceptable to the Commissioner.

- (aa) For a Cashback Pension (which in this paragraph includes a Non-Commutable Cashback Pension) that commences after 9 March 2004, the Member may specify in writing that, should the Member die while in receipt of a Cashback Pension, the remaining amount (if any) of the Member's Individual Pension Account be paid either:
 - (i) as a benefit in accordance with Clauses 5.7 and 5.8, or
 - (ii) with the consent of the Trustee and subject to the Act, as a continuing pension to a Dependant nominated by the Member to receive the pension.

The Member may, with the consent of the Trustee, make changes to a specification under Clause 5.16(aa)(i) or 5.16(aa)(ii) after the commencement date for the Cashback Pension.

If the Member does not so specify the form in which the benefit is to be paid, or if the Trustee cannot act on a specification, the Trustee shall, in the event of the death of a Member who was entitled to a Cashback Pension, pay the balance of the Member's Individual Pension Account:

- (a) if there is a surviving Spouse of the Member and the Spouse agrees, as a continuing Cashback Pension to the Spouse; or
- (b) if (a) does not apply, as a lump sum or as lump sums in accordance with Clauses 5.7 and 5.8.

In the event of the death of a Member's surviving Dependant who was in receipt of a continuing Cashback Pension the amount (if any) of the Individual Pension Account may be paid as a lump sum in accordance with Clauses 5.7 and 5.8 or as a pension to the person or persons determined by the Trustee.

- (b) Prior to the date of commencing a Life Pension the Member and the Trustee must agree on the form of benefits payable on the death of the Member which may include continued payment of the pension to the end of a fixed period, or to the date of death of a surviving-spouse provided that each form of benefit meets the requirements of the Act.

Levels of Pensions

- 5.19
- (a) The initial level of a Cashback Pension (which in this Clause includes a Non-Commutable Cashback Pension) or Life Pension shall be agreed between the Member and the Trustee prior to the commencement of the said Cashback Pension or Life Pension PROVIDED THAT the initial level shall satisfy any maximum or minimum requirements of the Act.
 - (b) The level of any pension payable to a Member's surviving Dependant on the death of a Member in receipt of a Cashback Pension shall be agreed between the Trustee and the surviving Dependant PROVIDED THAT the level shall satisfy any maximum or minimum - requirements of the Act.
 - (c) The level of any pension payable to the Member's surviving spouse on the death of a Member in receipt of a Life Pension shall be agreed between the Trustee and the Member prior to the commencement of the Life Pension PROVIDED THAT such level shall satisfy any maximum or minimum requirements of the Act.
 - (d) The level of any Cashback Pension in the course of payment may be changed by the Member on any 1st July (or other date acceptable to the Trustee) PROVIDED THAT the Member notifies the Trustee in writing at least 14 days prior to the change (or such shorter period as is acceptable to the Trustee) and PROVIDED FURTHER THAT any such change is in accordance with any maximum or minimum levels of pension required by the Act.
 - (e) The level of any Life Pension in the course of payment may only be changed by agreement between the Member and the Trustee

PROVIDED THAT if the benefit is not fully insured with an Insurer the Trustee must obtain the advice of an Actuary prior to agreeing to any such change.

Maximum Pension Benefits

5.20 In accordance with the Act and at the request of a Member, the Trustee may in its absolute discretion retain all or part of any benefit payable under this Deed in the Fund until:

- (a) the Member requests that it be paid,
- (b) the Member dies, or
- (c) the Trustee elects for whatever reason to pay the benefit,

whichever occurs first, and the amount then payable shall be the balance of the Member's Individual Account at the date of payment after all credits and debits have been made PROVIDED THAT the benefit must always be paid in accordance with the Act.

Commutation of Pension

- 5.21
- (a) The person entitled to a Cashback Pension, Non-Commutable Cashback Pension or Life Pension has the sole right to commute that pension in whole or in part to an equivalent capital sum and such right to commute the pension is exercisable, subject to the provisos below, at the time at which that person first becomes entitled to the pension or any time thereafter PROVIDED ALWAYS THAT any commutation meets the requirements of the Act.
 - (b) Without limiting the proviso in paragraph (a) that any commutation must meet the requirements of the Act, no amount of a Non-Commutable Cashback Pension shall be commuted and cashed if the cashing of the commutation is prohibited by, or exceeds the amount permitted by, Part 6 and Schedule 1 of the *Superannuation Industry (Supervision) Regulations 1994* or any other requirement of the Act.
 - (c) The amount of the capital sum shall be determined by the Trustee applying generally accepted actuarial principles and without limiting the generality of that determination:
 - (i) in the case of the commutation of a Cashback Pension or Non-Commutable Cashback Pension the capital sum shall

be deducted from the Member's Individual Pension Account,
and

- (ii) in the case of the commutation of a Life Pension that is fully insured with an Insurer then the capital sum shall not exceed the commutation proceeds from such Insurer; and
- (iii) in the case of the commutation of a Life Pension that is not fully insured with an Insurer then the calculation of the capital sum shall be in accordance with the requirements of the Commissioner.

Payment of Benefits

- 5.22 (a) A Member or Dependant or the Personal Representative of a Member who wishes to claim a benefit from the Fund shall apply in writing on a form approved by the Trustee for a benefit claim and shall supply such information and evidence as the Trustee may reasonably require.
- (b) All questions as to whether any person is entitled to a payment out of the Fund and if so the amount of such payment shall be determined by the Trustee whose decision shall be final.
- (c) Where a Member Account is subject to a Payment Flag:
- (i) the Member must not apply to claim a benefit from the Fund in respect of that Account; and,
 - (ii) the Trustee cannot make a benefit payment from the Fund in respect of that Account.
- 5.23 Should the person entitled to a benefit be under the age of majority, the Trustee may pay all or part of any benefit to any other person to be held in trust for application on behalf of the person entitled to a benefit or his Dependants and the receipt of the person to whom the benefit is paid shall be a complete discharge to the Trustee for the payment in respect of the person entitled to a benefit.
- 5.24 Any benefit entitlement of the Member or his Dependants may be paid by Cash or transfer of ownership of life insurance policies as the Trustee determines. The Trustee may, with the agreement of the Member or beneficiary to whom a benefit is payable, transfer investments of the Fund of equivalent value to such Member in lieu of paying the whole or part of the amount otherwise payable under this Deed PROVIDED THAT the Trustee obtains from the Commissioner an acknowledgement that such transfer will not cause the Fund to fail to satisfy the requirements of the Act.

- 5.25 (a) Pensions shall be payable monthly unless the Trustee decides in its sole discretion that the pension shall be payable at other intervals.
- (b) The first installment of any pension shall fall due for payment on the last day of the month in which the Member becomes entitled to the pension or such other day as the Trustee decides.
- (c) The last installment of any pension payable from the Pension Benefit Account shall fall due for payment upon the last day of the month immediately preceding the date of the Member's death or if he is survived by a widow or widower, at the date of death of the said widow or widower as the case may be or such other day as the Trustee decides.
- (d) The last installment of any pension payable from the Individual Pension Account of the Member shall fall due for payment upon the last day of the month:
- (i) immediately preceding the date of the Member's death or if a pension is paid to a Member's surviving Dependant, at the date of death of the Dependant as the case may be, or
- (ii) the balance of the Individual Pension Account is less than the monthly pension that is payable (at which time the last instalment shall be the balance of the Individual Pension Account),
- whichever is the earlier.

5.26 All amounts payable hereunder shall be calculated in Australian currency according to the current rate of exchange at the date of payment.

Member's Debt

- 5.27 The Trustee may, in its absolute discretion, either on the request of an Employer or of its own motion, deduct from any payment to a Member any debt due from the Member to the Employer or the Fund on account of dishonesty, fraud or defalcation and the Trustee shall, subject to the requirements of the Act, pay the amount so deducted to the Employer or the Fund as the case may be PROVIDED THAT:
- (a) no payment shall be made to an Employer unless the requirements of the Act in relation to such payment have been met; and
- (b) the Trustee may not so deduct any debt owing from the Member to the Employer from the Employee-Financed Benefit or the Employer-Financed Vested Benefit of that Member.

Forfeiture of Benefits

- 5.28 (a) Benefits payable out of the Fund shall at the option of the Trustee be forfeited if the person otherwise entitled thereto:
- (i) assigns, alienates or charges such benefits or part thereof;
or
 - (ii) owing to mental illness requires care, treatment or control for his own good or in the public interest and is in the opinion of the Trustee for the time being incapable of managing himself or his affairs.
- (b) Subject to the provisions of the Act, the Trustee may not recognise, encourage or sanction:
- (i) any assignment of a Member's benefit; or
 - (ii) any charge over the Member's minimum benefit, preserved benefit or non-commutable income stream, as defined in the Act.

Application of Forfeited Benefits

- 5.29 Subject to the requirements of the Act, the Trustee may apply any benefits forfeited by Members or remaining in the Fund by virtue of the provisions of this Deed towards any one or more of the following purposes:
- (a) the provision of grants to one or more Members of the Fund or Dependants by way of welfare benefits, sickness, benefits or benefits to meet individual cases of hardship;
 - (b) the provision of supplementary benefits for retired Members of the Fund (including a transfer to the Pension Benefit Account);
 - (c) the provision on a reasonable basis of additional benefits for existing Members of a Fund;
 - (d) the payment of any contribution due by a Member who is suffering hardship;
 - (e) the payment of any contribution due by an Employer provided that any such application shall only be in respect of forfeited benefits of the Employees of that Employer;
 - (f) the payment of monies to the Commissioner as unclaimed monies in accordance with Clause 5.29;

- (g) any other purpose approved by the Commissioner,

PROVIDED ALWAYS THAT such forfeited benefits be applied in the following manner:

- (i) any benefit paid whilst any Member is in the service of his employer shall be paid only to alleviate hardship;
- (ii) forfeited benefits may only be applied for the benefit of Members, their Dependants and Retired Members who are or were at the date of the forfeiture or retirement, as the case may be, entitled to benefits from this Deed; and
- (iii) the benefits forfeited by a Member who is employed by an Employer shall only be applied in accordance with the beforementioned purposes for the benefit of the remaining Employees or former Employees of that Employer or their Dependants;

Application of Suspended Benefits

- 5.30 (a) Where a Member or the Employer of a Member (as the case may be) in relation to whom the payment of any benefits or pension has been suspended pursuant to Clause 2.10(a) furnishes all information requested by the Trustee in relation to that Member under that paragraph prior to those benefits or that pension becoming forfeited benefits under this Clause 5.28, the Trustee shall, subject to its covenants hereunder pay to that Member the benefit or the pension which that Member would have been entitled to be paid had the information been furnished promptly to the Trustee after request.

- (ab) Where a Member or the Employer of a Member (as the case may be) remains in default under Clause 2.10(a) for a period of twelve (12) consecutive Months the Trustee may at any time thereafter and notwithstanding any delay in so doing declare that all benefits of that Member recorded in the Suspended Benefits Register in relation to that Member are forfeited benefits whereupon those benefits shall be forfeited.

Unclaimed Money

- 5.31 The Trustee shall comply with the requirements of the Act in relation to payment of unclaimed money. If the Trustee is unable to pay a benefit because the Trustee, after making reasonable efforts to trace the person to whom the benefit is payable, is unable to do so, the Trustee shall treat the benefit as unclaimed money and pay it to the Commissioner in accordance with the requirements of the Act.

Financial Hardship

- 5.32 The Trustee may, in its absolute discretion, pay part or all of the Member's Withdrawal Benefit (calculated in accordance with Clause 5.14) to a Member who is not entitled to be paid a benefit under the balance of this Deed, if the Trustee is satisfied that the Member would suffer financial hardship if part or the whole of his benefit is not paid to him. Any such payment must first be approved by the Commissioner, if the Act so requires.

Payment of Benefit in Other Circumstances

- 5.33 The Trustee may, in its absolute discretion, pay part or all of the amount of the balance of the Member's Individual Account to a Member, or another person including the Commissioner; in the circumstances provided for in the Act, notwithstanding the restrictions imposed by this Deed.

Deduction of Income Tax from Benefit

- 5.34 The Trustee may deduct from any contribution or benefit payable the amount of any Tax that is calculated by the Trustee to be payable in respect of such benefit and shall remit any amount so deducted to the Commissioner of Taxation.

Legislative Requirements Applicable to Non-Commutable Cashback Pensions

- 5.35 (a) In the case of a pension payable as a Non-Commutable Cashback Pension this Deed is deemed to include each requirement of the Act that the rules under which a pension is provided must satisfy for the pension to be a Non-Commutable Cashback Pension, and a pension for the purposes of the Act.
- (b) To the extent that there is any inconsistency between a requirement deemed to be included in this Deed in relation to a Non-Commutable Cashback Pension by paragraph (a), and any other provision of this Deed, the relevant requirement in relation to the Non-Commutable Cashback Pension prevails.

CHAPTER 5A COMPLYING PENSION PRODUCTS

5a.1 Complying Pension Products to pay Complying Income Streams

For the purposes of this Deed, the Trustee shall ensure that all Complying Pension Products are products that pay Complying Income Streams.

5a.2 Legislative Requirements Applicable to Complying Income Streams

For the purposes of ensuring that Complying Pension Products comply with the provisions of the Act relating to assets-test exempt income streams, and notwithstanding anything to the contrary, the Trustee shall ensure that:

- (a) Complying Income Stream payments are made at least annually throughout the term of the Complying Income Stream;
- (b) The total of the Complying Income Stream payments in the first year after the Complying Income Stream payments commence (as defined by Section 9B of the Social Security Act 1993 (Cth) are those set out in the report referred to in paragraph (e) of clause 2.5 of the Group Contract;
- (c) The total amount of Complying Income Stream payments made in any year do not fall below the total amount of the Complying Income Stream payments made in the immediately preceding year (“the previous total”) and may not exceed the previous total unless:
 - (i) if paragraph (c)(ii) of this clause does not apply, by more than 5% of the previous total; or
 - (ii) if the index number for the second last quarter before the day on which the first of those payments are to be made (“the base index number”) by more than such percentage of the previous total as is worked out in accordance with the following formula:

$$\frac{[(\text{recent index number} - \text{base index number})]}{\text{base number index}} \times 100 + 1$$
- (d) as the Complying Income Stream is purchased from the Trustee, the first Complying Income Stream payment relates to the first day of the period commencing immediately following the last day of the period during which the Complying Income Stream is purchased;
- (e) the amount paid as the Purchase Price is wholly converted into the Complying Income Stream required to be paid by the Trustee;
- (f) the Complying Income Stream has no Residual Capital Value;
- (g) the Complying Income Stream is not commutable except where:
 - (i) if the commutation is made within 6 months after the commencement of the Complying Income Stream; or
 - (ii) if the payment resulting from the commutation is transferred directly to the purchase of another income stream under a contract, or the governing rules, that are consistent with the requirements of subsection 9B(2) of the Act; or
 - (iii) to the extent, necessary to cover any superannuation contributions surcharge that a Pensioner is liable to pay in his or her capacity as purchaser of a Pension;

- (h) the Complying Income Stream is not to be transferable except on the death of the Pensioner and in that event can only be transferred to a Reversionary Beneficiary or Surviving Spouse;
- (i) neither the capital value of the Complying Income Stream, nor the income from it is permitted to be used as security for a borrowing;
- (j) if the Complying Income Stream is commuted, the commuted amount is not to be greater than the benefit that was payable immediately before the commutation;
- (k) the Term of the Complying Income Stream is not less than the member's Life Expectancy at the time of purchase of the Complying Income Stream. Where a member's Life Expectancy at the time of purchase exceeds 15 years, the member may choose any term of 15 years or more, up to a maximum of the Pensioner's Life Expectancy (rounded up to the next whole year); and
- (l) the Complying Income stream must be purchased from superannuation benefits (or new eligible contributions), at or after reaching age pension or service pension age.

5a.3 Flexible Complying Income Streams

- (a) The Trustee shall set aside the amount nominated as the Top Up Reserve Component of any Flexible Complying Income Stream for investment in accordance with Clause 5a.4.

5a.4 Application of Top Up Reserve Component

- (a) Subject to clause 5a.5, the balance of the Top Up Reserve Component maintained in respect of a Flexible Complying Income Stream shall only be used by the Trustee to fund increases in Complying Income Stream payments:
 - (i) as provided in the Current Client Information Brochure; and
 - (ii) as nominated by the Member from time to time.
- (b) If the Member requests that all or part of the Top Up Reserve Component be used to fund Complying Income Stream payment increases, that part of the Top Up Reserve Component that the Trustee reasonably determines is necessary to fund the requested payment increase shall be deducted from the Top Up Reserve Component. Thereafter, the Trustee shall make the increased payments as nominated by the Member.
- (c) The Trustee shall not be liable to make increased Complying Income Stream payments except to the extent that there is sufficient cash in the Top Up Reserve Component to fund the increased payments.
- (d) If at the end of the Term of the Flexible Complying Income Stream there remains any moneys or investments standing to the credit of the Top Up Reserve Component, those monies or investments may be used by the Trustee for its own use and benefit absolutely.

5a.5 Commutation

If before the end of the Term of a Flexible Complying Income Stream the Member requests in writing that the Flexible Complying Income Stream be commuted, the Trustee shall pay to the Member the lesser of:

- (i) the maximum amount permitted to be commuted by the Act; and
- (ii) the total of the Residual Capital Value and the Top Up Reserve Component, after deducting any applicable fees and charges.

If before the end of the Term of a Flexible Complying Income Stream the Member requests in writing that the Top Up Reserve Component be commuted, the Trustee shall pay to the Member the lesser of:

- (iii) the maximum amount permitted to be commuted by the Act; and
- (iv) the Top Up Reserve Component, after deducting any applicable fees and charges.

5a.6 Form of Pension Death Benefits

- (a) The Member may specify in writing the form of the Death Benefit should the Member die while in receipt of a Complying Income Stream, which may be either:
 - (i) as a lump sum, less any ETP tax, to the Member's Surviving Spouse or Dependant(s) other than an Adult Child nominated in writing on the application form in the Current Customer Information Brochure; or
 - (ii) as a pension, payable to the Member's Surviving Spouse or Dependant(s) other than an Adult Child nominated in writing on the application form in the Current Customer Information Brochure; or
- (b) If the Member does not specify the form in which the benefit is to be paid, the Trustee shall, in the event of the death of a Member who was entitled to a Complying Income Stream, pay the Residual Capital Value of the Member's Individual Pension Account as a lump sum to the Member's estate.
- (c) In the event of the death of the Member's Surviving Spouse or Dependant(s) who was in receipt of a Complying Income Stream, the Death Benefit shall be a lump sum equal to the Residual Capital Value of the Individual Pension Account at the date of death of the Surviving Spouse or Dependant(s) or such other form of Benefit acceptable to the APRA.

5a.7 Levels of Pensions

- (a) The initial Level of a Complying Income Stream shall be agreed between the Member and the Trustee prior to the commencement of the said Complying Income Stream;
- (b) The level of any Complying Income Stream payable to the Member's Designated Dependant on the death of a member shall be agreed between the Trustee and the Designated Dependant;
- (c) The level of any Complying Income Stream payable to a Member during the course of the Term shall be determined according to the provisions in Clause 5a.2(e) and any Superannuation legislation or regulation that may apply.

5a.8 Payment of Benefits

- (a) A Member or Dependant or Legal Representative of a member who wishes to claim a benefit from the Fund shall apply in writing on a form approved by the Trustee for a benefit claim.
- (b) All questions as to whether any person is entitled to a payment out of the Fund and if so the amount of such payment shall be determined by the Trustee whose decision shall be final.
- (c) Should the person entitled to a benefit be under the age of majority, the Trustee may pay all or part of any benefit to any other person to be held in trust for application on behalf of the person entitled to a benefit or his Dependents and the receipt of the person to whom the benefit is paid shall be a complete discharge to the Trustee for the payment in respect of the person entitled to a benefit.
- (d) Subject to Clause 5a.2 and provided the Trustee will not cause the Fund to fail satisfy the requirements of the Superannuation Industry (Supervision) Act, 1993 (Cth), any benefit entitlement of the Member or his Dependents may be paid by Cash or Transfer or ownership of life insurance policies, as the Trustee with the agreement of the Member determines.
- (e) Complying Income Streams shall be payable monthly.
- (f) The first instalment of any Complying Income Stream shall fall due for payment on the first day of each month, commencing on the first day of the first month immediately following the last day of the month in which the member purchased the Complying Income Stream.
- (g) The last instalment of any Complying Income Stream payable from the Individual Pension Account of the Member shall fall due for payment upon the first day of the month immediately following the month of;
 - (i) the Member's death or if a pension is paid to the Member's surviving spouse, the death of the spouse as the case may be, or
- (h) If at the time a monthly pension is payable, the balance of the Individual Pension Account is less than the monthly pension that is payable then the last instalment shall be the balance of the Individual Pension Account,

- (i) All amounts payable hereunder shall be calculated in Australian currency according to the current rate of exchange at the date of payment.

5a.9 Adjustment for Taxes

- (a) The Trustee may from time to time determine its liability for any tax, duty, or other impost as may be imposed on it after the commencement of a Complying Income Stream and may, if the Trustee is not prohibited by law from doing so, adjust the Complying Income Stream payments to be made during the remainder of the term of the Complying Income Stream.
- (b) The Trustee may reduce the payments to be made under a Complying Income Stream and retain any part of the purchase price in order to provide funds to meet any liability of the Trustee to pay any surcharge or other tax, if the Trustee is not prohibited by law from doing so.
- (c) The Trustee may deduct any tax due on any Complying Income Stream payment or other benefit paid or termination payment and remit it to the Australian Taxation Office or other duly empowered fiscal authority if required to do so.
- (d) If a new tax, duty or impost is imposed upon the investments that the Trustee uses to fund Complying Income Streams payments and the Trustee is reasonably of the opinion that the new imposition will prejudice its capacity to fund those payments, the Trustee may, subject to the Act and the requirements of the Act and any other lawful requirements, renegotiate with the Member other terms for the payment of Complying Income Streams.

CHAPTER 6 THE TRUSTEE

- 6.1 (a) Subject only to the covenants on the part of the Trustee herein contained in relation to the Fund and to Clauses 4.3 and 9.15 (as the case may be), the Fund shall be managed by the Trustee with full and complete powers of management including without limitation, the absolute discretion as to the investment of any Cash forming part of the Fund and as to the purchase, sale, transfer, exchange or alteration of Authorised Investments and as to borrowings and incurring of other liabilities in relation to the Fund (with full power to delegate to its officers and employees or any of them and/or to any subsidiary of the Trustee and the officers and employees of any such subsidiary or any of them all acts matters and things not requiring or involving the Trustee's judgement or discretion) and the Trustee hereby agrees to carry out and perform the duties and obligations on its part which are herein contained during the period of the Fund and the Trustee shall be subject to retirement as hereinafter provided in this Deed. Nothing herein contained shall be construed to prevent the Trustee from establishing or acting as Trustee for trusts whether of a nature similar to or different from the trusts of this Deed.

- (b) Without in any way affecting the generality of the foregoing the Trustee may in carrying out and performing the duties and obligations on its part which are herein contained:
- (i) (by Power of Attorney) appoint any person to be attorney or agent of the Trustee for such purposes and with such powers and authorities (not exceeding those vested in the Trustee) as it thinks fit with power for the attorney or agent to sub-delegate any such powers authorities or discretions and also to authorise the issue in the name of the Trustee of documents bearing facsimile signatures of the officers of the Trustee or of the attorney or agent either with or without proper manuscript signatures of their officers thereon PROVIDED THAT the Trustee in any such power of attorney and the attorney or agent by the terms of any such sub-delegation may insert such provisions for the protection and convenience of those dealings with any such attorney or agent or sub-delegate as they may think fit;
 - (ii) appoint in writing or otherwise any person to be sub-agent of the Trustee as the Trustee may think necessary or proper for such purposes and with such powers and authorities (not exceeding those vested in the Trustee) as it thinks fit and to supersede or suspend any such sub-agent for such cause or reason as the Trustee may in its sole discretion think sufficient with or without assigning any cause or reason and either absolutely or for such time as it may think proper.

PROVIDED THAT the Trustee shall remain liable for all acts of omissions of any attorney, agent, sub-delegate or sub-agent appointed under the preceding provisions of this Clause and shall be responsible for the fees and expenses of any such attorney, agent, sub-delegate or sub-agent but shall be entitled to rely in good faith on information provided to it by any of those persons.

- (c) The Trustee covenants that it will not sell or dispose of or cause to be sold or disposed of (except on or in respect of the termination or winding up of the Fund) any investments of the Fund:
- (i) the aggregate value of which exceeds 50% of the value of the -Fund as at the date of the proposed sale or disposition; or
 - (ii) to the Trustee or any Associate of the Trustee or any trustee of any trust of which the Trustee is a trustee and in respect of which the Trustee has issued Prescribed Interests unless such sale or disposition is subject to the

prior approval of the Members or ADF Members, as the case requires in general meeting.

At any general meeting of Members or ADF Members, as the case may be, held to approve any such sale or disposition, any person who may benefit (in a capacity other than as a Member, Dependant, ADF Member or Personal Representative) from the sale or disposition and any person who is an Associate of that person shall not vote on any resolution to approve the sale or disposition.

- (d) The Trustee covenants that it will not invest or cause to be invested in the shares of any one Company assets of the Fund where immediately after the investment:
- (i) the value of or the aggregate value of the shares, notes or rights held by the Trustee as trustee of the Fund in that Company will exceed 10% of the value of the Fund,
 - (ii) the Authorised Investment will be more than 10% of the total nominal amount of all issued shares of the class of shares of the Company, or
 - (iii) the Trustee as trustee of the Fund will be in a position to cast or control the casting of more than 10% of the maximum number of votes that might be cast at a general meeting of the Company.

Period of Fund and Termination Thereof

- 6.2 (a) The Fund shall be deemed to have commenced on the Commencement Date and unless determined pursuant to any other provision of this Deed shall endure for such period as is allowed by law for the duration of the trusts hereby established.
- (b) (i) At any time after 1 July 1986, the Trustee may notify the Members and Dependants or the ADF Members and Personal Representatives (as the case may be) in writing that the Fund is to be terminated on a specified date. The Fund shall be terminated on the date specified, hereinafter called the "Closure Date".
- (ii) At the Closure Date the Trustee shall immediately make a call for any arrears of contributions. and not accept further contributions or Deposits.
- (iii) The Trustee shall distribute amongst the Members the net assets of the Superannuation Fund at the Closure Date in the manner the Trustee considers appropriate in its

absolute discretion PROVIDED THAT each Member is distributed at least his Employee-Financed Benefit.

- (iv) For each Member at the Closure Date, the Trustee shall pay to a superannuation trust or Approved Deposit Fund nominated by the Trustee that Member's Accrued Benefit (if any) determined in accordance with Clause 6.2(b)(iii).
 - (v) Subject to Clause 6.2(b)(iv), the Trustee shall effect the payment of the allocated net assets of the Superannuation Fund in accordance with this Deed as the Trustee may determine PROVIDED THAT so much of that Member's entitlement hereunder as is the Member's Preserved Benefit as recorded in the Member's Individual Account shall only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.
 - (vi) The Trustee shall distribute amongst the ADF Members the net assets of the ADF Fund at the Closure Date in the manner the Trustee considers appropriate in its absolute discretion.
 - (vii) The Trustee shall effect the payment of the allocated net assets of the ADF Fund in accordance with this Deed as the Trustee may determine PROVIDED THAT so much of that ADF Member's entitlement hereunder that is the ADF Member's Preserved Benefit as recorded in the ADF Member's Individual Account shall only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.
- (c) Subject to any provision to the contrary in the Act, in the event of the termination of the Fund due to the death of the Dependant of the last Member or at the death of the last Member if he has no Dependant or due to the death of the Personal Representative of the last ADF Member or at the death of the last ADF Member if he has no Personal Representative (as the case may be) and the Fund has remaining assets, then the amount of remaining assets shall be paid to the Trustee.
- (d) The Trustee shall be entitled to retain out of any monies in its hand under the provisions of this Clause full provision for and to pay thereout all costs charges expenses liabilities (whether actual or contingent) claims demands incurred made or apprehended by the Trustee in connection with the Fund including the fees of any actuaries, agents, solicitors, brokers, bankers, accountants or other persons whom the Trustee may employ in connection with the winding up of the Fund and shall be entitled out of the monies so retained to be indemnified and saved harmless against any such

costs and charges, expenses claims and demands. To the extent to which any moneys so retained by the Trustee shall hold those moneys or cause those moneys to be distributed in accordance with the provisions of this Deed.

Register of Members, Dependants, Employers and ADF Members to be Kept

6.3 The following provisions shall have effect with regard to the registration of Members and Employers and ADF Members and in the event of a Member's or ADF Member's death, Dependants and Personal Representatives respectively in respect of their interests under the provisions of this Deed:

- (a) Up-to-date registers of such type or in such form (whether loose- leaf, computer stored or otherwise) as is approved by the Trustee of all Members, ADF Members, Dependants and Employers will be kept and maintained by the Trustee at its registered office in Sydney.

There shall be entered in the Register of Members:

- (i) the names and addresses of the Members;
- (ii) the name of each Member's employer (If any);
- (iii) the Class of Membership for each Member;
- (iv) the amount of each Member's Individual Account;
- (v) the date of approval for each Member; and
- (vi) the date at which the person ceased to be a Member.

There shall be entered in the Register of Dependants:

- (i) the names and addresses of the Dependants entitled to benefits;
- (ii) the value of the outstanding benefit entitlement;
- (iii) the date of becoming entitled to benefits under the Fund; and
- (iv) the date at which the person ceased to be entitled to benefits.

There shall be entered in the Register of Employers:

- (i) the names and addresses of the Employers participating in the Fund;
- (ii) the amount of each Employer's Plan Account;
- (iii) the date of approval -for each Employer; and
- (iv) the date at which the Employer ceased participating in the Fund.

There shall be entered in the Register of ADF Members:

- (i) the names and residential addresses of the ADF Members;
- (ii) the Class of Membership for each ADF Member (if any);
- (iii) the amount of each ADF Member's Individual Account;
- (iv) the date of approval for each ADF Member; and
- (v) the date on which the person ceased to be an ADF Member.

In addition, the Trustee shall collect, maintain and verify such information as the Act may from time to time require. The Trustee shall ensure that the above registers are maintained up-to-date.

General Operation of the Register

- 6.4
- (a) Any change of name or address on the part of any Member Dependant ADF Member or Employer shall be notified to the Trustee who shall alter the appropriate Register accordingly.
 - (b) The Registers shall be open to the inspection of any Member, Dependant, ADF Member, Personal Representative or Employer at the registered office of the Trustee between the hours of 9.00 a.m. and 4.00 p.m. on Monday to Friday inclusive but excluding Public and Bank Holidays without charge and to inspection by any other person at the aforesaid time on payment for each inspection of Twenty Dollars (\$20.00) or such lesser sum as the Trustee may require. If a Register is of an electronic nature or stored in an electronic machine then the supply by the Trustee of a copy of the computer print-out shall be sufficient compliance with the earlier provisions of this sub-clause.
 - (c) Subject to the provisions of the Corporations Law the Trustee shall not save as herein expressly provided' enter on a Register notice of any

trust whether express implied or constructive in respect of any Member's or ADF Member's interest in, the Fund.

- (d) In relation to interests issued in the Superannuation Fund, the Trustee shall recognise only the Member, his Personal Representative or Dependants as the person entitled to the benefits recorded in his name in the Register and all persons may act accordingly and the Trustee shall not save as herein otherwise provided or except as ordered by a Court of competent jurisdiction or as by statute required be bound to take notice of any trust or equity whether express implied or constructive affecting the entitlement to any benefit or the rights incidental thereto and the receipt of such Member his Personal Representative or Dependants of or for any monies payable in respect of the benefits recorded in his name in the Register shall be a good discharge to the Trustee.
- (e) In relation to interests issued in the ADF Fund, the Trustee shall recognise only the ADF Member or his Personal Representative as the person entitled to the benefits recorded in his name in the Register and all persons may act accordingly and the Trustee shall not save as herein otherwise provided or except as ordered by a Court of competent jurisdiction or as by statute required be bound to take notice of any trust or equity whether express, implied or constructive affecting the entitlement to any benefit or the rights incidental thereto and the receipt of such ADF Member or his Personal Representative of or for any monies payable in respect of the benefits recorded in his name in the Register shall be a good discharge to the Trustee.

Voting Rights on Authorised Investments

- 6.5 (a) Subject to the provisions of this Clause all rights of voting (if any) conferred by the Authorised Investments comprised in the Fund shall be exercised in such manner as the Trustee may determine and neither the Trustee nor any Member nor any ADF Member shall have any right to interfere therein.
- (b) Subject to and without in any way limiting Clause 6.1 or the covenants given by the Trustee in this Deed the Trustee shall not be under any liability or responsibility in respect of the management of the companies or bodies or authorities in on from which any Authorised Investments are held (other than companies, bodies or authorities under the control of the Trustee) nor in respect of any vote or action taken or consent given by the Trustee in person or by proxy or attorney in regard thereto and neither the Trustee nor the holder of any such proxy or power of attorney shall incur any liability or responsibility by reason of any error of law or mistake of fact or any matter or thing done or omitted or approval voted or gives or withheld by the Trustee or by the holder of such proxy or power of attorney under this Deed and the Trustee shall be under no obligation to anyone with respect to any action taken or caused to be taken or

omitted by the Trustee or by such holder of a proxy or power of attorney AND PROVIDED THAT nothing in this Clause 6.5 shall have the effect of relieving' the Trustee from any liability it may have by reason of its own negligent or willfully wrongful actions or those of its proxies or attorneys PROVIDED FURTHER THAT nothing in this Clause 6.5 shall operate to create or increase any duties or obligations on the Trustee, its proxies or attorneys.

The Auditor

- 6.6 (a) Subject to sub-clauses (b) and (c) of this Clause and to the requirements of the Act, the Auditor of the Fund shall be a Registered Company Auditor or firm of which the member having the responsibility of preparing any report which the Auditor is hereby required to prepare is so registered and shall be appointed by the Trustee and shall hold office subject to this Clause.
- (b) The Trustee may from time to time remove the Auditor and appoint another or others in his place.
- (c) If at any time at least 75 % of the Members or ADF Members (as the case may be) at the date of lodgement of the request with the Trustee in writing signed by them request the Auditor to retire, or if by Special Resolution passed at a duly convened meeting of Members or ADF Members (as the case may be) the Auditor be requested to retire, then in either such event the Trustee shall by notice in writing to the Auditor remove him and shall appoint such other qualified person to be the Auditor as a majority of the Members or ADF Members (as the case may be) present at the meeting may have nominated, or (failing such nomination) as the Trustee selects.
- (d) The Auditor may retire upon giving two months' notice to the Trustee of his desire so to do.
- (e) Any vacancy in the office of Auditor shall be filled by the Trustee appointing a qualified firm or person, subject to the requirements of the Act.
- (f) The Auditor may be the auditor of the Trustee or of any other trust whether of a similar nature to the Trusts of this Deed or otherwise but he may not be a director, officer or servant (or the partner of a director or servant) of the Trustee.

Accounts and Audit

- 6.7 (a) In this Clause "accounts" shall in respect of each Fund Year, mean a set of accounts in such form (being a form which so far as is practicable complies with Schedule 5 to the Corporations Regulations) as the Auditor shall, after consultation with the Trustee,

determine, in order to properly set out the income and expenditure of the Fund and correctly record and explain the transactions of the Fund during that Fund Year and the financial position of the Fund at the close thereof.

- (b) Subject to the other provisions of this Deed the Trustee shall cause true accounts to be kept of cash receipts by it on behalf of or in connection with the Fund.
- (c) The Trustee covenants that it will cause to be kept full and proper books of account in respect of the Fund such books to be for all cash and income received by or on behalf of the Fund all costs and expenses, commissions, disbursements and all other payments and outgoings and all assets and properties and liabilities of the Fund in such a manner as will enable the preparation from time to time of true and fair accounts of the Fund and will enable the accounts of the Fund to be conveniently and properly audited.
- (d) The books of account in respect of the Fund shall be kept at the office of the Trustee or at such other place as the Trustee may from time to time determine and shall be open to the inspection of the Auditor. The Auditor shall be entitled to require from the Trustee who shall furnish to the Auditor such information accounts and explanations as may be necessary for the performance of his duties as Auditor.
- (e) The Trustee will prepare or cause to be prepared a set of accounts in accordance with the Act at the close of each Fund Year. The Trustee covenants that it will cause those accounts to be audited by the Auditor in accordance with the Act. A copy of such respective accounts shall, upon request of a Member or ADF Member, be made available to the Members and ADF Members together with the Auditors report under sub-clause (f).
- (f) Each year at the time of preparing the accounts in accordance with sub-clause (e) of this Clause the books records and accounts kept in accordance with sub-clauses (b) and (c) of this Clause shall be examined by the Auditor. The Auditor shall report on the accounts prepared under sub-clause (e) of this Clause and whether or not he has obtained all the information and explanations he has required and whether or not in his opinion the accounts give a true and fair view of the Fund. The Auditor shall certify to the Trustee whether the Fund complies with the relevant requirements of the Act.
- (g) The Auditor may from time to time at his discretion make such "spot checks" or other examinations as he thinks fit of the Authorised Investments and monies for the time being constituting the Fund.
- (h) The Trustee shall on or before the last days of February and August in each year cause the Auditor to report as at the close of business on the last Working Day of the preceding December and June

respectively whether or not the Trustee has to the best of the Auditor's knowledge and belief having regard to the knowledge gained during the ordinary course of his duties as Auditor of the Fund observed and complied in all respects with the Trustee's obligations under this Deed and in particular whether or not:

- (i) The Trustee has ensured that the accounts which it keeps or causes to be kept pursuant to Clause 6.7(e) include statements on -
 - (a) gross revenue of the Fund which shall be divided to show separately the rent, interest, dividends, lease premiums and capital profits on the sale of investments and shall state the extent (if any) to which income has been capitalised and used in writing down the book value of investments;
 - (b) expenses of the Fund;
 - (c) the period of the Fund and the termination date;
 - (d) all investments of the Fund in real property showing separately in respect of each property -
 - (1) a description;
 - (2) date of acquisition;
 - (3) acquisition cost, (including acquisition expenses);
 - (4) valuation and valuation date; and
 - (5) borrowings secured against individual properties;
 - (e) sales of investments of the Fund in real property during the period to which the accounts relate showing separately in respect of each property -
 - (1) net sale proceeds;
 - (2) book value and acquisition cost (if different); and

- (3) valuation as at the time of sale or, where the property has been sold within 6 months of a valuation, as at the time of that valuation;
 - (f) purchase of investments in real property during the period to which the accounts refer showing separately in respect of each property -
 - (1) acquisition costs, (including acquisition expenses); and
 - (2) valuation as at the time of acquisition;
 - (g) net tangible asset backing at book value of each Individual Account as at the balance date of the accounts;
 - (h) the amount (if any) carried to reserves.
 - (ii) the Trustee has duly maintained the Investment Fluctuation Reserve, Mortality Fluctuation Reserve, General Reserve, Pension Benefit Account, Fund Account, Forfeited Benefits Register, Members' Individual Accounts, ADF Members' Individual Accounts and Employers' Plan Accounts in respect of each Fund, as the case requires,
 - (iii) benefits paid to or at the direction of Members, Dependants, ADF Members and Personal Representatives during the relevant period have been paid in accordance with their respective entitlements under this Deed,
 - (iv) the Trustee has complied with Clauses 4.3.2(ii) and 9.17(d), as the case requires.
- (i) The accounting records of the Fund must be retained for at least 5 years, or for such other period required by the Act, must be kept in Australia and must be kept in the English language or in a form in which they are readily accessible and readily convertible into the English language.
 - (j) The Trustee shall comply with such reporting standards and shall maintain such records as are required under the Act including a statement of the financial position of the Fund and an operating statement (when required) for each financial year of the Fund. Such statements must be signed by at least 2 directors of the Trustee.

- (k) (i) Within 4 months after the end of each year of income of the Fund, the Trustee must lodge the following with the Commissioner in respect of the Fund:
 - (a) a return, in the approved form in relation to the Fund, in respect of that year of income;
 - (b) a certificate, in the approved form, by the Trustee in relation to the Fund in respect of that year of income; and
 - (c) the Auditor's certificate referred to in Clause 6.2(d).
- (j) This Clause 6.7(k) applies only for so long as the Act requires.
- (l) Wherever the Act requires it to do so, the Trustee shall notify the Commissioner of any event that has a significant adverse effect on the financial position of the Fund, and shall provide the Commissioner with such information as is prescribed by the Act.

Trustee's Powers and Indemnities

- 6.8 Without prejudice to any indemnity allowed by law or given elsewhere in this Deed to the Trustee:
- (a) The Trustee shall not incur any liability in respect of any action taken or thing suffered by the Trustee in reliance upon any notice, resolution, direction, consent, certificate, receipt, affidavit, statement, certificate or other paper or document reasonably believed by the Trustee to be genuine and to have been passed, executed or signed by the proper parties and, without limiting the generality of the foregoing the Trustee shall not incur any liability in respect of any action taken or thing suffered in reliance on any information or material of any nature whatsoever supplied by or at the direction of or which the Trustee reasonably believes to have been supplied by or at the direction of a Member or ADF Member.
 - (b) The Trustee shall not incur any liability to anyone (including any Member or ADF Member) in respect of any failure to perform or do any act or thing which by reason of any provision of any present or future laws of the Commonwealth of Australia or of any State or Territory thereof or any ordinance, rule, regulation or by-law made pursuant thereto or of any decree order or judgement of any competent Court the Trustee shall be hindered prevented or forbidden from doing or performing.

- (c) The Trustee shall not be liable to account to any Member or ADF Member or otherwise for any payments made by the Trustee in good faith:
 - (i) to any duly empowered fiscal authority of the Commonwealth of Australia or of any State or Territory. thereof for Tax (including, without limitation, financial institutions duty, debits taxes, land taxes and income and capital gains taxes) upon the Fund or with respect to any transaction under this Deed notwithstanding that any such payment ought or need not have been made; or
 - (ii) for or on account of the retention of any monies or assets in the Fund to meet or any payments made to meet any prospective liabilities on the part of the Trustee in relation to the Fund to such fiscal authority.
- (d) The Trustee may act upon the opinion or advice of or statements by or information obtained from barristers or solicitors instructed by the Trustee or any bankers, actuaries, accountants, brokers, valuers and other experts and persons which the Trustee reasonably believes to be independent of the Trustee and who are believed by the Trustee in good faith and upon reasonable grounds to be experts in relation to the matters upon which they are consulted and, in the case of Actuaries or Approved Valuers, to satisfy the requirements contained in the respective definitions of "Actuary" and "Approved Valuer" in Clause 1.1 and the Trustee shall not be liable for anything done or suffered by it in good faith in reliance upon such opinion advice statement or information. Any such advice opinion or information may be verbal or may be by way of letter telegram facsimile or telex and the Trustee shall not be liable for acting on any advice opinion or information given by such means although the same contains some error or is not authentic.
- (e) Where the Trustee relies in good faith pursuant to paragraph (d) of this Clause upon any advice or information tendered to it by any barrister, solicitor, banker, actuary, accountant, broker, valuer or other expert or by a Government official it shall not be responsible for any misconduct, mistake, oversight, error of judgement, forgetfulness or want of prudence on the part of any such barrister, solicitor, banker, actuary, accountant, broker, valuer or other expert.
- (f) Except as otherwise expressly provided herein the Trustee shall as regards all the trusts, powers, authorities and discretions vested in it have absolute and uncontrolled discretion as to the exercise thereof whether in relation to the manner or as to the mode of and time of the exercise thereof.
- (g) Nothing in this clause or elsewhere in this Deed shall:

- (i) permit the Trustee, and. each director of the Trustee, to be indemnified against liabilities for acts or omissions that are:
 - (a) dishonest; or
 - (b) attributable to an intentional or reckless failure to exercise the degree of care and diligence required of a trustee;
 - (ii) permit the Trustee and directors of the Trustee to be indemnified for any penalty imposed on them under the Act.
- (h) Except for any liability arising by virtue of its default or neglect the Trustee shall not be bound to make any payment to or at the direction of Members or ADF Members except out of the Fund.
- (i) Subject to any other provisions of this Deed and any statute. or rule of law nothing in this Deed shall prevent the Trustee or any parent company of the Trustee or any subsidiary or related company (within the meaning of the Corporations Law) or any of them or the directors or officers of any thereof (all being included unless the context otherwise requires in the expression "the Trustee" where hereafter used in this sub-clause) from participating in or from otherwise at any time contracting or acting in any capacity as representative or agent or entering into any financial, banking, development, insurance, agency, broking or other transaction with any other of them or any Member or any ADF Member or any company an investment in or with which forms part of the Fund or from being interested in any such contract or transaction or otherwise and none of them shall be in any way liable to account either to any of them or to the Members or to the ADF Members or any of them for any profits or benefits (including but without limiting the generality thereof any customary bank charges, commission, exchange, brokerage and fees) made or derived thereby or in connection therewith and the Trustee shall not by reason of its fiduciary capacity be in any way precluded from making any contracts or entering into any transactions with itself as Trustee or from undertaking any banking, financial or agency services for itself as Trustee and without prejudice to the generality of these provisions it is expressly declared that such contracts and transactions include any contract or transaction in relation to the subscription for or placing of or dealing with any Authorised Investments by the Trustee or of any other company in which it is interested and the acceptance of any contract of loan or deposit or other contract or transaction which any person or company not being a Trustee under this Deed could or might have lawfully entered into with any such company or with itself as Trustee and the Trustee shall not be accountable either to any such other company or the Members or the ADF Members for any profits arising from any such contracts, transactions or offices.

- (j) If the Trustee or its officers or the parent, related or subsidiary companies and officers or directors thereof referred to in sub-clause (i) of this Clause have an interest directly or indirectly in respect of any transaction affecting the Fund then those persons shall act, in connection with any such transactions which give rise to a fiduciary relationship with Members or ADF Members, as the case may be with the utmost good faith towards Members or ADF Members, as the case requires.
- (k) Whenever the Trustee shall sell or transfer any Authorised Investment or other property it shall be indemnified by the person entitled to the proceeds of sale or to such transfer against all costs charges and expenses (including stamp duty) in connection therewith.
- (l) In the event of the liquidation or dissolution of any corporation or if for any other reason it becomes impossible or impractical to carry out provisions of this Deed in respect of such corporation or otherwise the Trustee shall not be under any liability therefore or thereby or incur, any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done by it in good faith hereunder.
- (m) The Trustee shall not be liable for the failure of any person or corporation (other than its attorney, agents, sub-delegates or sub-agents appointed in accordance with Clause 6.1(b) or any Custodian appointed hereunder) to carry out any agreement on his or its part or for anything except its own neglect default or breach of duty hereunder.
- (n) No Member or ADF Member shall otherwise than in accordance with the provisions of this Deed be entitled to require the transfer to him of any property comprised in the Fund nor be entitled to interfere with the exercise by the Trustee of any of the trusts, powers, authorities or discretions conferred upon it by this Deed or in respect of such property.
- (o) If at any time the Trustee is required by any Federal or State Government or by any statute to lodge approved deposits securities or bonds for the additional protection of Members or ADF Members, as the case may be the Trustee will provide the same from its own resources and it shall have no claim on the Fund for such purpose PROVIDED THAT if the Trustee elects not to comply with such requirements, then it shall immediately give to the Members notice of that intention and shall immediately retire as Trustee of the Fund.
- (p) (i) Subject to any provision of this Deed, except in respect of any fraud or any neglect, default, breach of duty, omission or breach of trust on the part of the Trustee in no event shall the Trustee be liable to the Members or ADF Members, as the case may be to any greater extent than in respect of Authorised Investments Cash and other property of the ADF

Fund or Superannuation Fund respectively vested in the Trustee or received or to be received by it in accordance with the provisions of this Deed.

- (ii) In the case of any fraud or any neglect, default, breach of duty, omission or breach of trust on the part of the Trustee, in no event shall the Trustee be liable to account to:
 - (a) the Members in respect of Authorised Investments Cash or other property vested in the Trustee in its capacity of trustee of the LifeTrack Approved Deposit Fund or any other Fund except the LifeTrack Superannuation Fund; and
 - (b) the ADF Members in respect of -Authorised Investments Cash or other property vested in the Trustee in its capacity of trustee of the LifeTrack Superannuation Fund or any other Fund except the LifeTrack Approved Deposit Fund.

- (q) The Trustee shall not be required to effect any transaction or deal with any part of the Authorised Investments on behalf of or for the benefit or at the request of any Member or Dependant or Employer or ADF Member or Personal Representative unless such Member or Dependant or Employer or ADF Member or Personal Representative (as the case may require) shall first have paid in Cash or otherwise provided to the Trustee's satisfaction for all duties, taxes, governmental charges, brokerage, transfer fees, registration fees and other charges (whether similar to the foregoing or not and including, without limitation, all financial institutions duties, whether in respect of the relative part of the Authorised debits taxes, land taxes and income and capital gains taxes) and Investments or of the Fund or otherwise (herein called collectively "duties and charges") which may have become or may be payable in respect of or prior to or upon the occasion of such transaction or dealing PROVIDED ALWAYS THAT the Trustee shall be entitled if it so thinks fit to pay and discharge all or any of such duties and charges on behalf of the Member or Dependant or Employer or ADF Member or Personal Representative (as the case may be) and to retain the amount so paid out of any monies or property to which such Member or Dependant or Employer or ADF Member or Personal Representative may be or become entitled hereunder.

- (r) (i) The Trustee may bring institute and prosecute any action, suit or other proceedings to obtain or recover any monies that are payable to the Trustee in accordance with the provisions of this Deed and may also bring legal proceedings to recover damages against any person arising out of any loss suffered by any one or more Members, Dependents, ADF Members, Personal Representatives or

Employers as a result of any negligence, default, omission, breach of duty or breach of the terms of this Deed and the Trustee may abandon, settle, compromise or release any such action, suit or other proceedings as it may consider desirable.

- (ii) The Trustee may institute, prosecute defend or otherwise appear in any action, suit or other proceeding in any Court or tribunal in respect of any matters touching or concerning the Authorised Investments, this Deed or the Fund.
- (iii) All costs and disbursements incurred by the Trustee (including costs of obtaining advisory opinions) in anticipation of or in connection with any such action suit or proceeding and all costs and disbursements incurred by the Trustee in obtaining any legal advice or opinions concerning or relating to the interpretation and construction of this Deed or any provision hereof shall notwithstanding any other provision of this Deed be deducted from and paid out of the Fund such deduction being made from the Fund from time to time until all such costs and disbursements have been paid in full.
- (s) The Trustee shall be indemnified out of the Fund from and against any expense and liability that may be incurred in prosecuting or defending any action or suit in respect of the provisions of the Deed, except where the action or suit arises out of any default or negligence or breach of trust of the Trustee.
- (t) The Trustee shall have the right (upon executing this Deed and thereby giving the covenant set out in Clause 6.9 (iii) effect) to have investments:
 - (i) in a case where the Trustee is precluded by the constitution of the issuer from holding those investments in its own name vested in officers of the Trustee; and
 - (ii) in any case, vested in a Custodian as provided in this Deed or in any other person in whom the Trustee would apart from anything herein contained be entitled to vest those investments pursuant to the Trustee Act, 1925 (New South Wales) or any similar legislation in any other State or Territory of Australia.
- (u) Nothing in this clause shall limit or detract from the provisions of Clause 6.9 (i) and the Trustee's duty of care diligence and vigilance in respect of the trusts herein or prevent or restrict any determination as to whether there has been a breach of trust or affect the operation

of the provisions of any statute prescribing the circumstances under which the Trustee may obtain relief from breach of trust.

- (v) Whenever the Trustee buys or sells any Authorised Investments the Trustee shall have the fullest discretion to prescribe the time and mode and broker (if any, and subject to the restrictions on brokerage contained in the Act) for such purchase or sale including the right to direct a postponement of such sale or seller as in its discretion it shall think fit.
- (w) Without prejudice to and subject to any other of the other provisions of this Deed, the Trustee shall be indemnified and shall be entitled to be reimbursed out of the Fund in respect of all stamp duty, receipt duty, transaction tax or any like impost, State or Federal, which it may incur or which is or may be imposed and in respect of all expenses and liabilities which it may reasonably incur in or about the receipt, collection, investment, disposal and distribution of applications of Members or Employers or ADF Members or monies or properties received by it or in or about the performance or exercise of its duties and powers hereunder and otherwise under or by virtue of or in respect of the Fund and for the purpose of such indemnity and reimbursement may from time to time realise such investments of the Fund in such manner and at such times as may be determined by the Trustee.
- (x) In the event that the Trustee has incurred a liability as Trustee and the Trustee is entitled under the terms hereof or otherwise as allowed by law to be indemnified in respect of such liability the Trustee may claim such indemnity from the Fund but the Trustee shall not be entitled to be indemnified in respect thereof by any Member, Dependant, ADF Member, Personal Representative or Employer unless that Member, Dependant, ADF Member, Personal Representative or Employer has agreed to so indemnify the Trustee in a written agreement separate from this Deed.
- (y) Notwithstanding any other provision of this Deed (but without prejudice to any such separate agreement as is referred to in paragraph (x)) no Member, Dependant, ADF Member, Personal Representative or Employer shall by reason of any right which they may have hereunder or any interest which they may have in the Fund or by reason of the relationship hereby created with the Trustee, be under any obligation personally to indemnify the Trustee or any creditor of it in the event of there being any deficiency of the assets of the Fund as compared with the liability of the Trustee in relation thereto and the only rights if any of indemnity of such Trustee or of such creditor shall be limited to having recourse to the Fund.
- (z) The Trustee shall be entitled to rely on the validity of any signature on any Plan Specification, membership application, transfer request or

other instrument and shall not be in any way liable to make good out of its own funds any loss incurred by any person in the event of such signature being forged or otherwise ineffective which loss (if any) shall, subject to any right of reimbursement from any other person, be borne by the Fund provided such reliance is based upon a reasonable belief that the signature is genuine.

- (aa) The Trustee shall have power to elect that the Fund become a regulated superannuation fund under the Superannuation Industry (Supervision) Act, 1993 (C'th).
- (bb) The Trustee shall have power to act on a direction given by a Court, the Commissioner or the Superannuation Complaints Tribunal established under the Superannuation (Resolution of Complaints) Act, 1993 (C'th).
- (cc) The Trustee shall have the power to comply with the covenants of trustees imposed by the Superannuation Industry (Supervision) Act, 1993 (C'th).
- (dd) Subject to the provisions of this Deed the Trustee shall have the power to do all things necessary or convenient to be done for or in connection with the purchase, acquisition, sale, transfer, assignment or disposition of Authorised Investments and its functions under this Deed, and without prejudice to the generality of this Clause 6.8 and without limiting the powers otherwise vested in the Trustee, it is hereby declared that the Trustee shall have the following powers in respect of the Fund, which shall in no way be read construed or limited as applying or relating to Authorised Investments but shall be read and construed as separate and independent powers of the Trustee in relation to the whole or any part of the Fund:
 - (i) to participate in the rights and obligations, including obligations to contribute in any manner to the liabilities of the parties, under any agreement relating to Authorised Investments;
 - (ii) to create, grant, renew, alter or vary any mortgage, charge or other encumbrance over the whole or any part of the Fund for any purpose whatsoever and upon such terms and conditions as the Trustee may in its absolute discretion think fit;
 - (iii) to initiate or agree to any one or more of the following:
 - (A) the release, modification or variation of any rights, privileges or liabilities of any shares or securities from time to time forming part of the Fund;

- (B) a scheme of arrangement for or reconstruction of any corporation including any increase or reduction in the capital of any corporation;
- (C) the amalgamation or merger of any corporation with any other corporation;
- (D) the sale or other disposition of all or any part of the property or undertaking of any corporation;
- (iv) to enter into any arrangements with any Government, public body or public authority to obtain any rights, authorities or concessions or clearances and to give any undertakings binding upon the Trustee either generally or on conditions as the Trustee deems fit and to carry out, exercise and comply with any of the same;
- (v) to lease to and to accept surrenders of leases from any lessee, to compromise with lessees and others and to execute and pay for repairs and improvements;
- (vi) to institute, prosecute and compromise legal proceedings;
- (vii) to attend and vote at meetings of any companies;
- (viii) to build, demolish, alter, repair, extend, rebuild, improve, reconstruct or develop any property being or included- in any investment of the Fund, and in connection with a subdivision or otherwise, to dedicate land, grant easements or other rights and make any other disposal or arrangement facilitating development;
- (ix) to promote or carry on or deal with any business, scheme or undertaking relating to Authorised investments in any country upon such terms and conditions as the Trustee thinks fit;
- (x) to insure or reinsure any risks, contingencies or liabilities of the Fund with any insurance company, friendly society, superannuation fund or like company or body;
- (xi) subject to the provisions of this Deed, to issue or provide pensions or annuities to Members or ADF Members or Personal Representatives or their Dependants;

- (xii) to deduct income tax from the payment of a benefit to a Member or ADF Member and remit tax so deducted to the Commissioner in accordance with the Act;
 - (xiii) to deduct from any contribution, Deposit, investment, income or capital appreciation of the Fund any income tax or other tax in respect of that income or appreciation for which the Trustee becomes liable;
 - (xiv) subject to the provisions of this Deed, to lend and advance money or give credit, to any person (whether with or without security) and to guarantee the performance of any agreement, contract, undertaking, promise or other obligation by any person or corporation and to indemnify any person or corporation against any loss, damage or liability (whether actual or contingent) suffered or incurred by that person or corporation (and, without limiting subparagraph (ii) of this paragraph (dd), the Trustee may secure any such guarantee or indemnity by mortgage, charge or other encumbrance) and generally to secure or undertake in any way the repayment of moneys lent or advanced to or the liabilities suffered or incurred by any other person or corporation and otherwise to assist any other person or corporation;
 - (xv) to do all things as may be necessary in order to collect any moneys payable by any Employer or Member or ADF Member hereunder and, without limiting the generality of the foregoing, to enter into any agreements, undertakings or arrangements or to give any indemnities in favour of any person for the purpose of entering into or arranging any direct debiting service to permit the Trustee to collect amounts due from Employers or Members or ADF Members hereunder by a direct debit upon the Employer's or Member's or ADF Member's bank account;
 - (xvi) to appoint a Custodian either within or outside Australia in accordance with Chapter 7.
- (ee) Without limiting paragraph (dd) of this Clause or the powers otherwise vested in the Trustee but subject to the conditions set out in paragraphs (i), (H) and (iii) below and to Clauses 4.6 and 9.20, the Trustee shall have power to borrow with or without security for any of the purposes of this Deed and give security for any such borrowing over any of the investments of the Fund and the following provisions shall apply to any such borrowing:

- (i) for the purposes of this paragraph (ee), "borrowing" includes obtaining overdraft accommodation from a bank, loan or deposit, or any other form of financial accommodation whatsoever and "borrow" shall have a corresponding meaning PROVIDED HOWEVER THAT the Fund shall not at any time invest with the Trustee or any Member or any ADF Member in a manner that breaches the investment guidelines and/or requirements of the Act or of the Commissioner as stipulated from time to time;
- (ii) the proceeds of any such borrowing shall be part of the Fund and any Authorised Investments acquired by the application of such proceeds shall be deemed to be investments of the Fund;
- (iii) the Trustee may borrow such monies as are required for the purposes of the Fund if the total liabilities including the subject borrowing of the Fund will not exceed 10% of the value of the Fund as at the time the borrowing is effected and, if thought fit, to give security for any such borrowing over any or all of the investments comprised in the Fund provided that the Trustee shall not be required to accept any personal liability for such borrowing

PROVIDED ALWAYS HOWEVER THAT any such borrowing is solely for a purpose permitted by the Act and is in accordance with the requirements of the Act.

- (ff) The Trustee shall have the power to do those things permitted or required by the Act
- (gg) The Trustee may make rules and adopt policies in relation to any matters that the Trustee considers appropriate for the convenient administration of the Fund.

Covenants by the Trustee

6.9 Notwithstanding that the Trustee shall not be bound by the covenants which section 1069 of the Corporations Law requires to be included in deeds to which Division 5 of Part 7.12 of the Corporations Law applies, the Trustee hereby covenants with the intent that the benefit of the said covenant shall ensure to the Members, Dependants, ADF Members and Employers jointly and to each of them severally that:

- (i) The Trustee will exercise all due diligence and vigilance in carrying out its functions and duties and in protecting the rights and interests of the Members, Dependants, ADF Members and Employers to which this Deed relates.

- (a) Subject to paragraph (b) of this Clause except as in this Deed provided, the Trustee shall not sell, mortgage, charge or part with the possession of (or permit any nominated officers so to do) any of the Authorised Investments comprised in the Fund.
 - (b) The Trustee may lodge any documentation evidencing its ownership of any Authorised Investments with a Securities System which is and - .at all relevant times remains independent of the Trustee and will ensure that prominent disclosure of the nature and level of risk associated with utilising such Securities System is made in any prospectus.
- (ii) The Trustee hereby covenants that any of the persons referred to in Clause 6.8(t) will duly observe and perform the covenants and obligations of this Deed in the same manner as is required of the Trustee, and hereby indemnifies the Fund against any loss or damage to the Fund or the Members or the ADF Members as the case may be which may have been incurred or sustained in connection with, or arising out of any breach or default of any such person in the observance or performance of any such covenant or obligation.
- (iv) In accordance with the provisions of Clause 6.7 the Trustee shall:
 - (a) keep or cause to be kept in relation to the Fund proper books of account to which Clause 6.7(b), (c) and (e) relates;
 - (b) cause those accounts to be audited at the end of each financial year by an Auditor;
 - (c) comply with the provisions of the Act with respect to accounts and records.
- (v) In relation to any investment in leasing or any other acquisition of any land of real property of any description:
 - (a) The Trustee will ensure that no real property is acquired or disposed of by or on behalf of the Trustee until the Trustee has obtained the report of an Approved Valuer;
 - (b) The Trustee will appoint from time to time an Approved Valuer to value real property of the Fund;
 - (c) The Trustee will appoint an Approved Valuer in respect of the Fund who:
 - (i) is suitably qualified to carry out such valuations and has at least 5 years appropriate experience;

- (ii) has no pecuniary interest that could reasonably be regarded as being capable of affecting the person's ability to give an unbiased opinion;
 - (iii) will prepare valuations of the real property on the basis of market value subject to all existing leases and occupancies, encumbrances and potential benefits. "Market value" means the price at which an interest in a property might reasonably be expected to be sold at the date of valuation assuming -
 - (1) willing seller;
 - (2) a reasonable period within which to negotiate the sale taking into account the nature of the property and the state of the market;
 - (3) values will remain static during the period;
 - (4) the property will be freely exposed to the open market; and
 - (5) no account is taken of any higher price that might be paid by a purchaser with a special interest;
 - (iv) accepts instructions for valuations only from the Trustee in writing, such instructions to be made available to the public after the valuation has been announced; and
 - (v) receives all necessary information for the purposes of the valuation, including particulars of existing leases and current rent receipts by the Fund;
- (d) The Trustee will instruct the Approved Valuer that any Approved Valuer's report using a capitalisation of earnings shall state that fact and set out the earnings and the multiple used. It will also set out, to the best of the Approved Valuer's knowledge and belief, the most recent prices and earnings capitalisations at which properties of similar nature and situation have been sold. If such prices are not readily ascertainable, the report shall state that fact and shall deal with the prices at which willing but not anxious buyers and sellers have been seeking to transact sales for similar properties. If an Approved Valuer is unable to identify similar properties, the report shall state that fact and state whether the rentals payable pursuant to the existing leases represent the rates that could be obtained on the open market. If they are not, the report shall state what the open market rentals would be and shall include a calculation of the figure that would result from a capitalisation of

the earnings that would result from those rentals, stating the assumptions as to occupancy rates, expense levels and any other assumptions used in the valuation;

- (e) The Trustee will ensure that no more than two consecutive valuations of any property are conducted by the same valuer or by any other member or employee of that valuer's firm or company;
- (f) The Trustee will cause a valuation of any parcel of real property to be carried out if it has reason to believe that there has been a significant change in the value of the property and at least every three years;
- (g) The Trustee will, where the Trustee has caused an existing Fund property to be valued, incorporate the new valuation in the books of the Fund as the value of the property as soon as practicable after receipt of the report by the Trustee unless the Trustee is of the opinion that the report should not be adopted, in which case it will state the reasons for that opinion in its next report to Members or ADF Members as the case requires and cause the property to be reassessed for value;
- (h) The Trustee will ensure, except on termination of the Fund that:
 - (i) any proposal to purchase, sell or dispose of a parcel or parcels of real property exceeding 50 % of the value of the gross assets of the Fund; or
 - (ii) any proposal to purchase, sell or dispose of a parcel or parcels of real property (other than at valuation or a price better than valuation) to or from the Trustee or an affiliate of the Trustee,

shall be subject to the Trustee determining whether a Members' or ADF Members' meeting (as the case may be) is necessary to consider the proposals;

- (i) at the meeting held to approve any such purchase, sale or disposal any person who may benefit (in a capacity other than only as a Member or ADF Member of the Fund, as the case may be) from the transaction and any person who is an Associate of that person shall not vote on the resolution;
- (vi) The Trustee will within twenty-one (21) days after an application being an application by not less than fifty or one-tenth in number whichever is the less of the Members or ADF Members as the case may be is delivered to the Registered Office of the Trustee by sending notice by post of the proposed meeting at least seven (7)

days before such proposed meeting to each Member or ADF Member, as the case requires at his last known address convene a meeting of Members or ADF Members, as the case requires for the purpose of laying before the meeting the last audited statement of accounts of the Trustee and for the purpose of giving to the Trustee such directions as the meeting thinks proper, the terms of which are set out in the notice of meeting, such meeting to be held at the time and place specified in the notice being a time not later than two months after the giving of the notice under the chairmanship of such person as is appointed in that behalf by the Members or ADF Members present at the meeting or where no such appointment is made a nominee of the Trustee appointed in terms of Section 1069(11) of the Corporations law and shall be conducted in accordance with the provisions of this Deed or insofar as the Deed makes no provisions as directed by the Chairman of the meeting. The Trustee will not, and it shall take all reasonable steps to ensure that its Associates will not, exercise any power to vote which is held by the Trustee or its Associates (other than as proxies for any Member or ADF Member, as the case may be):

- (i) in respect of any matter affecting the interests of the Trustee arising at any meeting; or
 - (ii) at any meeting convened in accordance with this paragraph (vi).
- (vii) The Trustee will ensure that the total of all amounts:
- (i) borrowed by the Trustee pursuant to the provisions of this Deed and not repaid shall not at any time ("the relevant time") exceed ten per cent (10%) of the value of the Fund as at the relevant time;
 - (ii) for which the Fund or the Trustee is liable under Futures Contracts or options to purchase or sell Authorised Investments shall not at any time ("the relevant time") exceed five per cent (5%) of the value of the Fund as at the relevant time. The Trustee will further ensure that at all times there is retained in the Fund sufficient Cash to meet margin calls on Futures Contracts and deposits on options.
- (viii) Where Cash is received from or on account of any Member by way of contribution to the Fund, or from or on account of any ADF Member by way of Deposit to the Fund, the Trustee will establish and keep at a bank or banks one or more trust accounts designated or evidenced as such into which it shall pay not later than the next working day following the day on which that Cash is received all such monies received as aforesaid in such State or Territory AND

no monies shall be withdrawn from any such trust accounts except for the purpose of.:

- (i) payment for contributions, Deposits or transfers to the Fund;
 - (ii) refund to any applicant whose application has not been accepted;
 - (iii) any payment that is otherwise authorised by law or by this Deed.
- (ix) (i) The Trustee shall, on receipt of application moneys for interests in the Fund, where the application moneys are not accompanied by an application form either refund the money or hold the moneys in a trust account, on trust for the applicant and in the applicant's name, until the application form is received. If the application form is not received within 30 days after the application moneys are received, the Trustee shall return the application moneys to the applicant. If the application moneys are accompanied by an application form, the Trustee shall apply the moneys to the issue of the interests stated in the application form, as soon as practicable, but not later than the close of business on the next Working Day after receipt of the moneys, or, if the Trustee suspends the allocation of Units under clause 4.3A.17, the Units will be allocated as soon as practicable after the end of the suspension period.
- (ii) Pending the issue of the interest, application moneys shall be held by the Trustee in a trust account in the name of the applicant.
- (iii) Any income which accrues in respect of such application moneys less any costs and disbursements incurred in respect of the holding by the Trustee of such application moneys shall be either:
- (a) refunded to the applicant; or
 - (b) added to and deemed to form part of the application moneys,
- depending on the request of the Member.

The Trustee will, if it seeks to rely upon sub-clause(e) of Clause 6.8, supply to the Members, Dependants, ADF Members, Personal Representatives and Employers at its own expense,

such information which is in its possession or control which is relevant to a decision as to whether or not the Trustee is entitled to rely upon that sub-clause.

- (xi) The Trustee will ensure as far as practicable that at all times during each financial year the investments of the Fund will satisfy the requirements of the Act.
- (xii) The Trustee will forthwith give to the Members or the ADF Members (as the case requires) notice in writing upon it becoming aware of any exercise of discretion, advice, ruling or decision of or notification by the Commissioner or of any other circumstance the effect of which is that the Fund has ceased or will cease to be treated by the Commissioner as a complying superannuation fund (as defined in the Act) or Complying Approved Deposit Fund (as the case may be).
- (xiii) The Trustee covenants to maintain the status of the LifeTrack ADF as an Approved Deposit Fund.
- (xiv) The Trustee will act honestly in all matters concerning the Trust;
- (xv) The Trustee will exercise, in relation to all matters affecting the Trust, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
- (xvi) The Trustee will ensure that the Trustee's duties and powers are performed and exercised in the best interests of the Members;
- (xvii) The Trustee will keep the money and other assets of the Trust separate from any money and assets, respectively:
 - (i) that are held by the Trustee personally; or
 - (ii) that are money or assets, as the case may be, of a standard employer-sponsor (as defined in the Act) or an associate of a standard employer-sponsor of the Fund;
- (xviii) The Trustee will not 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;
- (xix) The Trustee will formulate and give effect to a strategy for the prudential management of the Reserve Accounts, in accordance with the requirements of the Act; and

- (xx) The Trustee will allow a Member access to any information or documents prescribed in the Act.:
- (xxi) The Trustee will, for so long as the Act requires it, take all reasonable steps to ensure that there are at all times in force, arrangements under which:
 - (ixxii) beneficiaries of the Fund have the right to make enquiries or complaints about the operation or management of the Fund in relation to that beneficiary; and
 - (iixxiii) such enquiries or complaints are dealt with within 90 days.
- (xxii) The Trustee shall not pay brokerage or commission except in the circumstances permitted in the Act.
- (xviii) The Trustee will not sell, issue or redeem, or permit to be sold, issued or redeemed, an interest in the Fund except at a price in respect of an interest of the relevant Trust Fund calculated in accordance with the provisions of this Deed, provided always and for so long as the Act requires it, that if the Trustee does not believe that the price is fair and reasonable or cannot calculate the price, the interest shall be sold at the price that is fair and reasonable, in accordance with the Act.
- (xxiv) The Trustee shall comply with such cooling off periods as are imposed by the Act.

Records of Meetings

- 6.10 The directors of the Trustee must keep, and retain for at least 10 years, minutes of all meetings of the directors at which matters affecting the Fund were considered.

Records of Trustees

- 6.11 The Trustee must keep, and retain for at least 10 years:
- (a) records of all changes of Trustees;
 - (b) records of changes of directors of the Trustee; and
 - (c) consents to act as Trustee or director of the Trustee.

Retirement of Trustee

- 6.12 (i) The Trustee covenants subject to the provisions of the Act that it will retire from the Fund in any of the following events, namely:-
- (a) A. where the Trustee ceases to carry on business;
 - B. on the Trustee being placed in liquidation, other than for the purpose of amalgamation, reconstruction or a purpose of a similar kind, or in official management;
 - C. where a receiver, or a receiver and manager, is appointed in relation to the property of the Trustee and is not removed or withdrawn within 30 days of the appointment;
 - D. if the Trustee is not, or is no longer, empowered to act as a trustee; or
- (b) The Trustee will retire as trustee of the ADF Fund if a resolution to that effect has been passed by ADF Members representing at least 50% of the Value of the ADF Fund at a meeting called for that purpose and convened in accordance with Clause 6.14 and will not accept any payment or benefit in relation to such retirement.
- (c) The Trustee will retire as trustee of the Superannuation Fund if any Ordinary Resolution to that effect has been passed by Members at a meeting called for that purpose and convened in accordance with Clause 6.14 and will not accept any payment or benefit in relation to such retirement.

On the retirement or removal of the Trustee under any of the foregoing provisions of this sub-clause the Trustee shall be entitled to appoint in writing subject to any approval required by law some other corporation to be the Trustee of the Fund.

- (i) The Trustee may retire upon giving to the Members six (6) months (or such lesser period as is determined by the Trustee) notice in writing of its desire so to do and subject to any approval required by law by deed appoint in its stead a Constitutional Corporation nominated by the Trustee as new Trustee.
- (iii) The Trustee shall on retirement vest the Fund or cause it to be vested in such new Trustee and shall deliver to such new Trustee all books documents records and other property whatsoever

relating to the Fund. The costs and expenses incidental thereto shall be recouped from the Fund.

- (iv) The corporation so appointed under sub-clause (ii) or (iii) shall execute a Deed in such form as the Trustee may require whereby such corporation shall undertake to the Members, Dependants, ADF Members, Personal Representatives and Employers as the case requires jointly and severally all the obligations of the retiring Trustee hereunder in relation to the Fund and from the date of its retirement or removal as the Trustee of the Fund the retiring Trustee shall be released from all further obligations hereunder in relation to the Fund provided always UIAT that no release under the provisions of this sub-clause shall extend to any existing or antecedent neglect or breach of trust on the part of the retiring Trustee or any existing or antecedent breach of its duties imposed by statute or rule of law. The new Trustee shall and may thereafter exercise all the powers and enjoy all the rights and shall be subject to all duties and obligations of the Trustee hereunder in relation to the Fund as fully as though such new Trustee had originally been named as a party hereto.
- (v) If the Trustee retires or is removed from office pursuant to any provision of this Deed and no new Trustee is appointed within sixty days from the date when such vacancy occurs the Trustee shall terminate the Fund forthwith by giving notice in writing to each Member and Dependant or ADF Member and Personal Representative as the case requires.
- (vi) Notwithstanding anything in this Deed, the Trustee shall immediately retire as Trustee of the ADF Fund if it ceases to be an Approved Trustee.

Remuneration of Trustee

- 6.13 (i) The Trustee shall be entitled to receive and retain for its own use out of the Fund by way of remuneration a fee for administering the Fund calculated on the following basis:
- (a) Within ten Working Days from the last Working Day of each Income Calculation Period in each year during the period of the Fund the Trustee shall raise from the capital and/or income of the Fund such sum as may be necessary to pay to the Trustee its remuneration in relation to the Fund PROVIDED THAT in the case of the Trustee's remuneration based on contributions and transfers received by the Fund (in accordance with Clause 2.6 or Clause 9.10, as the case may be) the Trustee may raise from the capital and/or income of the Fund such sum as may be necessary to pay to the Trustee its remuneration based on such

contributions, Deposits and transfers within two working days of such request.

- (b) In addition to any other remuneration payable to the Trustee, the Trustee shall be entitled to receive a sum equal to:
- 0.005429 per centum for each day in the Income Calculation Period of the value of the Fund on the last Working Days of each Income Calculation Period; plus
 - 5.0 per centum of the gross amount of each transfer paid by the Fund (in accordance with Clause 2.7 or Clause 9.11 as the case requires) during each Income Calculation Period; plus
 - 2.5 per centum of the gross amount of each benefit paid by the Fund during each Income Calculation Period, plus
 - in relation to any contribution and/or Deposit and/or transfer received by the Fund (in accordance with Clause 2.6 or Clause 9.10, as the case may be) the Member or Employer or ADF Member as the case may be may choose in writing;

either

- 7.5 per centum of the gross amount of the contribution or Deposit (as the case may be) received by the Fund; plus
- 5.0 per centum of the gross amount of the or transfer received by the Fund

or

- Nil per centum of the gross amount of the contribution or Deposit (as the case may be) and/or transfer received by the Fund; plus
- the percentage as set out in the table below of that portion of the value of the Fund represented by the contribution or Deposit (as the case may be) and/or transfer (in addition to the before mentioned 0.005429 per centum) on the last Working Day of each Month.

Number of Income Calculation Period
following Percentage receipt of
contributions/ per annum
Deposits/transfer

0 to 11	two (2 %)
12 to 23	two (27v%)
24 to 35	one and a quarter (1.25%)
36 to 47	one and a quarter (1.25%)
48 to 59	one (1 %)
59 and over	Nil

- (c) In addition to any other remuneration payable to the Trustee:
- A. the Trustee of the ADF Fund shall, in relation to that Fund, be entitled to receive 5.0 per centum (5%) of any transfer made from any Authorised Investment Fund to any other Authorised Investment Fund; and
 - B. the Trustee of the Superannuation Fund shall, in relation to that Fund, be entitled to receive 5.0 per centum (5%) of any transfer made:
 - (i) from any Authorised Investment Fund to any Authorised Investment Fund; and
 - (ii) from any of the Authorised Investment Funds
 - C. The Trustee may charge a Member who is not an Employee, an Adviser Service Fee at the rate agreed to by the Member; and
 - D. The Trustee may charge a Member who is an Employee, an Adviser Service Fee - Employer at the rate agreed to by the Employer, and/or an Adviser Service Fee – Member at the rate agreed to by the Member.
- (d) In addition to any other remuneration payable to the Trustee, the Trustee shall be entitled to a fee calculated as it shall determine from time to time in relation to an application for spouse contributions-splitting pursuant to Clause 3.8.

- (ii) The Trustee may at its discretion from time to time elect to accept a remuneration with respect to any Income Calculation Period or any contribution or any Deposit or any benefit or transfer received or paid which is a sum equal to a lower percentage than any of the figures set out in sub-clause (i) of this Clause.

- (iii) The Trustee shall, in addition to its remuneration, be indemnified and shall be entitled to be reimbursed out of the Fund in respect of all costs charges and expenses which it may incur in relation to the Fund in or about the following matters to the extent to which such costs, charges and expenses are reasonable in amount:
 - (a) all disbursements in connection with the acquisition or disposal of any Authorised Investment of the Fund including commission, brokerage and stamp duty;
 - (b) audit fees in connection with the auditing of the accounts of the Fund and the preparation of taxation returns in relation to the Fund;
 - (c) cost of posting notices and benefit cheques;
 - (ca) all costs, charges and expenses in respect of which the Trustee shall be entitled to be reimbursed out of the Fund pursuant to any other provision of this Deed (including without limitation Clause 7.3) subject to any maximum limit which may apply in respect of those costs, charges and expenses;
 - (d) costs of any valuation of the Fund or of any Authorised Investment of the Fund;
 - (e) costs of handling contributions, Deposits, benefit payments and transfers into or out of the Fund;
 - (f) costs of any insurance effected by the Trustee (other than for the purpose of obtaining an Insured Benefit);
 - (g) actuarial fees in connection with the actuarial review of the Fund and any other actuarial opinions required under this Deed in relation to the Fund;
 - (h) stamp duty or like impost including, without limiting the generality of the foregoing, any tax or duty on cheques, receipts; deposits of money or debiting accounts, financial transactions and unit certificates (if any) which is or may be imposed in or about the performance or exercise by the Trustee of its powers and duties hereunder in relation to the Fund or otherwise by virtue of or in respect of the Fund;

- (i) costs of printing of notices and benefit cheques;
- (j) costs of preparation and postage (including courier or delivery) of all cheques, accounts, distribution statements, notices, certificates and all other documents sent to all or any Members Employers, ADF Members, Dependants or Personal Representatives in relation to the Fund in accordance with the provisions of this Deed;
- (k) costs of convening and holding any meeting of Members or ADF Members;
- (l) cost of any public notice advertising Fund yields, performance and other matters relating to the running of the Fund;
- (m) expenses in connection with the keeping of accounting records and of keeping the Register and the Investment Register and any other register established pursuant to the provisions of this Deed;

PROVIDED THAT the total amount which the Trustee is entitled to receive from the Fund in respect of any of the costs, charges and expenses specified in sub-paragraphs (e), (i), (j), (k), (l) and (m) which may be incurred during the period of the Fund, shall not in any Income Calculation Period exceed the aggregate for each day of that period of 0.00137% of the value of the Fund as at the Income Calculation Date relevant to the immediately preceding Income Calculation Period.

Meetings of Members and ADF Members

- 6.14
- (a) The Trustee may at any time and the Trustee shall at any time on the requisition in writing of Members or ADF Members as the case may be who at the date of deposit of the requisition number one tenth or 50, whichever is the less, of the Members or ADF Members as the case may be convene a meeting of Members or ADF Members as the case requires.
 - (b) The requisition must state the objects of the meeting and the terms of any resolution proposed to be submitted to the meeting and must be signed by the requisitioner and deposited at the registered office of the Trustee in New South Wales or in any other State or Territory in which this Deed is approved pursuant to the Corporations Law and may consist of several documents in like form each signed by one or more of the requisitionists.
 - (c) The Trustee may make and take copies of any such requisition. If the Trustee within twenty-one (21) days from the date of the

requisition being so deposited does not duly proceed to convene a meeting, the requisitionists or a majority of them may themselves convene the meeting but any meeting so convened shall be convened for a date not more than two months from the date of such deposit. Any meeting convened under this clause by the requisitionists or such majority of them shall be convened in the same manner or as nearly as possible as that in which meetings are to be convened by the Trustee.

- (c) At least twenty-one (21) days notice stating the place day and hour of a meeting and the general nature of the business to be transacted thereat and containing such or any further information as the Trustee may think fit and the terms of any resolution to be proposed shall be given prior to any meeting of the Members or ADF Members as the case requires. Such notice shall be given to all Members or ADF Members as the case requires but the accidental omission to give such notice to or the non-receipt of a notice of meeting by a Member or ADF Member shall not invalidate the meeting. Whenever a meeting is about to be convened by requisitionists in accordance with sub-clause (b) of this Clause they shall give the like notice to the Trustee. The omission to give such notice to or the non-receipt of such notice by the Trustee shall invalidate the meeting but the Trustee may waive the same. The Trustee and any person on behalf of the Trustee and its or his solicitors and any director or secretary officer or solicitor or auditor or actuary of the Trustee and any counsel instructed by the solicitors of the Trustee may attend any meeting of the Members or ADF Members and all such persons shall have the right of audience.
- (d) No business shall be transacted at any meeting of Members or ADF Members unless a quorum is present when the meeting proceeds to business. The quorum necessary for a meeting at which an Ordinary Resolution only is to be proposed shall be persons present in person who number or represent by proxy at least ten per centum (10 %30) of the number of Members or ADF Members, as the case requires and for a meeting at which a Special Resolution is to be proposed shall be persons present in person who number or represent by proxy at least fifty-one per centum (51 %) of the number of Members or ADF Members, as the case requires. If within fifteen minutes from the time appointed for any meeting a quorum is not present the meeting shall:
- (i) if called for the purpose of passing an Ordinary Resolution only stand adjourned to the same day in the next week at the same time and in the same place;
 - (ii) if called for the purpose of passing a Special Resolution stand adjourned for such period as the chairman shall direct and a

further fourteen (14) days' notice of the proposed resolution and of the fact that those present in person or by proxy will constitute a quorum at an adjourned meeting and the place day and hour of such adjourned meeting shall be given to all Members or ADF Members, as the case requires by the Trustee;

- (e) At an adjourned meeting the Members or ADF Members present as the case may be in person or by proxy (whatever their number) shall form a quorum and shall have power to pass an Ordinary Resolution or Special Resolution. The Trustee or its duly appointed representatives shall be entitled to attend and address the meeting.
- (f) At a meeting of Members or ADF Members called pursuant to Clause 6.9(vi) to consider an alteration, modification, addition or cancellation to or of this Deed, the person (if any) nominated in writing by the Trustee shall be entitled to take the chair and if no such person is nominated or if at any meeting the person nominated shall not be present within fifteen minutes after the time appointed for holding the meeting, the Members or ADF Members present as the case may be shall choose one of their number to be chairman.
- (g) Every question submitted to a meeting of the Members or ADF Members shall be decided by a show of hands unless it is a question which under the Deed or the Corporations Law must be decided by a percentage of Members or ADF Members represented, or unless a poll be properly demanded as hereinafter mentioned and in the case of an equality of votes the Chairman shall both on the show of hands and at a poll have a casting vote in addition to the vote or votes (if any) to which he may be entitled as a Member or ADF Member, as the case may be.
- (h) On a show of hands every person present who is either a Member or ADF Member or proxy for a Member or ADF Member shall have one vote and on a poll every Member or ADF Member who is present in person or by proxy shall have one vote for each Member or ADF Member he represents, as the case may be.
- (i) A Member or ADF Member of unsound mind or in respect of whom an order has been made in any Court having jurisdiction in lunacy may vote whether on a show of hands or on a poll by his committee curator bonis or other person appointed by such Court and such committee curator bonis. or other person may on a poll vote by proxy.

- (j) No objection shall be raised to the qualification of any voter except at the general meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting for a decision and his decision shall be final and conclusive.
- (k) On a show of hands and on a poll votes may be given either personally or by proxy and a proxy shall have the same right of audience as a Member or ADF Member as the case may be.
- (l) The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing or if the appointer is a corporation either under its common seal or under the hand of an officer or attorney duly authorised.
- (m) Any person may act as a proxy whether or not he is a Member or ADF Member.
- (n) Deleted.
- (o) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority shall be deposited (which may include deposit by way of facsimile) with the Trustee or its nominee not less than 48 hours before the time appointed for holding the general meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution.
- (p) An instrument appointing a proxy may be in the following form or in any other form which the Trustee may approve:

“I
of
being a Member of LifeTrack Superannuation Fund/LifeTrack
Approved Deposit Fund hereby appoint
of to
vote for me and on my behalf at the meeting of members to be
held on the day of 19 and at
any adjournment thereof.

If no proxy is nominated in this instrument then the chairman of the meeting shall be my proxy for the purposes set out above.

Signed at by me this day of 19

This form is to be used to vote in favour of/against the resolution.

Strike out whichever is not desired. Unless otherwise instructed the proxy may vote as he thinks fit.

- (q) A vote given in accordance with the terms of an instrument of proxy shall be valid despite the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Trustee before the commencement of the general meeting or adjourned meeting at which the proxy is used.
- (r) At any meeting of the Members or ADF Members unless a poll is demanded by the chairman or Members or ADF Members present in person who number or represent by proxy at least one-tenth of the number of Members or ADF Members respectively and entitling the Members or ADF Members as the case may be to vote on the resolution a declaration by the chairman that a resolution has been carried or carried by any particular majority or lot or not carried by any particular majority shall be conclusive evidence of the fact. A poll may be demanded either before or after any question is put to a show of hands.
- (s) If at any general meeting a poll is demanded as aforesaid it shall be taken in such manner and either at once or after an adjournment as the chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn.
- (t) Any poll demanded at any general meeting of Members or ADF Members on the election of a chairman or any question of adjournment shall be taken at the meeting without adjournment. The demand for a poll shall not prevent the continuance of a meeting or the transaction of any business other than the question on which the poll has been demanded.
- (u) The chairman may with the consent of any general meeting of Members or ADF Members as the case may be adjourn the same from time to time and from place to place.
- (v) A resolution (whether ordinary or special) passed at a general meeting of the Members or ADF Members as the case may be duly convened and held in accordance with this Deed shall be binding upon all the Members or ADF Members (as the case requires) whether present or not present at such meeting.

- (w) Deleted
- (x) Deleted
- (y) Notwithstanding the foregoing provisions of this Clause:
 - (i) a resolution reduced into writing and signed by not less than fifty one per centum (51%) of the Members or ADF Members for the time being as the case may be shall be as valid and effectual as if it had been passed as an Ordinary Resolution at a meeting of the Members or ADF Members duly convened;
 - (ii) a resolution reduced into writing and signed by not less than seventy five per centum (75%) of the Members or ADF Members for the time being as the case may be shall be as valid and effectual as if it had been passed as a Special Resolution at a meeting of the Members or ADF Members duly convened.

Any such resolution may consist of several documents in like form each signed by one or more Members or ADF Members, as the case requires.

- (z) Minutes of all resolutions passed and proceedings had at every general meeting of Members or ADF Members shall be made and duly entered in a book to be provided for that purpose in relation to the Fund by the Trustee and any such minutes as aforesaid if purporting to be signed by the Chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting (if any) of Members or ADF Members as the case may be shall be conclusive evidence of the matters therein stated and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat or proceedings had to have been duly passed and had.

Amendments to Deed

- 6.15 (i) Subject to any approval required by law and to the provisions of sub-clause (ii) of this Clause the Trustee may by Deed, without the necessity for any consent or approval of the Members or ADF Members, make any alteration, modification, addition to or cancellation of this Deed or any part thereof (including this present clause) or any deed altering, modifying, adding to or cancelling this Deed or any part thereof if such alteration, modification, addition or cancellation:

- (a) is considered by the Trustee in its reasonable opinion to be required to permit the Fund to be more efficiently or effectively administered or managed and is considered by the Trustee not to be or be likely to become prejudicial to the interest of any of the Members or ADF Members as the case requires;
 - (b) is in the opinion of the Trustee made to correct a manifest error or is of a formal, technical or administrative nature only;
 - (c) is in the opinion of the Trustee or of a Barrister or Solicitor instructed by the Trustee necessary or expedient to comply with the provision of any statute ordinance or with the requirement of any statutory authority; or
 - (d) is in the opinion of the Trustee required by or in consequence of -or consistent with any amendment to the Act or Corporations Law.
- (ii) (a) Where in the opinion of the Trustee the rights of ADF Members may be adversely affected by any alteration modification addition or cancellation to this Deed- then that alteration modification addition or cancellation may only be effected with the consent of the ADF Members given by means of a resolution passed at a meeting of ADF Members convened in accordance with the provisions of Clause 6.14 and at which:
- (A) ADF Members who, at the meeting vote, (whether in person or by proxy) represent at least twenty-five percent (25%) of the Value of the ADF Fund; and
 - (B) ADF Members who at the meeting vote (whether in person or by proxy) in favour of the alteration, modification, addition or cancellation represent at least seventy-five percent (75%) of the Value of the ADF Fund held by those ADF Members who vote (whether in person or by proxy) on the question at the meeting.
- (b) Where in the opinion of the Trustee the rights of Members may be adversely affected by any alteration, modification, addition or cancellation to this Deed then that alteration, modification, addition or cancellation may only be effected with the consent of the Members given by means of a Special Resolution passed at a meeting of Members .convened in accordance with the provisions of Clause 6.14.

- (iii) In the event of the enactment of any legislation which established government sponsored rights to benefits for Members or ADF Members or amends rights to benefits provided by existing legislation for Members or ADF Members and if in the opinion of the Trustee such benefits are wholly or partly provided by the Fund or are of a type which affects, directly or indirectly the current or future aptness of the form or the amount of any of the benefits provided by the Fund the Trustee may decide that the benefits provided by the Fund and the contributions by or in respect of the Members or ADF Members shall be varied in a manner determined by the Trustee but no such variation shall reduce the amount of the benefits which shall already have been funded for a Member or ADF Member at the date of such variation without the written consent of that Member or ADF Member.

- (iv) If the Act so requires, the Deed shall not be amended to permit an individual to be eligible to be appointed as Trustee or to permit any entity, other than a Constitutional Corporation, to be appointed as Trustee.

Notices

- 6.16 Any notice required to be given to the Members or ADF Members hereunder shall be deemed to have been duly given if given in writing to the Members or ADF Members respectively by letter addressed to them at their respective addresses as appearing in the Register. Any notice given by post shall be deemed to have been served on the third day following the day when it was posted and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted and a statement signed by the Trustee that it was so posted shall be conclusive of that fact.

Actuarial Review

- 6.17 The Trustee may instruct an Actuary to make a valuation of the assets and liabilities of the Fund and shall provide him with such information as he shall require for this purpose. The Trustee may from time to time instruct an Actuary to review any Authorised Investment Fund and the liabilities attributable to any Authorised Investment Fund. The Actuary shall report in writing to the Trustee upon the results of his valuation and/or review and will forthwith provide a copy of the report to the Auditor. The Trustee shall promptly take any action recommended in that report.

Retirement of Participating Employer

- 6.18 The participation in the Superannuation Fund of an Employer may be terminated:
- (a) by the Employer by notice in writing to the Trustee; or
 - (b) by the Trustee by notice in writing to the Employer.

- 6.19 On termination of participation in the Superannuation Fund as aforesaid:
- (a) the Trustee after consultation with the Participating Employer shall specify a future date (hereinafter called "the Retirement Date") upon which the Employer (hereinafter called "the Retiring Employer") shall retire;
 - (b) the Retiring Employer shall forthwith pay all arrears, if any, or contributions up to the Retirement Date;
 - (c) benefits which have become payable on or before the Retirement Date shall continue to be payable out of the Superannuation Fund;
 - (d) the Trustee shall certify the amounts recorded in the Members' Individual Accounts including arrears (if any) of contributions still to be made pursuant to paragraph (b) of this Clause, as is properly attributable to the Members who were in the employ of the Retiring Employer at the Retirement Date;
 - (e) the Trustee shall advise each Member who was employed by the Retiring Employer on the Retirement Date in writing that the Retiring Employer has ceased participating in the Superannuation Fund; and
 - (f) for each Member who was employed by the Retiring Employer on the Retirement Date, the Trustee shall hold in trust for that Member the amount recorded in his Individual Account as determined in paragraph (d) of this Clause until a benefit is payable in accordance with Chapter 5 or a transfer is made in accordance with Clause 2.7.

Policy Committees

- 6.20
- (a) An Employer may, at any time, determine that a Policy Committee representing that Employer and the Members employed by that Employer be appointed.
 - (b) The Trustee must, whenever required to do so by the Act, take all reasonable steps to ensure that a Policy Committee is appointed.
 - (c) A Policy Committee shall be formed:
 - (i) at the discretion of the Employer, where the Act does not require its formation; or

- (ii) in accordance with Clause 6.20(d), where the Act does require its formation.

- (d) One-half of the members of the Policy Committee shall be Employer representatives nominated by the Employer (herein called "Employer Representatives") and one-half shall be Member representatives (herein called "Members' Representatives"). The Members' Representatives shall be elected in the discretion of the Employer, either at a meeting called in accordance with Clause 6.20(d)(i) or by a poll conducted in accordance with Clause 6.20(d)(v):
 - (i) A meeting of Members employed by an Employer shall be called by the Employer in accordance with Clause 6.20(d)(ii) in relation to the election or removal of Member Representatives or for any other purposes.

 - (ii) a meeting of Members for the purposes of Clause 6.20(d)(i) shall be called as follows:
 - (a) the Employer shall circulate a notice of the meeting to the Members by either handing it to each Member personally or by sending it to the Member at the business or private address of the Member last known to the Employer provided that accidental or unintentional failure to notify any Member shall not invalidate any meeting of Members;

 - (b) a meeting of Members shall not be held prior to the expiration of 3 weeks from the date of giving or mailing the notice of the proposed meeting;

 - (c) the notice given to Members shall stipulate the time and place of such meeting, the reason for calling it and provide an agenda for the meeting;

 - (d) a meeting may be held at more than one location determined by the Employer.

 - (iii) Where the purpose of the meeting is to elect one or more Member Representatives.
 - (a) the Employer shall appoint a returning officer;

 - (b) the notice of the meeting shall call for nominations to fill any office of Member

Representative and state the date by which such nominations must be received by the returning officer;

- (c) any nomination of a Member to act as a Member Representative must be signed by the nominated Member and by the propose and seconder of such Member and be forwarded to the returning officer no later than 4 days before the appointed day of the meeting;
 - (d) if, 3 days before the appointed day of the meeting, there have been no nominations, the meeting shall be adjourned for a period of 4 weeks and fresh notice to Members shall be given in accordance with the provisions of this Clause;
 - (e) if there is a nominee or nominees but the number of nominees does not exceed the number of vacancies in the office of Member Representative, the meeting shall be cancelled and the nominees shall be declared by the returning officer to be elected.
- (iv) The following procedure shall apply at the meeting of Members and to the election of Member Representatives by means of a meeting:
- (a) the Employer or a delegate of the Employer shall appoint the chairman of the meeting;
 - (b) a quorum shall consist of one-third of the Members present either in person or represented. by proxy provided that if the meeting is being held at more than one location, there shall be a quorum if one-third of the Members are present either in person or represented by proxy at the various locations but a Member shall not be entitled to attend the meeting or be represented by proxy at more than one location;
 - (c) questions to be decided at the meeting shall be decided by a simple majority of the Members present or represented by proxy and voting;

- (d) where a purpose of the meeting is the election of one or more Member Representatives, the chairman shall distribute to each Member present at the meeting a ballot paper listing in alphabetical order the names of Members nominated as Member Representatives;
 - (e) the Members present at the meeting or represented by proxy may record one vote for each vacancy in the office of Member Representatives;
 - (f) the Member who receives the greatest number of votes shall become a Member Representative;
 - (g) where more than one Member Representative is to be elected, the Member who receives the next greatest number of votes after the election of a Member Representative shall be elected a Member Representative until all vacant positions have been filled;
 - (h) where not all of the vacancies of the office of Member Representatives are filled in accordance with the foregoing procedure, the elected Member Representative or Representatives shall appoint the other Member Representatives by deed;
 - (i) the Employer shall advise the Members by notice in writing of the names of the Members appointed as Member Representatives.
- (v) Where the Employer determines that an election of Member Representatives shall be conducted by a poll, the following procedure shall apply:
- (a) the Employer shall appoint a returning officer and shall circulate a notice to the Members by either handing it to each Member personally or by sending it to the Member at the business or private address of the Member last known to the Employer provided that accidental or unintentional failure to send a notice to a Member shall not invalidate the poll. The notice shall call for nominations to fill any vacancy/ies in the office of Member Representative, shall

- state the date by which such nominations must be received by the returning officer and state that any nomination of a Member to act as a Member Representative must be signed by the nominated Member and by the proposer and seconder of such Member;
- (b) if no nominations have been received by the returning officer by the date referred to in subparagraph (i), the Employer shall circulate a fresh notice in accordance with the provisions of this Clause;
- (c) after the date for receipt of nominations has passed, if the number of nominees does not exceed the number of vacancies in the office of Member Representative, the nominees shall be declared by the returning officer to be elected;
- (d) after the date for receipt of nominations has passed, if there has been more nominees than there are vacancies in the office of Member Representative, the Employer shall distribute a ballot paper to each Member by either handing it to each Member personally or by sending it to the Member at the business or private address of the Member last known to the Employer provided that accidental or unintentional failure to distribute a ballot paper to a Member shall not invalidate the poll. The ballot paper shall list in alphabetical order the names of Members nominated for election as Member Representatives. A note shall be included on the ballot paper requesting the Members to record one vote for each vacancy in the office of Member Representative and specifying the date by which the ballot paper must be returned to the returning officer;
- (e) the Member who receives the greatest number of votes shall become a Member Representative;
- (f) where more than one Member Representative is to be elected, the Member who receives the next greatest number of votes after the election of a Member Representative shall be elected a Member Representative until all vacant positions have been filled;

- (g) where not all of the vacancies of the office of Member Representatives are filled in accordance with the foregoing procedure, the elected Member Representative or Representatives shall appoint the other Member Representatives by deed;
 - (h) the Employer shall advise the Members by notice in writing of the names of the Members appointed as Member Representatives.
- (vi) Any Member Representative may be removed by a resolution of Members passed at a meeting of Members convened and conducted in accordance with the provisions of Clauses 6.20(d)(ii) and (iv) or by a resolution adopted in a poll of Members conducted in accordance with Clause 6.20(d)(v). The Employer shall, in its discretion, call such a meeting or conduct a poll if 5% of the Members employed by that Employer requisition the Employer in writing that one or more Member Representatives be removed from office.
- (vii) If the Employer determines that the requisition for the removal of a Member Representative be voted on by the Members in a poll, the following procedure shall apply:
 - (a) the Employer shall appoint a returning officer and circulate a notice within 28 days of receiving the requisition, to the Members by either handing it to each Member personally or by sending it to the Member at the business or private address of the Member last known to the Employer, stating that the required number of Members have requisitioned that the Members vote on the removal of the relevant Member Representative or Representatives;
 - (b) a ballot paper shall be enclosed with the notice requesting each Member to record a vote or votes on whether the relevant Member Representative or Representatives shall be removed from office;
 - (c) the ballot paper shall specify the date by which the ballot paper must be returned to the returning officer to constitute a valid vote;

- (d) if a majority of the Members who have cast a valid vote have voted in favour of a Member Representative being removed from office, that Member Representative shall be removed from office from the date on which the Employer advises that Members' Representative of the outcome of the vote to remove that Members' Representative from office.
- (viii) A Member Representative shall cease to be a Member Representative on the earlier of the day on which:
 - (a) he ceases to be a Member; or
 - (b) he ceases to be an Employee; or
 - (c) he is removed from office by a meeting or poll of the Members; or
 - (d) he resigns his office; or
 - (e) he dies; or
 - (f) he becomes bankrupt or has, within the preceding 3 years, made an assignment to or composition with his creditors under Part X of the Bankruptcy Act, 1966 (C'th) or any replacement legislation; or
 - (g) he is declared mentally ill or becomes liable to have his affairs dealt with under the laws relating to mental health.
- (ix) Employer Representatives may be appointed to office and removed from office by the Employer.
- (e) Any vacancy in the office of membership of the Policy Committee shall, where such vacancy is required to be filled, be filled within 90 days (or within such other number of days as are provided for in the Act of the date on which the vacancy occurred).
- (f) Where the Act requires the appointment of a Policy Committee, the Trustee must:
 - (i) ensure that any Policy Committee so formed meets at least once in every twelve month period;

- (ii) provide such facilities as are reasonably necessary to enable the Policy Committee to meet and function effectively;
 - (iii) arrange for a representative of the Trustee to attend each meeting of the Policy Committee if the Committee so requests.
- (g) The Trustee may recoup:
 - (i) costs incurred in providing facilities and information and attending meetings of the Policy Committees, from the Fund.
 - (ii) costs additional to those in paragraph (i) incurred as a consequence of the actions of any specific Policy Committee, by levying a charge against the benefits of those Members who are represented by that Policy Committee.
- (h) Each Policy Committee may, subject to the requirements of the Act, regulate its meetings as it sees fit, provided always that:
 - (i) valid meetings can be held by telephone conference;
 - (ii) two-thirds of the members of the Policy Committee shall be a quorum;
 - (iii) binding if at least two thirds of the total number of the members of the committee have voted in favour of it;
 - (iv) a resolution, in writing, signed by at least two-thirds of the members of the Policy Committee shall have the same effect and validity as a resolution of the members of the committee passed at a duly convened meeting.
- (i) Each Policy Committee shall represent its Members on all matters related to the administration of the Fund in so far as they affect those Members and, without limiting the generality of that function, shall:
 - (i) advise the Trustee and receive information from the Trustee on:
 - (a) the operation and performance of the Fund;

- (b) the investment strategy and investment performance of the Fund;
- (c) assist the Trustee in dealing with complaints or inquiries about the operation or management of the Fund; and
- (d) perform such other functions as are required under the Act.

CHAPTER 7

Custodian

7.1 The Trustee may, subject always to the covenants of the Trustee herein contained and in particular to the covenants contained in Clause 6.9, from time to time appoint any one or more corporation or corporations (being or each being a corporation, of a type referred to in the definition of "**Custodian**" in Clause 1.1) to perform the following actions within Australia or in any other country in the name of the Trustee or at the direction of the Trustee in its own name or in a name nominated by the Custodian or Sub-Custodian and approved by the Trustee as nominee for the Trustee:

- (a) purchase or sell in a country in which the Custodian is resident by itself or through a Sub-Custodian appointed by the Custodian in accordance with Clause 7.2 at the direction of the Trustee Authorised Investments and execute all transfers and assurances necessary for any such purpose;
- (b) receive and hold on behalf of the Trustee by itself or through any Sub-Custodian appointed as aforesaid any Authorised Investments and any document of title thereto in safe custody in the country of purchase;
- (c) procure registration of such Authorised Investments in registrable form;
- (d) procure safe custody of such Authorised Investments in bearer form by a recognised clearing system nominated by the Custodian or Sub-Custodian and approved by the Trustee;
- (e) receive, hold and disperse monies in the name of the Trustee at the direction of the Trustee; and
- (f) perform all actions incidental to any of the foregoing powers.

- 7.2 A Custodian may with the consent of the Trustee appoint in any jurisdiction in which it is appointed to act as a Custodian and in which it does not carry on as its principal business the business of banking or the provisions of trustee services such other corporation which is independent of the Trustee and carries on as its principal business the business of banking or the provision of trustee services and satisfies the requirements set out in the definition of Custodian to act as Sub-Custodian of the Fund.
- 7.3 The Trustee may by the terms of any such appointment insert such provisions for the protection and convenience of those dealing with any such Custodian as it thinks fit provided that notwithstanding any such appointment the Trustee shall remain liable for any act or omission of any Custodian as if any such act or omission was an act or omission of the Trustee. The Trustee shall be responsible for the payment of the fees and expenses of such Custodian but shall be entitled to be reimbursed out of the Funding respect of any such fees and expenses subject to a maximum equal in aggregate in respect of all Custodians in any Income Calculation Period to the aggregate for each day of that period to 0.000685% of the value of the Fund as at the Income Calculation Date relevant to the immediately preceding Income Calculation Period. If the aggregate of the fees and disbursements of all Custodians exceed the aforesaid amount the excess shall be met by the Trustee.
- 7.4 The Trustee shall make it a term of any such appointment that the Custodian agrees irrevocably to be bound by the terms of this Deed as they apply to the Fund governing the appointment and conduct of the Custodian and to submit to the jurisdiction of Courts of competent jurisdiction in the State of New South Wales in respect of all matters relating to the Fund.
- 7.5 The Trustee covenants that it will observe and perform the requirements of the Act in relation to Custodians.

CHAPTER 8

Miscellaneous

- 8.1 Any moneys payable by the Trustee to a Member or Dependant or ADF Member or Personal Representative under the provisions of this Deed may be paid by crossed "not negotiable" cheque made payable to the Member or Dependant or ADF Member or Personal Representative or bearer and sent through the post to the registered address of such holder or otherwise delivered dispatched or made available to be collected as the Member or Dependant or ADF Member or Personal Representative may from time to time specify. Payment of every such cheque if duly presented and paid shall be a satisfaction of the moneys payable and shall be good discharge to the Trustee.
- 8.2 Applications to become a Member or Employer or ADF Member and instruments of transfer and transmission shall be retained by the Trustee but on the expiration of seven (7) years from the date of each thereof the same may in the absolute discretion of the Trustee be destroyed.

- 8.3 The terms and conditions of this Deed as they apply to the Fund as duly altered, modified, added to or cancelled from time to time shall be binding on the Trustee and each Member Dependant and Employer and ADF Member and Personal Representative and all persons claiming through them respectively as if such Member Dependant or Employer or ADF Member or Personal Representative has been party to this Deed.
- 8.4 A copy of this Deed shall at all times during usual business hours be available by the Trustee at its registered office for the inspection of Members, Dependants, ADF Members, Personal Representatives or Employers who shall be entitled to receive from the Trustee a copy of this Deed on payment to the Trustee of the sum of twenty dollars (\$20.00) or such other sum as the Trustee may from time to time prescribe.
- 8.5 Notwithstanding any other provisions of this Deed, the Trustee shall be entitled to be indemnified and shall be entitled to reimburse itself out of the Fund in respect of all costs, charges, liabilities and expenses (including all Tax) of the Fund which it may incur or which is or may be imposed on or properly received by it or in or about the performance or exercise of its duties and powers hereunder in relation to the Fund and otherwise under or by virtue of or in respect of the Fund and for the purposes of such indemnity and reimbursement may from time-to time realise such Authorised Investments of the Fund in such manner and at such time as is determined by the Trustee.
- 8.6 It is not the intention of the Trustee to make provision for the replacement of any part of the Fund which tends to depreciate in value through use or effluxion of time.
- 8.7 The Fund and no other fund shall comprise the only trust property in respect of which the duties and obligations of the Trustee arise under this Deed.
- 8.8 This Deed shall be construed and governed at all times by the law in force from time to time in the State of New South Wales, Commonwealth of Australia, which law it is agreed hereby shall be the proper law hereof and the Members, Dependants, ADF Members, Personal Representatives and Employers for the time being shall accept such jurisdiction.
- 8.9 The amounts payable by Members or ADF Members or others with respect to inspection of records or documents or obtaining of copies of those records or documents of this Deed may be increased from time to time by such amount as is determined by the Trustee.
- 8.10 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 dealing of the Employer with the Employee.
- 8.11 The fact of being a Member shall not be used as a ground for claiming or increasing damages in a claim by the Member for alleged wrongful termination of employment or for claiming the payment of any amount on retrenchment.

- 8.12 Notwithstanding any of the provisions of this Deed the requirements contained in the Act and the regulations made thereunder are deemed to be included in this Deed to the extent that they impose requirements on the Trustee or are required by the Act to be so incorporated and in the event of any inconsistency between the provisions of this Deed and the Act or Regulations, the latter shall prevail.
- 8.13 If a provision of this Deed would otherwise be invalid in part or in whole because it subjects the Trustee to direction by another person then the provision is taken not to subject the Trustee to direction by that person but to give the Trustee the power to treat such a direction as a request and in its discretion agree to act in a manner consistent with it.
- 8.14 If a provision of this Deed would otherwise be invalid in part or in whole because it permits a person to exercise a discretion without the consent of the Trustee, that provision is taken to require the Trustee's consent for the exercise of the discretion.
- 8.15 If any provision of this Deed has the effect of depriving the Trustee of its right to be reimbursed or indemnified out of the Fund in circumstances or to an extent that would, but for this clause, render the provision void because of section 56(1) of the Act, the provision is not to have the effect of depriving the Trustee of that right in those circumstances or to that extent but is to have the effect of depriving the Trustee of that right in respect of any liability of the kind mentioned in section 56(2)(a) or (b) of the Act.
- 8.16 If any provision of this Deed has the effect of exempting the Trustee or a director of the Trustee from liability in circumstances or to an extent that would, but for this clause, render the provision void because of sections 56(2) or 57(2) of the Act respectively, the provision does not have the effect of exempting the Trustee or a director of the Trustee from liability in those circumstances or to that extent.
- 8.17 If any provision of this Deed has the effect of depriving the Trustee of its right to be reimbursed or indemnified out of the Fund in circumstances or to an extent that would, but for this clause, render the provision void because of section 56(3) of the Act, the provision is not to have the effect of depriving the Trustee of that right in those circumstances or to that extent.
- 8.18 Notwithstanding any other provision of this Deed, this Deed may only be amended in accordance with the Act.
- 8.19 Notwithstanding any other provision of this Deed, the Trustee may only be removed or suspended in accordance with the Act.

CHAPTER 9 THE LIFERACK APPROVED DEPOSIT FUND

Membership of the Fund

- 9.1 (a) Membership of the Fund shall be restricted to those persons wishing to deposit Eligible Termination Payments with an Approved Deposit Fund.
- (b) Each person who makes application for membership of the Fund shall make a Deposit to the Fund in the manner prescribed in this Chapter.

Plan Specifications of an ADF Member

- 9.2 (a) The Trustee may require an applicant to lodge, together with his application for membership of the Fund, Plan Specifications in relation to that applicant.
- (b) The Plan Specifications in force (if any) in relation to an ADF Member on any date ("relevant date") shall be the Plan Specifications determined for that ADF Member in accordance with this Clause at the time of his becoming an ADF Member or, where those Plan Specifications have been amended in accordance with this Clause prior to the relevant date, the Plan Specifications as amended most recently prior to the relevant date.
- (c) The Plan Specifications for an ADF Member shall be the Plan Specifications determined in writing by the Trustee prior to that person becoming an ADF Member provided that those Plan Specifications may be altered from time to time by notice in writing from the Trustee to the ADF Member and:
- (i) where the alteration will not adversely affect any benefits to which that ADF Member has or will become entitled hereunder prior to the date on which the alteration becomes effective, by the Trustee; or
- (ii) in any other case, by the Trustee with the prior written approval of the ADF Member,
- and that alteration shall become effective on the date specified in the notice which date shall not be earlier than the date which is fourteen (14) days after the notice was given to the ADF Member .
- (d) If so required by the Trustee, an ADF Member shall advise the Trustee of his Class of Membership at the time of submitting his

application for membership of the Fund provided that if such advice is not given then upon approval by the Trustee of the application the Trustee may determine the Class of Membership of the ADF Member.

- (e) An ADF Member shall advise the Trustee in writing if any event occurs which may affect his eligibility to continue membership of the Fund as soon as reasonably practicable after the occurrence of any such event and the Trustee shall determine the date the change becomes effective for the purposes of that ADF Member's rights hereunder.
- (f) An ADF Member may not at any one time be a member of more than one Class of Membership.
- (g) Where the Trustee purports to alter the Plan Specifications of an ADF Member pursuant to this Clause, the Trustee shall ensure that the alteration will not adversely affect any benefits to which that ADF Member has or will become entitled hereunder prior to the date on which the alteration is to become effective.
- (h) An ADF Member shall advise the Trustee of any change in that ADF Member's Class of Membership.

Admission of an ADF Member

- 9.3 A person who wishes to participate in membership of the Fund shall apply in writing to the Trustee on a form approved from time to time by the Trustee for admission to membership of the Fund. The Trustee shall have an unfettered discretion as to whether to accept or not to accept the application of a person for admission for membership of the Fund. The Trustee shall not be obliged to issue to any ADF Member any certificate evidencing their membership of the Fund.
- 9.4 The Trustee shall not accept an application for membership of the Fund unless the applicant has lodged the application together with:
 - (a) the Deposit to which the application relates;
 - (b) the Statement of Termination Payment prepared and forwarded to the applicant by the person making the Eligible Termination Payment in respect of that application in accordance with Regulation 99 of the Tax Act; and
 - (c) the Roll-Over Payment Notification completed by the applicant in accordance with Regulation 42(3) of the Tax Act,

and the Trustee is satisfied that the Deposit constitutes an Eligible Termination Payment in respect of the applicant.

- 9.5 Each person who makes application for membership of the Fund shall be admitted in accordance with admission requirements, if any, in the prospectus.
- 9.6 The completed and signed application of an applicant shall upon acceptance by the Trustee constitute agreement by that applicant and his Personal Representative:
- (a) to become an ADF Member of the Fund; and
 - (b) to be bound by the terms and conditions of this Deed so far as they apply to ADF Members and the Plan Specifications in force (if any) from time to time in relation to that ADF Member.
- 9.7
- (a) The Trustee shall notify in writing each applicant for membership of the Fund, within fourteen (14) days of receiving that applicant's application, of the Trustee's decision either to accept or not to accept that application.
 - (b) Without limiting the generality of paragraph (a) hereof, the Trustee shall after acceptance of the application, forward the declaration required by Regulation 42(4)(c) of the Tax Act to the ADF Member within the time allowed by Regulation 42(4)(e) of the Tax Act.
 - (c) Without limiting the generality of paragraph (a) hereof, the Trustee shall as soon as practicable after acceptance of the application, forward any statement or information required by the Act to the ADF Member.
 - (d) Where the Trustee has notified an applicant pursuant to this Clause that his application has been accepted, that applicant shall become an ADF Member on the date specified by the Trustee in the notice to the applicant under paragraph (a) of this Clause (being a date not earlier than the date the Trustee received the application) or where no such date is specified, on the date the Trustee received the application.
 - (e) An ADF Member shall cease to be an ADF Member on his death or upon the Trustee having paid to or for the benefit of that ADF Member and/or his Personal Representatives and in accordance with this Deed all moneys to which that ADF Member and/or his Personal Representative are or are contingently entitled to hereunder.
 - (f) An ADF Member may be a member of, or participate in, any other trust fund constituted under this Deed.

- 9.8 No ADF Member shall receive any benefit from the Preserved Benefit part of his Individual Account except in one of the circumstances described in the definition of Preservation Requirement in Clause 1.1.
- 9.9 Notwithstanding anything in this Deed, no Deposit may be accepted by the Trustee from any applicant for membership of the Fund under the terms of which the Deposit is repayable later than the sixty-fifth anniversary of the birth of that applicant.

Portability: Transfer from another Fund

- 9.10 (a) The Trustee may make such arrangements as it thinks proper with any ADF Member or any previous employer of any ADF Member or any Member or any previous employer of any Member or the trustee of any Fund, superannuation fund or Approved Deposit Fund of which the Member or ADF Member (as the case may be) is or was a member for any transfer of assets (including Cash) to the Fund and may make arrangements about any other matter which in its opinion is incidental to or consequent on the admission of such ADF Member to membership in the Fund PROVIDED THAT so much of the value of any assets so transferred in respect of an ADF Member that are subject to a Preservation Requirement shall be recorded in the Preserved Benefit section of that ADF Member's Individual Account.
- (b) Any transfer of assets to the Fund other than by Cash must be with the prior approval of the Trustee and must be accompanied by such evidence of title and other matters (including a valuation of the benefits or assets by an Approved Valuer) as the Trustee may require together with duly executed and stamped transfers or conveyances where appropriate. Where any transfer is paid by assignment or transfer of ownership of any benefits or assets the Employer or ADF Member entitled to same shall be responsible for all stamp duty, brokerage fees, commission and other costs, charges and expenses in respect of such assignment or transfer and the Trustee shall be entitled to deduct same from the assignment or transfer. The provisions of Clause 9.15 shall apply to any such assignments or transfer as if the relevant benefits or assets were Authorised Investments in which the Trustee intends to invest Cash available from the Fund.
- (c) If any transfer made by an ADF Member is not acceptable to the Commissioner the Trustee may refund such transfer to that ADF Member or to the Fund or pay the transfer as the ADF Member may direct in accordance with Clause 9.11.

Portability: Transfer to another Fund

- 9.11 An ADF Member may request the Trustee in writing to, or the Trustee (if the Trustee is directed to refund a transfer in accordance with the Clause 9.10(c)) may, transfer part or all of the monies in that ADF Member's Individual Account to such Fund or toward such purpose or to such person as the ADF Member

directs and where the Trustee receives such a request the Trustee shall pay in Cash any benefit to which the ADF Member may be entitled under this Deed to the ADF Member or the trustee of that Fund or as the ADF Member has directed (as the case may be) PROVIDED THAT the transfer of that part (if any) of the total benefit being transferred that is recorded in the Preserved Benefit section of the ADF Member's Individual Account may only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.

Information

- 9.12 (a) Every ADF Member and Personal Representative of any ADF Member when requested by the Trustee shall promptly furnish any information the Trustee shall deem necessary for the purposes of any investigation or otherwise in connection with the Fund and without limiting the generality of the foregoing such information may include evidence of age of that ADF Member and current residential address of that ADF Member.
- (b) The Trustee shall provide the Members and prospective Members, or cause the Members and prospective Members, to be provided with such statements, notices, documents and information concerning the administration of the Fund as is required by the Act, including prescribed information on request and information concerning significant events. The Trustee shall retain for so long as they are relevant and, in any event, for at least 10 years or for such other period as required by the Act, copies of all reports given to the Members.
- (c) If the Trustee causes someone else to provide a Member or prospective Member with such a statement, notice, document or such information, the Trustee shall if required by the Act, obtain from that person a written declaration stating that the person has provided the Member or prospective Member with a statement, notice, document or information, as the case may be.
- (d) (i) In this clause "regulated document" has the meaning attributed to it in the Act.
- (ii) The Trustee may not issue a regulated document which contains a statement by an expert unless that expert has given written consent.
- (iii) Copies of written consents given by experts must be retained for at least 10 years.

Constitution of the Fund

- 9.13 (a) The Fund is established and maintained solely for Approved Purposes.

- (b) The Fund is to be known as the "LifeTrack Approved Deposit Fund".
- (c) The Fund shall commence on the receipt by the Trustee of the first Deposit from an applicant for membership in the Fund.
- (d) The Trustee is hereby expressly appointed as Trustee of the Fund for the ADF Members on the terms and conditions of this Deed as they apply to the Fund and subject to the provisions of Clauses 6.8 and 7.1 shall retain the Fund vested in it in safe custody and hold it as trustee for the ADF Members on the terms and conditions of this Deed as they apply to the Fund.
- (e) The Fund shall consist of all the Cash and Authorised Investments for the time being held by the Trustee upon the trusts of this Clause including:
 - (i) the proceeds of sale of any Authorised Investments of the Fund; and
 - (ii) all additions or accretions (if any) thereto which may arise by any interest, premium, dividend distribution or otherwise received and for the time being retained,

EXCEPT THAT any application monies received by the Trustee pursuant to Clause 6.9(ix) shall not form part of the Fund.

- (f) An ADF Member shall be entitled as herein provided to a beneficial interest in the Fund but such interest shall not entitle the ADF Member other than as herein provided:
 - (i) to interfere with the rights or powers of the Trustee in its dealings with the Fund or any part thereof;
 - (ii) to exercise any rights powers or privileges in respect of any Authorised Investments of the Fund; or
 - (iii) to any interest in any particular part of or particular investment of the Fund.

Valuation of the Fund

- 9.14 (a) The Trustee shall cause the value of the Fund (rounded downwards to the nearest dollar) to be determined as at the Commencement Date and as at the last Working Day of each Month and also whenever in its opinion it is necessary or desirable so to do for the proper administration of the Fund.

- (b) In causing the value of the Fund to be determined the Trustee shall obtain a valuation of all the Authorised Investments of the Fund at the relevant Valuation Date by an Approved Valuer and shall add to the value of the Authorised Investments of the Fund as so determined any Cash of the Fund in the hands of the Trustee and all monies recoverable or receivable by the Trustee in respect of the Fund less all sums owing by the Fund on any account including any charges or expenses accrued or unpaid.
- (c) The Trustee shall cause the value of the Fund to be determined where it has reason to believe that there has been a significant change in the value of any real property held in the Fund.
- (d) The calculation made by the Trustee in accordance with sub-Clause (a) shall be the value of the Fund for the period commencing on the Valuation Date and ending on the day immediately prior to the next Valuation Date and shall be final and binding on all persons.
- (e) Where any asset of the Fund required to be taken into account in ascertaining the value of the Fund is denominated in a foreign currency the value of that asset shall be calculated by converting its value into Australian dollars by such conversion method as the Trustee may, from time to time, agree with the Auditor.
- (f) The value of an interest of the Fund under a Futures Contract shall be the net profit or loss (after allowing for deposits, margin calls, costs and other disbursements in respect of the acquisition or disposal of the Futures Contract as estimated by the Trustee) which would have been realised in respect of the Futures Contract by executing a transaction at the official closing market quotation of the relevant Recognised Market on that day in respect of Futures Contracts of the specification of the Futures Contract being valued so as to eliminate the interest held by the Futures Contract from the investments of the Fund in accordance with the business rules of the relevant Recognised Market.

Investment of the Fund

- 9.15 (a) Subject to the Act, and to the in-house assets rules in the Act, and provided investments are made on an arm's length basis, the Trustee may at any time and in its absolute discretion, arrange for the investment of Cash constituting or available from the Fund for the acquisition, lease or sale of Authorised Investments of the Fund. Without limiting the generality of the foregoing such investments may include additions or alterations to any Authorised Investments already forming part of the Fund and the erection and installation of buildings, improvements, fixtures or fittings on land already forming part of the Fund or to be acquired as Authorised Investments of the Fund (such erection and installation as aforesaid being hereinafter referred to as "the erection of new improvements").

- (b) Subject to paragraph (iii), the Trustee must obtain a valuation of an intended investment by an Approved Valuer wherever the investment entails:
 - (i) the purchase of or leasing of land or investment in the mortgage or the purchase of unlisted preference or ordinary shares or unlisted Debentures of any Company. Such valuation, in the case of shares which are not listed on a stock exchange, must be on the basis of the net asset backing as shown in the last audited consolidated balance sheet of that Company and its subsidiaries, subject only to such - adjustments as the Approved Valuer in its discretion considers necessary; or
 - (ii) extensions, additions or alterations to existing Authorised Investments or the erection of new improvements, provided that a commercial appraisal will be a sufficient substitute for a valuation; but
 - (iii) such valuations need only be obtained where they are necessary to ensure that the limitations imposed by this Deed upon the Trustee's investment power are not exceeded.

- (c) The Trustee shall, from time to time, formulate and give effect to an investment strategy in accordance with the requirements of the Act. Such strategy shall have regard to the whole of the circumstances of the Fund including, but not limited to, the following:
 - (a) the risk involved in making, holding and realising, and the likely return from, the Fund's investments having regard to its objectives and its expected cash flow requirements;
 - (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;
 - (d) the ability of the Fund to discharge its existing and prospective liabilities.

- (d) If the Trustee appoints or has appointed an investment manager for the Fund or any part of it, the investment manager must be a body corporate, and the agreement with the investment manager must be in writing and contain provisions which comply with the Act.

- (e) Where an intended investment entails extensions, additions or alterations to existing Authorised Investments of the Fund or the erection of new improvements the Trustee may, in its discretion:
 - (i) engage any person to plan, control, co-ordinate and erect the carrying out of such works or to perform any one or more of such functions;
 - (ii) appoint any duly qualified person or persons to report to the Trustee the progress and completion of such extensions, additions and alterations to existing Authorised Investments of the Fund and/or the erection of new improvements;
 - (iii) subject to its being satisfied that the terms thereof are not prejudicial to the interests of ADF Members, award the contract for the carrying out of such works to any person or persons. Every such engagement or contract shall if the Trustee so requires and the Trustee approves include the provision for the making of progress payments for services rendered or work performed or goods or materials supplied thereunder.

- 9.16 (a) Trustee covenants that any investments made in respect of the Fund pursuant to Clause 9.15(a) will be limited to Authorised Investment Fund Assets.
- (b) Whenever the Trustee makes an investment or a group of investments there will be created an Authorised Investment Fund comprising that investment group of investments.
- (c) Trustee shall give the Authorised Investment Fund a name fairly reflecting the investment policy of the investment or group of investments which distinguishes the Authorised Investment Fund from other authorised investment funds.
- (d) Trustee may, at any time, change the name of an Authorised Investment.

- 9.17 (a) The cost of acquisition of any Authorised Investment or sale of any Authorised Investment of the Fund (including stamp duty, brokerage and mission) shall be paid by the Trustee out of the Fund.
- (b) Notwithstanding anything contained in this Clause 9.17 but subject to the Act, the Trustee covenants with the intention that the benefit of this covenant shall ensure to the benefit of all ADF Members and their Personal Representatives that no monies available for investment from the Fund will be invested in or lent to a Related Entity other than a Related Entity that is an Eligible Bank.

- (c) Notwithstanding anything in this Deed, the Trustee covenants that it shall not invest or cause to be invested the Fund or any part thereof in any investment which is of a type which the Commissioner has indicated is not an acceptable or appropriate investment for a Complying Approved Deposit Fund.
- (d) Notwithstanding anything in this Deed the Trustee covenants that it shall not invest or cause to be invested the Fund or any part thereof in the purchase or leasing of any real property ("the proposed investment") if immediately following the acquisition of the proposed investment the value of that part of the Fund (as determined for the purpose of determining the Value of the Fund on the last Valuation Date) which immediately prior to that acquisition consisted of any freehold or leasehold interest in real property together with the cost of acquisition of the proposed investment would equal 20 % or more of the Value of the Fund as at the date of the acquisition.

Investment Register

- 9.18 (a) The Trustee shall keep in respect of the Fund separate registers of all Authorised Investments of the Fund comprising the Authorised Investment Funds showing in respect of each Authorised Investment:
- (i) the nature of the Authorised Investment;
 - (ii) the date of acquisition thereof by the Fund; and
 - (iii) the cost thereof.
- (b) The register kept pursuant to sub-Clause (a) of this Clause shall be available for inspection by ADF Members without charge at any time on any Working Day.

Income of the Fund

- 9.19 (a) For the purposes of this Clause:
- (i) "Income Calculation Date" means the last Working Day of each Income Calculation Period.
 - (ii) "Income Calculation Period" means in the case of the first Income Calculation Period the period from the Commencement Date up to and including such date as the Trustee may from time to time in writing determine and in the case of each subsequent Income Calculation Period, the period of twelve (12) months (or such period as the Trustee may from time to time in writing determine) commencing on the day following the last day of the preceding Income

Calculation Period. The Income Calculation Period determined by the Trustee in respect of any particular reference in the Deed may be different from another reference.

- (iii) "Income" means in respect of an Income Calculation Period:
- A. the total of all the income, earnings or other gains received or receivable with respect to the Fund during that Income Calculation Period;
 - B. any unrealised gains or losses accrued during that Income Calculation Period; and
 - C. the amount, if any, by which the Net Proceeds of Sale of any Authorised investment sold, redeemed or realised during that Income Calculation Period exceeds the cost of that Authorised Investment or where that Authorised Investment has been valued hereunder since its acquisition the value thereof as at the previous Income Calculation Date together with any income accrued thereon but unpaid on the date of sale, redemption or realisation.
- (iv) "Net Income" means in respect of an Income Calculation Period the amount (whether positive or negative) calculated by adding to the Income for that Income Calculation Period any amounts transferred from the Investment- Fluctuation Reserve and the General Reserve in accordance with Clause 9.22 and Clause 9.22A.2 respectively in that Income Calculation Period and by deducting from that sum the following:
- A. all expenses, costs, commissions, fees, taxes (including financial institutions duties, debits taxes) land taxes and income and capital gains taxes, insurance premiums and other proper outgoings which have been properly paid out of the Fund or which have become payable out of the Fund but are unpaid during the relevant Income Calculation Period and which have not been debited to the Member's Individual Account in accordance with Clause 9.24; and
 - B. where the cost of Authorised Investments plus income referred to in sub-paragraph (iii)(B) of this Clause exceeds the Net Proceeds of Sale of those Authorised Investments, the whole of that excess.

- (v) "Net Proceeds of Sale" in relation to an Authorised Investment, means the proceeds of sale or realisation or redemption of that Authorised Investment after deduction of all costs and expenses necessarily incurred in connection with that sale, realisation or redemption.
- (b) Within 28 days of each Income Calculation Date, the Trustee shall calculate:
 - (i) the Net Income of the Fund during the Income Calculation Period within which that Income Calculation Date falls;
 - (ii) the amount of the Net Income to be transferred to the Investment Fluctuation Reserve and the General Reserve; and
 - (iii) the benefit entitlement at that Income Calculation Date of each ADF Member as recorded in each ADF Member's Individual Account.
- (c) If on any Income Calculation Date the Trustee decides to write-off (wholly or partially) the value of an Authorised Investment of the Fund, then the amount so written-off shall be treated as an outgoing of the Fund during the Income Calculation Period in which that Income Calculation Date falls.
- (d) The Trustee shall be entitled to deduct from the Individual Account of any ADF Member the amount of any tax levy or duty which the Trustee is required by or entitled at law to deduct therefrom.
- (e) The Trustee hereby covenants with the intention that the benefit of this covenant shall ensure to all ADF Members and their Personal Representatives that it shall collect and get in all Income and shall transfer or cause to be transferred the Net Income between the various accounts of the Fund and the Investment Fluctuation Reserve and the General Reserve in accordance with the Trustee's calculations under paragraph (b) hereof.
- (f)
 - (i) Notwithstanding anything in this Deed, for the purpose of paying any of the amounts referred to in Clause 9.19(a)(iv)(A) the Trustee shall be entitled to pay those amounts from any of the proceeds` of realised assets from any Authorised Investment Fund and/or from income attributable to any Authorised Investment Fund notwithstanding that the obligation to pay any such amounts was incurred in respect of assets forming the whole or part of the other of those categories of assets.

- (ii) The Trustee in exercising its discretion in accordance with paragraph (i) and in all cases shall ensure:-
 - A. If the amount payable is attributable to any Authorised Investment Fund the payment shall be recorded in the accounts and registers of the Authorised Investment Fund to which it relates; and
 - B. If the amount payable is not attributable to either any Authorised Investment Fund the payment shall be recorded in the accounts and registers of each Authorised Investment Fund and shall be apportioned between each Authorised Investment Fund and/or the income in the proportions of, the respective values of each Authorised Investment Fund as they bear to each other.

Borrowing Prohibition

- 9.20 Notwithstanding anything in this Deed, the Trustee shall not borrow on behalf of the Fund UNLESS such borrowing is acceptable to the Commissioner or permitted under the Act.

Investment Fluctuation Reserve

- 9.21 The Trustee shall establish and maintain the Investment Fluctuation Reserve in respect of the Fund and the Trustee shall determine for the Investment Fluctuation Reserve the respective portions thereof included in each Authorised Investment Fund which determination shall, if the Trustee so requires, be in accordance with the advice of an Actuary. The Trustee shall formulate from time to time and give effect to a strategy for the prudential management of the Investment Fluctuation Reserve in accordance with the requirements of the Act.
- 9.22 The Trustee may transfer or cause to be transferred the whole or any part of the Net Income for any Income Calculation Period to the Investment Fluctuation Reserve in order to avoid excessive fluctuations in Income between Income Calculation Periods and the Trustee may in any Income Calculation Period transfer part or all of the Investment Fluctuation Reserve to the Income for that Income Calculation Period.

General Reserve

- 9.22A.1 The Trustee may establish and maintain the General Reserve in respect of the Fund and the Trustee shall determine for the General Reserve the respective portions thereof included in each Authorised Investment Fund

which determination shall, if the Trustee so requires, be in accordance with the advice of an Actuary. The Trustee shall formulate from time to time and give effect to a strategy for the prudential management of the General Reserve in accordance with the requirements of the Act.

9.22A.2 The Trustee may:

- (a) transfer or cause to be transferred the whole or any part of the Net Income for any Income Calculation Period to the General Reserve. The Trustee may in any Income Calculation Period transfer part or all of the General Reserve to the Income for that Income Calculation Period;
- (b) record and hold in the General Reserve Account amounts identified as expenses, costs, commissions, fees (including the Adviser Service Fee), taxes (including financial institution duties and debits taxes), land taxes and income and capital gains taxes, insurance premiums and other proper outgoings which have become payable out of the Fund but are unpaid. The Trustee may use part or all of the General Reserve to make payments in respect of such amounts in order to discharge Fund liabilities;
- (c) record and hold in the General Reserve Account amounts identified as the costs of death and/or permanent disablement and/or temporary disablement benefits. The Trustee may use part or all of the General Reserve to discharge the Fund's liabilities in respect of death and/or permanent disablement and/or temporary disablement benefits; and
- (d) record, hold and apply in the General Reserve such other amounts as the Trustee deems appropriate.

Fund Account

9.23 The Trustee shall establish and maintain in respect of the Fund a Fund Account in which shall be recorded:

- (a) the total annual Deposits by the ADF Members;
- (b) the total interest, dividends and other proceeds arising from any investment of the Fund;
- (c) the total expenses incurred in operating the Fund; payments from any insurance policy;
- (d) the amount (if any) of the Investment Fluctuation Reserve; and the Fund assets;
- (e) the amount (if any) of the General Reserve; and

- (f) the Fund assets.

ADF Member's Individual Account

- 9.24 (a) The Trustee shall establish and maintain an Individual Account for each ADF Member which shall record the following:
- (i) the Accrued Benefit as hereinafter defined in relation to that ADF Member; and
 - (ii) the Preserved Benefit in relation to that ADF Member,
- and the respective portions of the ADF Member's Individual Account invested in each Authorised Investment Fund shall be in accordance with the Plan Specifications applicable to that ADF Member.
- (b) For the purpose of the Fund, Accrued Benefit shall mean the aggregate of:
- (i) the Deposits by the ADF Member;
 - (ii) any transfers from the Investment Fluctuation Reserve in accordance with Clause 9.22;
 - (iii) any transfers from the General Reserve in accordance with Clause 9.22A.2; and
 - (iv) any transfers in accordance with Clause 9.10,
- less the aggregate of:
- (iv) the proportion of all expenses, costs commissions, fees, taxes (including financial institution duties and debits taxes), land taxes and income and capital gains taxes, insurance premiums and other proper outgoings which the Trustee determines to be attributable to the Member's Account and which have either been properly paid out of the Fund or which have become payable out of the Fund but are unpaid;
 - (v) any transfer to the Investment Fluctuation Reserve in accordance with Clause 9.22;
 - (vi) any transfer to the General Reserve in accordance with Clause 9.22A.2;

- (vii) any transfers in accordance with Clause 9.11; and
- (viii) any repayment of a Deposit to an ADF Member or Personal Representative of an ADF Member in accordance with Clause 9.33,

as at the date of calculation increased or decreased by the Fund Earning Rate for each Authorised Investment Fund (if applicable) for each Income Calculation Period by applying that rate to the respective portions of the ADF Member's Individual Account invested in each Authorised Investment Fund.

Trustee's Accounts and Registers - General

- 9.25 The Trustee covenants (and with the intent that the benefit of this covenant shall ensure to all ADF Members and their Personal Representatives) that it will keep true and up to date all accounts and registers which the Trustee is required to establish and maintain in respect of the Fund pursuant to Clauses 9.21, 9.22, 9.23 and 9.24 and will properly and fully record all transfers to and from and all other dealings with and all information to be entered in those accounts and registers. The Trustee shall comply with all accounting and auditing obligations under the Act as set out in Chapter 6 of this Deed. In exercising its discretions and powers as contemplated in the definitions of "Fund Faming Rate", and in accordance with Clauses 9.21 and 9.25 the Trustee shall act in the utmost good faith having regard to the interests of all ADF Members.

Payment of Benefits

- 9.26 Any benefit in the Fund payable to an ADF Member or his Personal Representative under this Deed shall be determined and payable according to the provisions of this Deed as they apply to the Fund.
- 9.27 Notwithstanding anything in this Deed, no ADF Member, or Personal Representative of an ADF Member, shall receive any amount from the Fund otherwise than in the form of a repayment of the whole or part of his Deposit and income thereon.
- 9.28 (a) An ADF Member or the Personal Representative of an ADF Member may request repayment of the whole or part of the amount standing to the credit of the ADF Member's Individual Account.
- (b) Subject to clause 9.33, wherever the Act requires it to do so, the Trustee covenants that:
- (i) if a beneficiary, by written notice, requests the Trustee to pay an amount equal to the beneficiary's interest in the Fund, the Trustee will pay the amount within a period

determined by the Trustee (not being more than 12 months); and

- (ii) each director of the Trustee will ensure that the Trustee gives effect to the covenant in paragraph (i).

- 9.29 (a) An ADF Member or the Personal Representative of an ADF Member who wishes to claim a benefit- from the Fund shall apply in writing on a form approved by the Trustee for a benefit claim.
- (b) All questions as to whether- any person is entitled to a payment out of the Fund and .if so the amount of such payment shall be determined by the Trustee whose decision shall be final.
- 9.30 The Trustee shall, if earlier repayment of the whole of the amount standing to the credit of the ADF Member's Individual Account has not been made pursuant to Clauses 9.31 or 9.32, pay to the ADF Member no later than the sixty-fifth anniversary of the birth of the ADF Member, the amount standing to the credit of the ADF Member's Individual Account and for such purposes each ADF Member shall apply in writing on a form approved by the Trustee for a benefit claim not later than fourteen (14) Working Days prior to such date. Where an ADF Member fails to make application to the Trustee as contemplated by this Clause, then the ADF Member shall be deemed to have made such application and the provisions of this Clause shall apply mutatis mutandis. All questions as to whether any person is entitled to payment out of the Fund and if so the amount of such payment shall be determined by the Trustee whose decision shall be final.
- 9.31 In the case of the death of an ADF Member, the Personal Representative of the ADF Member shall be the only person recognised by the Trustee as having any title to the amount standing to the credit of the ADF Member's Individual Account.
- 9.32 In the case of the death of an ADF Member, the Trustee shall repay to the Personal Representative, no later than ninety (90) days after the grant of probate or letters of administration in relation to the estate of the ADF Member is obtained any Insured Benefit on the life of that ADF Member plus the whole of the amount standing to the credit of the ADF Member's Individual Account and for such purpose the Personal Representative of the ADF Member shall apply in writing on a form approved by the Trustee for a benefit claim not later than sixty (60) days after the grant of probate or letters of administration. Where a Personal Representative fails to make application as contemplated by this Clause, then the Personal Representative will be deemed to have made such application and the provisions of this Clause shall apply mutatis mutandis. All questions as to whether any person is entitled to a payment out of the Fund and if so the amount of such payment shall be determined by the Trustee whose decision shall be final.
- 9.33 The Trustee shall pay to the ADF Member or the Personal Representative of the ADF Member within one (1) month of the receipt of a request for repayment

pursuant to the provisions of this Chapter, the amount specified in that request together with, if applicable, the amount of any Income to which the ADF Member or the Personal Representative of the ADF Member is entitled and upon such payment, the ADF Member's Individual Account shall be reduced by the amount thereof PROVIDED THAT the transfer of that part (if any) of the total benefit being transferred that is recorded in the Preserved Benefit section of that ADF Member's Individual Account may only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.

- 9.34 Any benefit entitlement of the ADF Member or the Personal Representative of an ADF Member may be paid by Cash or transfer of ownership of life insurance policies as the Trustee directs. The Trustee may with the agreement of the ADF Member or Personal Representative to whom a benefit is payable transfer investments of the Fund of equivalent value to such ADF Member or Personal Representative in lieu of paying the whole or part of the amount otherwise payable under this Deed PROVIDED THAT the Trustee obtains from the Commissioner an acknowledgement that such transfer will not cause the Fund to fail to satisfy the requirements of the Act.
- 9.35 Notwithstanding anything contained in this Deed, no benefit payable to an ADF Member or the Personal Representative of an ADF Member shall be paid in the form of a pension or annuity UNLESS payment of the benefit in that form is acceptable to the Commissioner or under the Act.
- 9.36 Notwithstanding anything contained in this Deed, a request for repayment of a benefit or part thereof shall not be for an amount of less than \$500.00 or such other amount as is specified by the Act or permitted by the Commissioner and shall not request repayment of any amount where repayment of that amount would cause the balance standing to the credit of the ADF Member's Individual Account to fall below \$2,000.00 or such other amount as the Trustee shall in its discretion determine unless the request is in respect of the whole balance standing to the credit of the ADF Member's Individual Account.
- 9.37 All amounts payable hereunder shall be calculated in Australian currency according to the current rate of exchange at the date of payment.
- 9.38 The Trustee shall comply with the requirements of the Act in relation to payment of unclaimed money. If a benefit (other than a pension) has become payable under this clause and the Trustee is unable to pay the benefit because the Trustee, after making reasonable efforts to trace the person to whom the benefit is payable, is unable to do so, the Trustee shall treat the benefit as unclaimed money and pay it to the Commissioner in accordance with the requirements of the Act.

ADF Member's Debt

- 9.38 The Trustee may deduct from any payment to an ADF Member any debt due from the ADF Member to the Fund on account of dishonesty, fraud or defalcation and the Trustee shall pay the amount so deducted to the Fund.

Annual Statutory Statement

- 9.39 The Trustee will prepare or cause to be prepared and send or cause to be sent by post as soon as practicable after the end of each prescribed reporting period but in any event within the time limits set by the Act to each ADF Member a written statement setting out the information required by the Act in relation to that ADF Member.

Annual Auditor's Certificate

- 9.40 The Trustee shall in relation to each Fund Year obtain a certificate of the Auditor of the Fund stating whether, at all times during that Fund Year, the provisions of the Deed governing the Fund were Approved Rules and those provisions were complied with.

Statutory Statement on Request

- 9.41 The Trustee shall, as soon as practicable after the receipt of a request from an ADF Member, give or cause to be given to that ADF Member a written statement setting out the information required by the Act in relation to that ADF Member.

Statutory Statement on Ceasing to be ADF Member

- 9.42 The Trustee shall, as soon as practicable after a person ceases to be an ADF Member, give or cause to be given to that person a written statement setting out the information required by the Act in relation .to that person.

Prohibition on Alienation

- 9.43 No ADF Member shall assign, transfer, mortgage or in any other way encumber his interest in any part of the amount standing from time to time to the credit of the ADF Member's- Individual Account or attempt to do so and in the event of a breach of this Clause, the Trustee shall repay the whole of the amount standing to the credit of the ADF Member's Individual Account to the ADF Member within fourteen (14) Working Days of the Trustee receiving notice of such assignment, transfer, mortgage or encumbrance or attempted assignment, transfer, mortgage or encumbrance.

SCHEDULE 1

GOVERNING RULES FOR LIFETRACK CORPORATE SUPERANNUATION

CHAPTER 1 PRELIMINARY

Definitions

1.1 The following words or expressions where used in this Schedule 1 of Annexure A to Division V shall, unless the contrary intention appears in the subject matter or context, have the following meanings:

"Account" means, as the context requires, a Member's Individual Account or a Participating Employer's Plan Account, referred to in Clauses 4.11 and 4.12.

"Act" means the Superannuation Industry (Supervision) Act 1993, the Superannuation Industry (Supervision) Regulations, the Corporations Act 2001, the Corporations Regulations, the Income Tax Assessment Act 1997, the Income Tax Assessment Regulations, the Superannuation (Unclaimed Money and Lost Members) Act 1999, the Family Law Act 1975, the Anti-Money Laundering and Counter Terrorism Financing Act 2006, the Bankruptcy Act 1966, the Social Security Act 1993 or the Veteran's Entitlement Act 1986, as the context requires and includes any other applicable legislation or other lawful requirement (as amended from time to time) with which the Trustee or the Fund must comply (whether to avoid breaching the relevant legislation or other lawful requirement or to qualify for tax or other concessions which the Trustee determines to be desirable or for any other purpose).

"Accrued Benefit" means an accrued benefit as defined in Clause 4.11.

"Actuary" has the meaning given to that term by Section 10 of SIS.

"Adopted Child" in relation to a person, means a person adopted by the first-mentioned person:

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

or.

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

"Adult Child" means a Child who is aged 18 years or more unless the Child is:

- (i) aged less than 25 years and was financially dependent on the Member as at the date of the Member's death; or
- (ii) disabled within the meaning of section 8(1) of the Disability Services Act 1986.

"Adviser Service Fee" means

- (i) in the case of a Member who is not an Employee, the fee payable to the Trustee if agreed to by the Member; and
- (ii) in the case of an Employee, the fee payable to the Trustee if agreed to by the Employer (Adviser Service Fee - Employer) and/or the fee payable to the Trustee if agreed to by the Member (Adviser Service Fee - Member).

The Adviser Service Fee will be calculated daily and charged each month to a Member's Individual Account.

"Approved Deposit Fund" has the meaning given to that term by Section 10 of SIS.

"Approved Auditor" has the meaning given to that term by Section 10 of SIS.

"Approved Valuer" means a person who is appointed and instructed by the Trustee to value any or all of the investments of the Fund, who is certified by the Trustee to be independent of the Trustee, who does not, in respect of any of the property which that person will be required to value, have any pecuniary or other interest that could be reasonably regarded as being capable of affecting the valuer's ability to give an unbiased valuation and who has warranted to the Trustee that the valuer is suitably qualified to carry out the valuation and:

- (i) holds a Dealer's Licence; or
- (ii) is employed by a person who holds a Dealer's Licence and holds a Proper Authority in respect of that person; or
- (iii) in the case of a valuer appointed solely for the purpose of valuing any real estate, holds a licence entitling the holder thereof to value real property and has experience in valuing real property in the locality where the real property is situated or in valuing properties of a similar nature.

"Associate" has the meaning given to that term by Section 10 of SIS.

"Authorised Investments" means and includes any investments of any kind which the Trustee, in exercising its discretion, determines, subject to such investments meeting the requirements of SIS.

"Authorised Investment Fund" means each of the authorised investment funds created pursuant to Clause 4.3.3.

"Authorised Investment Fund Assets" means and includes any assets or other property designated by the Trustee as Authorised Investment Fund Assets for that relevant Authorised Investment Fund.

"Benefit Entitlement" refers to a benefit payable to the Member in accordance with Chapter 5 of the Deed.

"Binding Death Nomination" means a notice given by a Member to the Trustee in accordance with this document which:

- (a) elects one or more of the Member's Dependents or legal personal representative to receive the Member's Benefit on the Member's death; and
- (b) complies with the requirements of the Act for binding beneficiary elections so that the Trustee must act in accordance with the election.

"Cash" includes cheque, bank cheque and any balance standing to the credit of any current account maintained by the Trustee with a bank, but does not include application moneys received by the Trustee pursuant to Clause 6.7(vii).

"Cashback Pension" means a pension payable from a Member's Individual Pension Account.

"Chapter" means a chapter of this Deed.

"Child", in relation to a person, includes:

- (a) an Adopted Child, a step-child or an ex-nuptial child of the person;
- (b) a child of the person's Spouse; and
- (c) someone who is a child of the person within the meaning of the Family Law Act 1975.

"Class of Membership" of a Member as the case may be on any date (**"the relevant date"**) means the class of membership described in the Plan Specifications applicable to that person:

- (a) of which the Trustee was advised at the time at which that person's application for membership of the Fund was submitted, or failing such advice, which the Trustee determined to be that person's Class of

Membership upon approving that person's application for membership;
or

- (b) where the Trustee has been advised prior to the relevant date in accordance with paragraphs (g) or (h) of Clause 2.1 that person's Class of Membership has changed to another Class of Membership, that other Class of Membership.

"Clause" means a clause of this Deed

"Commencement Date" means the first day on which the Trustee accepts contributions to the Fund.

"Commissioner" means APRA, ASIC, the Australian Taxation Office and any other relevant Australian government authority that has regulatory jurisdiction in relation to the Trustee or the Fund.

"Company" includes, corporation, public body or authority.

"Constitutional Corporation" has the meaning attributed to it in SIS.

"Corporations Law" has the meaning attributed to it in SIS.

"Corporations Regulations" means the regulations made pursuant to the Corporations Law, as amended.

"Cost" of an Authorised Investment means the total cost thereof to the Fund including %all stamp duty brokerage and commission incurred in the acquisition thereof.

"Custodian" means any custodian appointed by the Trustee pursuant to Clause 7.1 to receive, hold and retain registration of Authorised Investments in the name of the Trustee or, with the approval of the Trustee, in the name of the custodian as nominee for the Trustee and which is a corporation having:

- (a) the net tangible assets or approved guarantee prescribed by the Act; or
- (b) falling within the exception to those requirements in the Act,

and which carries on in any jurisdiction in which it is to be appointed so to act as its principal business the business of banking or the provision of trustee services and either:

- (i) has shareholders funds on a consolidated basis (as shown in its most recently published audited consolidated financial statements) in excess of the equivalent (at the date of those statements) of 100,000,000 Australian Dollars; or

- (ii) is a wholly owned subsidiary of a corporation with shareholders funds on a consolidate basis (as shown in its most recently published financial statements) in excess of the equivalent (at the date of those statements) of 100,000,000 Australian Dollars,

and includes any Sub-Custodian appointed pursuant to Clause 7.2.

"this Deed" or **"Deed"** means this Schedule 1 of Annexure A that governs Division V of the IOOF Portfolio Service Superannuation Fund trust deed, whether in original form or as amended, altered, modified, added to or varied from time to time in accordance with the provisions hereof and any deed supplemental hereto or collateral herewith.

"Dealer's Licence" means a dealer's licence issued pursuant to the provisions of the Corporations Law or a previous corresponding law.

"Debenture" has the meaning given to that term by Section 9 of the Corporations Law.

"Deferred Annuity" has the meaning given to that term by Section 27A(1) of the Tax Act.

"Dependant" means:

- (a) Child;
- (b) Spouse; and
- (c) any person who in the opinion of the Trustee was in relation to a Member at the time of the Member's death in an Interdependency Relationship;
- (d) any other person who in the opinion of the Trustee is wholly or partially dependent on a Member or in the case of a deceased Member was wholly or partially financially dependent on the Member at the time of the Member's death..

"Eligible Rollover Fund" has the same meaning as in the Act.

"Eligible Termination Payment" means a payment that can be rolled over within the superannuation system in accordance with the Act.

"Employee" means a person who is in the employment of an Employer and in the case of an Employer which is a company, includes a director of the company.

"Employee-Financed Benefit" of any Member means the aggregate of:

- (a) the contributions made by the Member, plus
- (b) the value of any transfer to the Fund in respect of that Member from another superannuation fund or an Approved Deposit Fund attributable to contributions made by the Member to that other superannuation fund or Approved Deposit Fund (as the case may be),

increased or decreased by the Fund Earning Rate each Income Calculation Period **PROVIDED THAT** the Employee-Financed Benefit shall at all times be calculated in accordance with the Act.

"Employer" means a person who is approved by the Trustee to participate in the Fund as an Employer pursuant to Clause 2.8.

"Employer-Financed Vested Benefit" of any Member means any part or all of the contributions made by the employer of that Member which has been specified by that employer to be vested in the Member.

"EPSSS" means an Exempt Public Sector Superannuation Fund.

"Ex-Guild Superannuation Plan Member" means a Member who transferred into the Fund from the Guild Superannuation Plan.

"Forfeited Benefits Register" means the Forfeited Benefits Register established and maintained in accordance with Clause 4.13.

"Fund" means LifeTrack Corporate Superannuation, which forms part of the IOOF Portfolio Services Superannuation Fund.

"Fund Earning Rate" for any Income Calculation Period means in respect of each Authorised Investment Fund the earning rate of the assets of each Authorised Investment Fund during that period as determined by the Trustee having regard to the calculations required to be made in accordance with Clause 4.5(b).

"Fund Service" of a Member means the completed calendar months (expressed as years or fractions thereof) of the continuous period commencing on the date the Member was admitted as a Member of the Fund, as the case may be and terminating on the date the Member ceased to be a Member of the Fund, as the case may be.

"Fund Year" means and includes the period of twelve months ending on the 30th day of June each year **PROVIDED THAT** the first Fund Year of the Fund shall be deemed to be the period commencing on the Commencement Date and terminating on the succeeding 30th day of June and the last Fund Year of the Fund shall be deemed to be the period commencing on the 1st day of July immediately before the date of termination of the Fund and terminating on the date of termination of the Fund.

"Futures Contract" has the meaning given to that term by Section 9 of the Corporations Law.

"General Reserve" means the general reserve established pursuant to Clause 4.7.

"Gainfully Employed Person" means a person who is engaged in a form of employment which satisfies the definition of gainfully employed in SIS and includes an Employee.

"Guild Superannuation Plan" means the superannuation fund known by that name, established by a deed dated 21 August 1963 and administered by the Pharmacy Guild of Australia

"Income" means income as defined in Clause 4.5.

"Income Calculation Date" means income calculation date as defined in Clause 4.5.

"Income Calculation Period" means income calculation period as defined in Clause 4.5.

"Individual Account" means the separate account or accounts maintained for each Member pursuant to Clause 4.11.

"Insured Benefit" means the proceeds of any insurance policy effected by the Trustee on the life of a Member or against the Temporary Disablement or Permanent Disablement of a Member and any transfers to the Member's Individual Account after the date of the Member's death, Permanent Disablement or Temporary Disablement from the Mortality Fluctuation Reserve in accordance with Clause 4.8(b). The amount of the Insured Benefit will be determined by the Plan Specifications applicable to the Member, and where a Member is not acceptable at standard rates by the Trustee or any Insurer the Trustee may reduce the Insured Benefit by such amount as the Trustee considers appropriate.

"Individual Pension Account" means the individual pension account as defined in Clause 4.11.

"Insurer" means any life insurance company as defined in SIS.

"Investment Fluctuation Reserve" means the investment fluctuation reserve established pursuant to Clause 4.7.

"Issue Price" in relation to a Unit means the value of a Unit determined under clause 4.3A.11.

"Investment Register" means the register kept pursuant to Clause 4.4.

"**LIS**" refers to the LifeTrack Investment Service operated by IOOF Investment Management Limited ABN 53 006 695 021 and its successors and assigns.

"**Life Pension**" means a pension payable from the Pension Benefit Account.

"**lump sum RBL**" has the meaning given to that term in the Tax Act.

"**Member**" means the following:

- (a) an Employee, Gainfully Employed Person or such other person who may be entitled under the Act to make application to join the Fund who has applied to join the Fund in accordance with Clause 2.2 and whose membership has commenced in accordance with Clause 2.4;
- (b) a person who is entitled to receive a pension from the Fund; and
- (c) a person who has ceased to be an Employee or Gainfully Employed Person but continues to have rights or contingent rights to benefits under the Fund.

and, in each case, who has not ceased to be a Member in accordance with Clause 2.4(c).

"**Month**" means calendar month.

"**Mortality Fluctuation Reserve**" means the Mortality Fluctuation Reserve established and maintained in accordance with Clause 4.7.

"**Net Income**" means net income of the fund as defined in Clause 4.5.

"**Net Proceeds of Sale**" means net proceeds of sale as defined in Clause 4.5.

"**Nomination**" means a Binding Death Nomination or Non-Lapsing Nomination or a Non-Binding Nomination.

"**Non-Binding Nomination**" means a notification to the Trustee by the Member that meets the description in clause 6.28 of the IOOF Portfolio Service Trust Deed, and includes a notice that was, or was intended by the Member to be, a Binding Death Nomination but which does not satisfy paragraph (b) of that definition.

"**Non-Commutable Cashback Pension**" means a "non-commutable allocated pension" or a "transition to retirement income stream" within the meaning of the *Superannuation Industry Supervision Regulations*, paid from the Member's Individual Pension Account.

“Non-dependent Benefit” means a benefit which may be paid in accordance with regulation 6.22(3) of the Superannuation Industry (Supervision) Act 1993.

“Non-Lapsing Nomination” means a notice given by a Member to the Trustee under Clause 2.15 which:

- (a) is in a form and manner approved by the Trustee, as determined by the Trustee from time to time;
- (b) is clear that the Member does not intend for the nomination to expire after any fixed period of time;
- (c) nominates one or more of the Member’s Dependants or legal personal representative to receive the Member’s Benefit on the Member’s death;
- (d) can be revoked by the Member at any time in a form and manner approved by the Trustee; and
- (e) was given to the Trustee after 1 December 2017.

and for which the Trustee has provided its consent under Clause 2.16.

“Non-member Spouse”, in relation to a Member, refers to the spouse of the Member being a party to a Superannuation Agreement with the Member or a Splitting Order in relation to the Member’s Account.

“Normal Retirement Date” means in respect of a Member the day on which that Member attains the age 65 years or such other age as may be determined in the Plan Specifications applicable to that Member and that is acceptable to the Commissioner.

“Ordinary Resolution” means a resolution passed at a meeting of Members as the case may be passed by a majority of at least half of such Members as the case may be who being entitled to do so vote in person or by proxy at that meeting.

“Payment Flag” has the meaning given by section 90MD of the Family Law Act 1975.

“Participant” means any person, Member or Employer who originally became a Member or Employer (as the case may be) by completing an application form to participate in the Fund.

“Pension Benefit Account” means the Pension Benefit Account established and maintained pursuant to Clause 4.9.

"Permanent Disablement" means:

- (A) (where such Permanent Disablement would or would upon the Trustee making a payment hereunder entitle the Trustee to claim the payment of an Insured Benefit), Permanent Disablement for the purposes of the insurance policy under which the Trustee is entitled to claim; or
- (B) in any other case:
 - (a) the Member having suffered the loss of two limbs, or the sight of both eyes or the loss of one limb and the sight of one eye (where limb includes the whole hand or foot), or
 - (b) the Member being absent from his work through injury or illness for six consecutive months and in the opinion of the Trustee, after consideration of medical evidence, having become incapacitated to such an extent as to render the Member unlikely ever to resume work or attend to any gainful profession or occupation, or
 - (c) such other incapacity as the Trustee shall regard as Permanent Disablement,

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

"Personal Representative" means in relation to a Member the legal personal representative of that Member.

"pension RBL", as defined in SIS, has the meaning given to that term in the Tax Act.

"Plan Specifications" means in relation to each Member the details of the following matters determined in accordance with Clause 2.1:

- (a) eligibility requirements
- (b) contribution levels by the Member (if any)
- (c) contribution levels by the Employer (if any)
- (d) the Retirement Benefit Category
- (e) the Death Benefit Insured Benefit level

- (f) the Permanent Disablement Benefit Insured Benefit level
- (g) the Withdrawal Benefit level
- (h) the Class of Membership of that Member
- (i) the respective proportions of that Member's Individual Account and of any amounts received by the Trustee in respect of that Member to be invested in each Authorised Investment Fund, and
- (j) any other requirements, benefit levels or other matters as the Trustee considers appropriate.

"Policy Committee" has the meaning given to that term by SIS.

"Preservation Age" means 55 years or such other age as is permitted or required by the Act or the Commissioner.

"Preservation Requirement" means, in relation to a contribution, entitlement or benefit under the Fund, a requirement under the Act that, except to the extent to which the contribution, entitlement or benefit hereunder is to be payable on the retirement of the person entitled to the contribution, entitlement or benefit hereunder from the workforce before attaining the Preservation Age in the form of a non-commutable pension or annuity payable for life, payment of the contribution, entitlement or benefit hereunder shall be retained until:

- (a) the contribution, entitlement or benefit hereunder is transferred directly to, for preservation in relation to the person, in:
 - (i) another superannuation fund nominated by the person, being a superannuation fund of which the person is, or intends to become, a member and that is required to preserve the amount in accordance with the Act;
 - (ii) an Approved Deposit Fund nominated by the person, being an Approved Deposit Fund that is required to preserve the amount in accordance with the Act; or
 - (iii) a Deferred Annuity nominated by the person, being a Deferred Annuity which cannot be surrendered or assigned before the person attains the Preservation Age and does not pay benefits earlier than the happening of the circumstances referred to in paragraph (b) or (c) of this definition; or
- (b) the person's retirement from the workforce at or after the Preservation Age; or

- (c) the contribution, Deposit, entitlement or benefit hereunder becomes payable to the person in one of the following circumstances:
- (i) the person's retirement from the workforce caused by the person's total and permanent disablement which disablement and the proof thereof must meet the requirements prescribed by the Act;
 - (ii) the person's death;
 - (iii) the person's permanent departure from Australia;
 - (iv) the person becoming entitled or required to receive the contribution, Deposit, entitlement or benefit hereunder pursuant to the Act;
 - (v) such other circumstances as may be specified from time to time by the Act or the Commissioner, or
 - (vi) such other circumstances as may be determined by the Trustee and approved by the Trustee and the Commissioner.

"Preserved Benefit" of any Member means the part of the Member's Accrued Benefit that is subject to a Preservation Requirement.

"Proper Authority" has the meaning given to that term in Section 9 of the Corporations Law.

"Registers" means any registers required to be maintained in order to properly administer the Fund.

"Retirement Benefit Category" means the retirement benefit category of a Member of the Fund who in the Member's Plan Specifications has been designated to be a Member in Retirement Benefit Category lump sum, Cashback Pension, Non-Commutable Cashback Pension or Life Pension or such other categories as the Trustee may determine from time to time.

"Roll-Over Period" has the meaning given to that term in Section 27A(l) of the Tax Act.

"SIS" means the Superannuation Industry (Supervision) Act 1993 and regulations, circulars, modifications, exemptions, rulings, determinations, declarations or order made or issued thereunder.

"Special Resolution" means a resolution passed at a meeting of Members passed by a majority of at least three-quarters of such Members who, being entitled to do so, vote in person or by proxy at that meeting.

"Splitting Order" means a court order made under section 90MT of the Family Law Act 1975.

"Spouse" in relation to a person, includes:

- (a) another person of the same sex or different sex with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of s. 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; and
- (b) another person who, although not legally married to the person, lives with the person on a bona fide genuine domestic basis as the husband or wife of the person in a relationship as a couple.

"Sub-Custodian" means the Custodian appointed pursuant to clause 7.2.

"Superannuation Agreement" has the meaning given by section 90MH of the Family Law Act 1975.

"Superannuation Guarantee Scheme" means the scheme requiring all employers, to provide a prescribed minimum level of superannuation support for each of their employees pursuant to the Superannuation Guarantee Change Act 1992 and the Superannuation Guarantee (Administration) Act 1992.

"Suspended Benefits Register" means the Suspended Benefits Register established and maintained in accordance with Clause 4.14.

"Tax" means a governmental impost (including without limitation a tax, duty or levy) which is or might become payable in connection with the Fund, the income of the Fund, realisation of assets of the Fund, payment or transfer of money or property to or from the Fund, this Deed or anything done or which may be done under this Deed, including any tax, surcharge, duty or levy payable in respect of a Member that must or may be paid or collected by the Trustee or the Fund.

"Tax Act" means the Income Tax Assessment Act 1936.

"Temporary Disablement" means:

- (A) (where such Temporary Disablement would entitle or would upon the Trustee making a payment hereunder entitle the Trustee to claim the payment of an Insured Benefit), Temporary Disablement for the purposes of the insurance policy under which the Trustee is entitled to claim; or
- (B) in any other case, continuous disability of a Member, due to physical or mental disability, bodily injury, illness disease or infirmity rendering a Member unable to work and not incurred or inflicted for the purpose of obtaining a benefit from the Fund.

Every question of Temporary Disablement shall be decided by the Trustee after consideration of medical evidence and its decision shall be conclusive and binding; upon all parties concerned.

"Trustee" means the Trustee of the Fund for the time being appointed under the provisions of this Deed. Such Trustee will always be a Constitutional Corporation.

"Underlying Assets" refers, for the purpose of Clause 2.7(3), to the assets held by another investment trust or fund that are referable an investment by the Trustee and the Member's Individual Account, and in respect of which the Trustee is entitled to receive a transfer of assets in lieu of a distribution or other payment.

"Valuation Date" means and includes any date on which the Trustee causes a valuation of the Fund or of an Authorised Investment Fund to be made in accordance with the requirements of Clause 4.2.

"Value of the Fund" or **"Value of an Authorised Investment Fund"** means the value of the Fund or of an Authorised Investment Fund as defined in Clause 4.2.

"Voluntary Contribution" means a voluntary contribution as defined in Clause 3.3.

"Withdrawal Price" means in relation to a Unit the value of a Unit determined under clause 4.3A.13

"Working Day" means any day on which banks are open for business in Sydney PROVIDED THAT in respect of any moneys received or any obligation (including an obligation to pay moneys) arising in a capital city in Australia other than Sydney on a working day on which banks in that capital city are not open for business, those moneys shall- be deemed to be received and that obligation shall be deemed to arise on the next following Working Day on which such banks are so open.

Interpretations

- 1.2 In the Deed unless inconsistent with the subject matter or context, words importing the singular number shall include the plural number and words importing the masculine, feminine or neuter gender shall include each of the other genders. A reference to a "person" shall be a reference to a natural person, body corporate, corporation sole, trust or partnership.
- 1.3 All references in this Deed to other provisions or Clauses shall be deemed to be references to such other provisions or Clauses as altered added to modified or cancelled from time to time pursuant to the provisions of Clause 6.12.
- 1.4 The Index to this Deed and headings inserted in any Clause are for convenience only and shall not affect the interpretation of the provisions of that Clause.

- 1.5 References to statutes shall include all statutes amending, replacing or consolidating the statutes referred to. References to statutory definitions shall include those definitions as amended or replaced from time to time.
- 1.6 This Deed in force from time to time extends to the successors and assigns of each of the parties hereto and of each such other party as shall by instrument in writing adopt this Deed.

CHAPTER 2 MEMBERSHIP

Classes of Membership

- 2.1 (a) At any time the Plan Specifications applicable to a Member shall be:
- (i) in the case of an Employee, the Plan Specifications then in force in relation to the Employer of that Employee; and
 - (ii) in the case of a Member who is not an Employee, the Plan Specifications then in force in relation to that Member.
- (b) The Plan Specifications in force in relation to a Member on any date ("**the relevant date**") shall be the Plan Specifications determined for that Member in accordance with this Clause 2.1 at the time of his becoming a Member or, where those Plan Specifications have been amended in accordance with this Clause 2.1 prior to the relevant date, the Plan Specifications as amended most recently prior to the relevant date.
- (c) The Plan Specifications for a Member shall be the Plan Specifications determined in writing by the Trustee prior to that person becoming a Member provided that those Plan Specifications may be altered from time to time by notice in writing from the Trustee to the Member, and
- (i) where the alteration will not adversely affect any benefits to which that Member has or will become entitled hereunder prior to the date on which the alteration becomes effective, by the Trustee; or
 - (ii) in any other case, by the Trustee with the prior written approval of the Member,
- and that alteration shall become effective on the date specified in the said notice which date shall not be earlier than the date which is fourteen (14) days after the said notice was given to the Member and shall be a date approved in writing by the Trustee.

- (d) The Employer of an Employee shall advise the Trustee of the Class of Membership for each Employee at the time of submitting that Employee's application for membership provided that if such advice is not given then upon approval by the Trustee of the Employee's application the Trustee shall determine the Class of Membership.
- (e) A Member who is not an Employee shall advise the Trustee of his Class of Membership at the time of submitting his application for membership provided that if such advice is not given then upon arrival by the Trustee of the application the Trustee shall determine, the Class of Membership.
- (f) A Member shall advise the Trustee in writing that he has ceased to be an Employee or a Gainfully Employed Person or become an Employee or a Gainfully Employed Person as soon as reasonably practicable after the occurrence of such event and the Trustee shall determine the date the change becomes effective for the purposes of that Member's rights hereunder.
- (g) The Employer of a Member who is an Employee of the Employer shall advise the Trustee when a Member's Class of Membership has changed.
- (h) A Member who is not an Employee shall advise the Trustee of any change in that Member's Class of Membership prior to the effective date of such a change.
- (i) A Member may not any one time be a Member of more than one Class of Membership.
- (j) Where the Trustee purports to alter the Plan Specifications of a Member pursuant to sub-paragraph (i) or paragraph (e) of this Clause, the Trustee shall ensure that the alteration will not adversely affect any benefits to which that Member has or will become entitled hereunder prior to the date on which the alteration is to become effective.

Transfer of Member from one Plan Specification to another

- 2.1A Where a Member ceases to be an Employee and where the amount in the Member's Individual Account is greater than the amount specified from time to time by the Trustee in the applicable Plan Specification and is a Preserved Benefit, the Plan Specification which is to apply to that Member is the Plan Specification that applies to a Member who is not an Employee pursuant to Rule 2.1 of this Deed.

Admission of a Member

- 2.2 (a) A person who wishes to participate in the Fund shall apply in writing to the Trustee on a form approved from time to time by the Trustee for

admission to membership of the Fund. The Trustee shall have an unfettered discretion as to whether to accept or not to accept the application of a person for admission to membership of the Fund. The Trustee shall not be obliged to issue to Members or Employers any certificate evidencing their membership in the Fund.

- (b) The Trustee may accept an Employee selected by an Employer as a Member without requiring the Employee to complete a membership application form in accordance with paragraph (a), if the Employer has made an application for membership on behalf of the Employee and has provided the Trustee with such information that the Trustee may require, including the name, address and age of the Employee.
- (c) Where the Employee is being admitted to membership so that the Employer can comply with its superannuation obligations under the Superannuation Guarantee Scheme, the industrial award, industrial agreement or occupational superannuation arrangement which governs the terms and conditions of the Employee's employment by that Employer, the Employee shall, after 14 days employment by the Employer (or such other period specified in the award or agreement) become a Member, provided the Employer complies with the requirements of paragraph (b).
- (d) Upon acceptance of such an Employee as a Member, the Employee is bound by this Deed in all respects as if he were an original part to this Deed. The Trustee shall, as soon as practicable, advise the Member in writing that he or she has been accepted as a Member and provide to the Member such other information as is required by the Act.
- (e) Where the Individual Account of a Member is split pursuant to a Superannuation Agreement or a Splitting Order within the meaning of the Family Law Act 1975, the Trustee may create for the Non-member Spouse a new interest in the Fund and accept the Non-member Spouse as a Member without requiring the Non-member Spouse to complete a membership application form in accordance with paragraph (a).
- (f) Upon acceptance of the Non-member Spouse as a Member, the Non-member Spouse is bound by this Deed in all respects as if they were an original party to this Deed. The Trustee shall, as soon as practicable, advise the member in writing that he or she has been accepted as a Member and provide the Member such other information as is required by the Act.

2.3 Subject to Clause 2.2, the completed and signed application of an applicant shall upon acceptance by the Trustee constitute agreement by that applicant and his Dependants:

- (a) to become a Member of the Fund; and

- (b) to be bound by the terms and conditions of this Deed so far as they are applicable to Members and the Plan Specifications in force from time to time in relation to that Member.
- 2.4
 - (a) The Trustee shall notify in writing each applicant for membership of the Fund, within fourteen (14) days of receiving that applicant's application, of the Trustee's decision either to accept or not to accept that application.
 - (b) Where the Trustee has notified an applicant that his application has been accepted that applicant shall become a Member of the Fund on the date specified by the Trustee in the notice to the applicant under paragraph (a) of this Clause (being a date not earlier than the date the Trustee received the application) or where no such date is specified, on the date the Trustee received the application.
 - (c) A Member shall cease to be a Member on his death or upon the Trustee having paid to or for the benefit of that Member and/or his Dependants and in accordance with this Deed all moneys to which that Member and/or his Dependants are or are contingently entitled to hereunder.
 - (d) A Member may be a member of, or participate in, any other trust fund constituted under this Deed.
- 2.5
 - (a) No Member shall receive any benefit while remaining an employee of an Employer who has contributed to, the Fund on his behalf except in circumstances allowed by the Commissioner.
 - (b) No Member shall receive any benefit from the Preserved Benefit part of his Individual Account except in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.

Portability: Transfer from another Fund

- 2.6
 - (a) The Trustee may make such arrangements as it thinks proper with a Member, or any previous employer of the Member or the trustee of any superannuation fund or Approved Deposit Fund of which the Member is or was a member for any transfer of assets (including Cash) to the Fund and may make arrangements about any other matter which in its opinion is incidental to or consequent on the admission of such Member to membership of the Fund PROVIDED THAT so much of the value of any assets so transferred in respect of a Member as are subject to a Preservation Requirement shall be recorded in the Preserved Benefit section of that Member's Individual Account.
 - (b) Any transfer of assets to the Fund other than by Cash must be with the prior approval of the Trustee and must be accompanied by such evidence of title and other matters (including a valuation of the benefits or assets

by an Approved Valuer) as the Trustee may require together with duly executed and stamped transfers or conveyances where appropriate. Where any transfer is paid by assignment or transfer of ownership of any benefits or assets the Employer or Member entitled to same shall be responsible for all stamp duty, brokerage fees, commission and other costs, charges and expenses in respect of such assignment or transfer and the Trustee shall be entitled to deduct same from the said assignment or transfer. The provisions of Clause 4.3.1 shall apply to any such assignments or transfer as if the relevant benefits or assets were Authorised Investments in which the Trustee intends to invest cash available from the Fund.

- (c) If any transfer made by a Member or Employer is not acceptable to the Commissioner the Trustee may refund such transfer to that Member of Employer or any other superannuation fund or Approved Deposit Fund they may direct in accordance with Clause 2.7.
- (d) The Trustee may accept into the Fund for a Member the roll-over or transfer of a Contributions-Splitting ETP.

Portability: Transfer to another Fund

- 2.7 (A1) The Trustee may pay all or part of a Member's benefit to another fund without the consent of the Member if permitted by the Act. The Trustee may pay all or part of a Member's benefit to an Eligible Rollover Fund in the circumstances permitted by the Act.
- (1) Should a Member become eligible to join another superannuation fund, Approved Deposit Fund or purchase an annuity or if the Trustee is directed to refund a transfer in accordance with Clause 2.6(c) the Trustee may, or the Member may request in writing the Trustee to, transfer part or all of the moneys in that Member's Individual Account to the trustees of that superannuation fund or Approved Deposit Fund, or apply part or all of those moneys towards the purchase of an annuity (either immediate or deferred) (as the case requires).
 - (2) Subject to Clause 2.7(3), where the Trustee receives a Member request or direction in writing to, transfer part or all of the monies in that Member's Individual Account to the trustee of another Fund, superannuation fund or Approved Deposit Fund, or apply part or all of those monies towards the purchase of an annuity, the Trustee shall unless the transfer is to a successor fund within the meaning of the Act, transfer in cash any benefit to which the Member may be entitled under this Deed to the trustee of the other Fund, superannuation fund or Approved Deposit Fund or to the life office or other financial institution granting that annuity (as the case may be).

- (3) Where the Trustee receives a Member request or direction in writing to, transfer part or all of the monies in the Member's Individual Account to the LIS account of the trustee of a Fund of which the Member is or will be the sole beneficiary, the Trustee may transfer in specie all or part of such Underlying Assets held for the benefit of the Member and in respect of which the Member has a Benefit Entitlement under this Deed where such assets are not liquid within the meaning of section 601KA of the Corporations Act 2001.
- (4) The Trustee shall advise the trustee of that other Fund, superannuation fund or Approved Deposit Fund or life office or other financial institution granting that annuity the proportion if any of the account so paid which is deemed to be an Employee-Financed Benefit PROVIDED HOWEVER THAT the transfer of that part (if any) of the total benefit being transferred that is recorded in the Preserved Benefit section of the Member's Individual Account may only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.
- (5) Should the Non-member Spouse of a Member, following the splitting of the Individual Account of the Member pursuant to a Superannuation Agreement or Splitting Order, direct the Trustee in writing to transfer the entitlement of the Non-member Spouse to the trustees of another regulated superannuation fund or Approved Deposit Fund, or to an EPSSS or Retirement Savings Account, the Trustee shall pay in Cash any benefit to which the Non-member Spouse may be entitled to the trustees of the regulated superannuation fund, Approved Deposit Fund, or to the EPSSS or Retirement Savings Account, to be held for the benefit of the Non-member Spouse.

Participating Employer

- 2.8 A person who wishes to participate in the Fund as an Employer shall apply in writing, to the Trustee on a form approved from time to time by the Trustee so to participate in the Fund and shall complete such other documents (including Plan Specifications) as the Trustee shall require and on the written approval of such application by the Trustee being given to that person shall become an Employer.
- 2.9 The completed and signed application form of an Employer shall constitute agreement by that Employer:
 - (a) to become an Employer, and
 - (b) to be bound by the terms and conditions of this Deed so far as they apply to Employers and the Plan Specifications in force from time to time in relation to Employees of that Employer.

Information

- 2.10 (a) Every Member and Employer when requested by the Trustee shall promptly furnish any information the Trustee shall deem necessary for the purposes of any investigation or otherwise in connection with the Fund and without limiting the generality of the foregoing such information shall include:
- (i) evidence of age of that Member or of any Employee of that Employer,
 - (ii) in the case of a Member, medical evidence of the state of his health at the commencement of his membership of the Fund or at the date of any commutation of any Pension Benefit;
 - (iii) in the case of a Member receiving a pension, evidence that he has not died;
 - (iv) in the case of a Dependant, evidence of the death of the Member or any other Dependant;
 - (v) in the case of a Member receiving a benefit, evidence of the Member's entitlement (including any medical information reasonably required to establish the member's entitlement to any Insured Benefit) and such other information or evidence as the Trustee may require under the Act.

If any Member or Employer fails to comply with the beforementioned, the Trustee may suspend the payment of any benefits or pension to that Member or, as the case may be, to such of the Employees of that Employer as the information requested by the Trustee relates. The amount of any benefits or pension the payment of which is suspended in accordance with this paragraph shall be recorded by the Trustee in the Suspended Benefits Register and shall be held and dealt with by the Trustee in accordance with clause 5.28.

- (b) Where the information furnished by or in respect of a Member in any statement submitted to the Trustee is fraudulently incorrect in any material particular the benefits payable to or in respect of such Member may cease or may be adjusted to such amounts as shall be determined by the Trustee acting on the advice of an Actuary.
- 2.11 The Trustee shall provide prospective Members, Members, prospective Employers, Employers and the Commissioner with such documents, notices, statements, reports and other information as are required by the Act.

- 2.12 Without limiting the means by which notices, statements, documents or information may be given, the Trustee may give notice or provide statements, documents or information by any form of data or image transmission or communication facility or medium, including without limitation facsimile, electronic mail and the internet, in which case the notice will be considered to have been received when transmitted, accessed or published (as the case may be).

Non-Lapsing Nomination

- 2.13 A Member may give the Trustee a notice which is intended by the Member to be a Non-Lapsing Nomination.
- 2.14 If a Member gives a notice to the Trustee under Clause 2.13 or Clause 2.16 and the Trustee is satisfied that the notice is an exercise of discretion by the Member, the Trustee may consent to the exercise of that discretion (which includes the giving of the notice) on any grounds that Trustee considers appropriate.
- 2.15 A Non-Lapsing Nomination remains current until:
- (a) it is revoked by the Member in accordance with Clause 2.16; or
 - (b) the Member gives the Trustee a subsequent Non-Lapsing Nomination.

To avoid doubt, a Member's Non-Lapsing Nomination revokes any previous Nomination made by the Member.

- 2.16 Subject to Clause 2.14 a Member may, at any time, by notice in writing to the Trustee, amend or revoke an existing Non-Lapsing Nomination

CHAPTER 3 CONTRIBUTIONS

Employer Contribution

- 3.1 An Employer shall contribute to the Fund from time to time in respect of its Employees, or any other persons for whom it may contribute in accordance with the Act such amount as it determines in accordance with the Plan Specifications applicable to its Employees PROVIDED THAT the Employer may at any time vary, suspend or terminate its contributions.

Member Contribution

- 3.2 (a) A Member may contribute to the Fund such amount as is determined by the Plan Specifications applicable to that Member.

- (b) A Member who is not an Employee shall advise the Trustee in such form as required by the Trustee the level of contributions made to this Fund which will be claimed as a personal tax deduction by that Member.
- (c) If the Member is an Employee the Member's Employer shall deduct the Members Contributions from his remuneration from time to time unless otherwise agreed between the Member and the Member's Employer and the Trustee.

Voluntary Contributions

- 3.3. (a) An Employer and/or Member with the approval of the Trustee and subject to such terms and conditions as it decides may make additional contributions to the Fund to increase that Member's benefits under the Fund.
- (b) Any additional contributions in accordance with paragraph (a) of this Clause, will be treated as additional Employer's or Member's (as the case may be) contributions for the purposes of this Deed
- (c) Any additional contribution in accordance with this Clause will be hereinafter called a Voluntary Contribution.

Payment of Contributions

- 3.4 (a) An Employer shall pay its Employer and Member contributions to the Trustee in such a manner and at such times as are agreed upon between the Employer and the Trustee.
 - (b) A Member who is a Gainfully Employed Person shall pay his Member contributions to the Trustee in such a manner and at such times as is applicable for his Class of Membership.
- 3.5 Any contribution may be paid by Cash or assignment or transfer of ownership of any benefits or assets (including insurance policies) which are Authorised Investments provided that any contribution other than by Cash must be with the prior approval of the Trustee and must be accompanied by such evidence of title and other matters (including a valuation of the benefits or assets by an Approved Valuer) as the Trustee may require together with duly executed and stamped transfers or conveyances where appropriate. Where any contribution is paid by assignment or transfer of ownership of any benefits or assets the Employer or Member paying the same shall be responsible for all stamp duty, brokerage fees, commission and other costs, charges and expenses in respect of such assignment or transfer and shall reimburse the Trustee for any such amounts paid by it. The provisions of Clause 4.3.1 shall apply to any such assignment or transfer as if the relevant benefits or assets were Authorised Investments in which the Trustee intends to invest Cash available from the Fund.

- 3.6 The Trustee may refund any contribution made by a Member or Employer to that Member or Employer (less any negative earnings or decrease in Unit price and an amount for reasonable administration and transaction costs, including an appropriate proportion of any insurance premium paid in respect of the Member or not recoverable by the Trustee) if required by the Act or the Commissioner to make such a refund or if the Trustee determines not to accept contributions of a particular type or in particular circumstances.
- 3.7 The Trustee shall refuse to accept contributions to the Fund from persons other than the persons permitted to contribute to the Fund under the Act. The Trustee shall refuse to accept contributions where the acceptance of the contributions is contrary to the requirements of the Act.
- 3.8 The Trustee may assume, without enquiry, that an Employer is authorised by the Member and by law to pay a Member's contribution by deducting the agreed amount pursuant to clause 3.2 from the Member's salary and neither the Trustee nor the Fund shall be liable in any case where such payment or deduction is not authorised by the Member or bylaw, even if the Trustee has notice thereof.

Spouse Contributions—splitting amounts

- 3.9 A Member may, subject to clause 3.10 and to the Act, apply after 30 June 2006 to the Trustee, in a manner approved by the Trustee, to roll over, transfer or allot an amount of benefits that is not subject to a Payment Split or to the operation of a Payment Flag, for the benefit of the Member's Spouse.
- 3.10 The application may not be in respect of an amount that exceeds the amount of the Splittable Contributions made by, for, or on behalf of the Member in:
- (a) the last financial year that ended before the application; or
 - (b) the financial year in which the application is made – where the Member's entire Benefit is to be rolled over or transferred in that year,
- and may not be in respect of an amount that exceeds the Maximum Splittable Amount.
- 3.11 The Trustee may accept an application made pursuant to clause 3.9 in its absolute discretion, including after the application of any conditions it considers appropriate, subject to the Act. If the Trustee accepts an application it must implement it in accordance with the Act.

CHAPTER 4 THE FUND

Constitution of the Fund 4.1 (i)

- 4.1 (i) The Trustee is hereby expressly appointed as Trustee of the Fund for the Members on the terms and conditions herein contained and subject to the provisions of Clauses 6.6 and 7.1 shall retain the Fund vested in it in safe custody and hold it as Trustee for the Members upon the terms of this Deed as they apply to the Fund.
- (ii) The Fund shall consist of all the Cash and Authorised Investments for the time being held by the Trustee upon the trusts of this Clause including:
- (a) the Net Proceeds of Sale of any Authorised Investments; and
 - (b) all additions or accretions (if any) thereto which may arise by any interest, premium, dividend distribution or otherwise received and for the time being retained,

EXCEPT THAT any application moneys received by the Trustee pursuant to Clause 6.7(vii) shall not form part of the Fund.

- (iii) The Fund shall be vested in and held upon trust by the Trustee for the Members subject to the terms and conditions of this Deed as they apply to the Fund.
- (iv) A Member shall be entitled as herein provided to a beneficial interest in the Fund but such interest shall not entitle the Member other than as herein provided:
- (a) to interfere with the rights or powers of the Trustee in its dealings with the Fund or any part thereof;
 - (b) to exercise any rights powers or privileges in respect of any Authorised Investments of the Fund; or
 - (c) to any interest in any particular part of or particular investment of the Fund.
- (v) The Fund is to be known as "LifeTrack Corporate Superannuation".

Valuation of the Fund

- 4.2 (i) The Trustee shall cause the value of the Fund and of each Authorised Investment Fund (rounded downwards to the nearest dollar) to be determined as at the Commencement Date and as at the end of each

month and also whenever in its opinion it is necessary or desirable so to do for the proper administration of the Fund.

- (ii) In causing the value of the Fund and of each Authorised Investment Fund to be determined the Trustee shall obtain a valuation of all the Authorised Investments of the fund and of each Authorised Investment Fund at the relevant Valuation Date by an Approved Valuer and shall add to the value of the Authorised Investments as so determined any Cash in the hands of the Trustee in respect of the Fund and each Authorised Investment Fund and all moneys recoverable or receivable by the Trustee in respect of the Fund and each Authorised Investment Fund less all sums owing by the Fund and each Authorised Investment Fund on any account including any charges or expenses accrued or unpaid.
- (iii) The Trustees shall cause the value of the Fund and of each Authorised Investment Fund to be determined where it has reason to believe that there has been a significant change in the value of any real property held in the Fund.
- (iv) The calculation made by the Trustee in accordance with sub-Clause (i) of this Clause shall be the value of the Fund and of each Authorised Investment Fund for the period commencing on the Valuation Date and ending on the day immediately prior to the next Valuation Date and shall be final and binding on all persons.
- (v) Where the asset of the Fund or of any Authorised Investment Fund required to be taken into account in ascertaining the value of the Fund or of the Authorised Investment Fund is denominated in a foreign currency the value of the same shall be calculated by converting its value into Australian dollars by such conversion method as the Trustee may, from time to time, agree with the Auditor.
- (vi) The value of an interest under a Futures Contract shall be the net profit or loss (after allowing for deposits, margin calls, costs and other disbursements in respect of the acquisition or disposal of the Futures Contract as estimated by the Trustee) which would have been realised in respect of the Futures contract by executing a transaction at the official closing market quotation of the relevant Recognised Market on that day in respect of Futures Contracts of the specification of the Futures Contract being valued so as to eliminate the interest held by the Futures Contract from the investments of the Fund or from any Authorised Investment Fund in accordance with the business rules of the relevant Recognised Market.

Investment of the Fund

- 4.3.1 (i) The Trustee may hold such percentage as it determines of a Member's benefit in Cash. Subject to the foregoing and to the Act, and provided investments are made on an arm's-length basis, the Trustee may, at any time and in its absolute discretion, arrange for the investment of any remaining Cash constituting or available from the Fund for the acquisition, lease or sale of Authorised Investments. Without limiting the generality of the foregoing, such investments may include any extensions, additions or alterations to any Authorised Investments already forming part of the Fund and the erection and installation of buildings, improvements, fixtures or fittings on land already forming part of the Fund or to be acquired as Authorised Investments (such erection and installation as aforesaid being hereinafter referred to as "the erection of new improvements").
- (ii) Subject to paragraph (c) of this sub-Clause, the Trustee must obtain a valuation of an intended investment by an Approved Valuer where the investment entails:
- (a) the purchase of or leasing of land or investment in the mortgage or the purchase of unlisted preference or ordinary shares or unlisted Debentures of any Company. Such valuation, in the case of shares which are not listed on a stock exchange, must be on the basis of the net asset backing as shown in the last audited consolidated balance sheet of that Company and its subsidiaries, subject only to such adjustments as the Approved Valuer in its discretion considers necessary; or
 - (b) extensions, additions or alterations to existing Authorised Investments or the erection of new improvements, provided that a commercial appraisal will be a sufficient substitute for a valuation; but
 - (c) such valuations need only be obtained where they are necessary to ensure that the limitations imposed by this Deed upon the Trustee's investment power are not exceeded.
- (iii) The Trustee shall not acquire assets from Members or relatives of Members except in the circumstances permitted under the Act.
- (iv) The Trustee shall, from time to time, formulate and give effect' to an investment strategy in accordance with the requirements of the Act. Such strategy shall have regard to the whole of the circumstances of the Fund including, but not limited to, the following:

- (a) the risk involved in making, holding and realising, and the likely return from, the Fund's investments having regard to its objectives and its expected cashflow 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;
 - (d) the ability of the Fund to discharge its existing and prospective liabilities;
 - (e) any other circumstances provided for in the Act.
- (v) Where an intended investment entails extensions, additions or alterations to existing Authorised Investments or the erection of new improvements the Trustee may, in its discretion:
- (a) engage any person to plan, control, co-ordinate and erect the carrying out of such works or to perform any one or more of such functions;
 - (b) appoint any duly qualified person or persons to report to the Trustee on the progress and completion of such extensions, additions and alterations to existing Authorised Investments and/or the erection of new improvements;
 - (c) subject to its being satisfied that the terms thereof are not prejudicial to the interests of Members or Employers, award the contract for the carrying out of such works to any person or persons. Every such engagement or contract shall, if the Trustee so requires, include provision for the making of progress payments for services rendered or work performed or goods or materials supplied thereunder.
- (vi) If the Trustee appoints or has appointed an investment manager for the Fund or any part of it, the investment manager must be a body corporate, and the agreement with the investment manager must be in writing and contain provisions which comply with the Act.
- (vii) The Trustee shall not give a charge over, or in relation to, an asset of the Fund except in the circumstances permitted under the Act.
- (viii) Neither the Trustee nor any investment manager appointed may lend money of the Fund or give any other financial assistance using the

resources of the Fund, to a Member or a relative of a Member of the Fund.

- 4.3.2 (i) The cost of acquisition or sale of any Authorised Investment (including stamp duty, brokerage and commission) shall be paid by the Trustee out of the Fund.
- (ii) Notwithstanding anything else in this Deed contained the Trustee covenants that it shall not invest or cause to be invested the Fund or any part thereof in any investments which are of a type which the Commissioner has indicated are not acceptable or appropriate investments for a complying superannuation fund (as defined in the Act).
- (iii) The Trustee covenants that any investments made in respect of the Fund pursuant to Clause 4.3.1(1) will be limited to Authorised Investment Fund Assets.
- 4.3.3 (i) Whenever the Trustee makes an investment or a group of investments there shall be created an Authorised Investment Fund comprising that investment or group of investments.
- (ii) The Authorised Investment Fund shall be given a name fairly reflecting the investment policy of the investment or group of investments and which distinguishes the Authorised Investment Fund from other Authorised Investment Funds.
- (iii) The Trustee may at any time, change the name of an Authorised Investment Fund.

Unitisation of an Authorised Investment Fund

- 4.3A.1 The Trustee may divide the interests in one or more Authorised Investment Funds into Units.
- 4.3A.2 If a Trustee divides an Authorised Investment Fund into Units under clause 4.3A.1, the Units in each Authorised Investment Fund will be a separate Class of Units from the Units in another Authorised Investment Fund. The Trustee may also decide to divide an Authorised Investment Fund into one or more Classes of Units, in which event the Units and Classes of Units of the relevant Authorised Investment Fund will carry such rights and entitlements, including a Unit pricing mechanism, as determined by the Trustee.
- 4.3A.3 Each Unit of a Class shall:

- (a) represent an undivided interest in the Authorised Investment Fund referable to that Class of Units that shall be equal to that conferred by every other Unit of that Class; and
- (b) have an equal Unit Value to each other Unit of that Class.

4.3A.4 Subject to this Deed, each Unit of a Class of Units shall rank *pari passu* with all other Units of the Class.

4.3A.5 The Trustee shall not issue any certificates for Units.

4.3A.6 The Trustee may allocate parts of Units. A part of a Unit has rights appropriate to the proportion of the Unit.

4.3A.7 The Trustee may consolidate or divide an Authorised Investment Fund into any number of Units but the consolidation or division must not affect the relativity between the Members' interest in the Authorised Investment Fund.

Allocation of Units

4.3A.8 When the Trustee receives contributions from a Member or Employer, the Trustee will allocate to the Member's Individual Account Units in the relevant Class in accordance with the Plan Specifications applicable to that Member.

4.3A.9 The number of additional Units of a Class that are allocated shall be the number determined by dividing the contribution or the amount transferred from another Authorised Investment Fund by the current Issue Price for that Class at the time the investment is processed.

Issue Price

4.3A.11 The Issue Price of a Unit in an Authorised Investment Fund which is to apply for a period determined by the Trustee is:

$$(V + ITC)/U$$

where:

V = the value of the Authorised Investment Fund determined under clause 4.2 of this Deed and applicable for the period;

ITC = the Trustee's estimate of the transaction costs which would have been incurred if all the assets of the Authorised Investment Fund had been purchased or acquired;

U = the number of Units in issue in the Authorised Investment Fund.

Cancellation of Units

4.3A.12 When the Trustee transfers an amount out of an Authorised Investment Fund under this Deed, the Trustee will cancel the number of Units which is equal to the amount to be paid out of each Authorised Investment Fund divided by the Withdrawal Price of the Units in that Authorised Investment Fund.

Withdrawal Price

4.3A.13 The Withdrawal Price of the Units in an Authorised Investment Fund is:

$$(V - WTC)/U$$

where:

V = the value of the Authorised Investment Fund determined under clause 4.2 of this Deed and applicable for the period;

WTC = the Trustee's estimate of the transaction costs which would have been incurred if all the assets of the Authorised Investment Fund had been sold or disposed of;

U = the number of Units in issue in the Authorised Investment Fund.

Rounding

4.3A.14 The amounts in Clauses 4.3A.11 and 4.3A.13 may be rounded as the Trustee considers appropriate.

Time of Unit price determinations

4.3A.15 The Issue Price and Withdrawal Price of Units in an Authorised Investment Fund may be determined by the Trustee at any time (including more than once a day) and must be determined by the Trustee at least once each month.

Time during which prices are to apply

4.3A.16 The Issue Price and the Withdrawal Price calculated under this clause will apply for the period of time that the Trustee determines.

Unforeseen circumstances

4.3A.17 If in the opinion of the Trustee:

- (a) it is impracticable for it to calculate the Value of an Authorised Investment Fund because of the closure of a securities or other

exchange or trading restriction on a securities or other exchange, or because of the existence of an emergency or other similar state of affairs or because of an event outside the reasonable control of the Trustee, or because of the requirements of any law; or

- (b) there would be insufficient cash retained in the assets of an Authorised Investment Fund after paying an amount out of the Authorised Investment Fund to meet other liabilities of the Authorised Investment Fund and in its opinion it is not in the interests of Members for any assets of the Authorised Investment Fund to be sold; or
- (c) sufficient assets of an Authorised Investment Fund cannot be realised at an appropriate price or on adequate terms or otherwise due to one or more circumstances outside the control of the Trustee; or
- (d) the Trustee has taken all reasonable steps to realise sufficient assets of an Authorised Investment Fund in order to be able to pay an amount out of the Authorised Investment Fund and is unable to do so due to one or more circumstances outside its control such as restricted or suspended trading in the market for an asset of the Authorised Investment Fund; or
- (e) it is appropriate to suspend the allocation of Units or cancellation of Units for a period of time;

then, the Trustee may suspend the allocation of Units (under clauses 4.3A.8 and 4.3A.9) and cancellation of Units (under clause 4.3A.12) for such period as the Trustee determines.

Investment Register

- 4.4 (i) The Trustee shall keep in respect of the Fund separate registers of all Authorised Investments of the Fund comprising each of the Authorised Investments Funds, showing in respect of each Authorised Investment:
- (a) the nature of the Authorised Investment;
 - (b) the date of acquisition thereof by the Fund;
and
 - (c) the cost thereof.
- (ii) The register kept pursuant to sub-Clause (i) of this Clause shall be available for inspection by Members without charge at any time on any Working Day.

Income of the Fund

- 4.5 (a) For the purposes of this Clause:

- (i) "Income Calculation Date" means the end of each Income Calculation Period.
- (ii) "Income Calculation Period" means in the case of the first Income Calculation Period the period from the Commencement Date up to and including the end of the month of June 1996 (or such period as the Trustee may from time to time determine) and in the case of each subsequent Income Calculation Period, the 12 months (or such period as the Trustee may from time to time determine) commencing after the end of the preceding Income Calculation Period.
- (iii) "Income" means in respect of an Income Calculation Period:
 - (a) the total of all the income, earnings or other gains received or receivable with respect to the Fund during that Income Calculation Period;
 - (b) any unrealised gains or losses accrued during that income Calculation Period; and
 - (c) the amount, if any, by which the Net Proceeds of Sale of any Authorised Investment sold, redeemed or realised during that Income Calculation Period exceeds the- cost of that Authorised Investment or where that Authorised Investment has been valued hereunder since its acquisition the value thereof as at the previous Income Calculation Date together with any income accrued thereon but unpaid on the date of sale redemption, or realisation.
- (iv) "Net Income" means in respect of an Income Calculation Period the amount (whether positive or negative) calculated by adding to the Income for that Income Calculation Period any amounts transferred from the Investment Fluctuation Reserve and the General Reserve in accordance with Clause 4.8 in that Income Calculation Period and by deducting from that sum the following:
 - (a) all expenses, costs, commissions, fees, taxes (including financial institutions duties and debits taxes) land taxes and income and capital gains taxes, insurance premiums and other proper outgoings which have been properly paid out of the Fund or which have become payable out of the Fund but are unpaid during the relevant Income Calculation Period and which have not been debited to the Member's Individual Accounts, Individual Pension Accounts and Participating

Employer's Plan Accounts in accordance with Clauses 4.11 and 4.12; and

- (b) where the cost of Authorised Investments plus income referred to in sub-paragraph (iii)(b) of this Clause exceeds the Net Proceeds of Sale of those Authorised Investments, the whole of that excess.
- (v) "Net Proceeds of Sale" in relation to an Authorised Investment, means the proceeds of sale or realisation or redemption of that Authorised Investment after deduction of all costs and expenses necessarily incurred in connection with that sale realisation or redemption.
- (b) Within 28 days of each Income Calculation Date, the Trustee shall calculate:
- (i) the Net Income of the Fund during the Income Calculation Period within which that Income Calculation Date falls;
- (ii) the amount of the Net Income to be transferred to the:
- Investment Fluctuation Reserve
 - Mortality Fluctuation Reserve
 - General Reserve
 - Pension Benefit Account;
- (iii) the entitlement at that Income Calculation Date of each Member's:
- Individual Account
 - Account in the Forfeited Benefits Register
 - Account in the Suspended Benefits Register.
- (c) If on any Income Calculation Date the Trustee decides to write-off (wholly or partially) the value of an Authorised Investment, then the amount so written-off shall be treated as an outgoing of the Fund during the Income Calculation Period in which that Income Calculation Date falls.
- (d) The Trustee shall be entitled to deduct from the Individual Account of any Member the amount of any tax levy or duty which the Trustee is required by or entitled at law to deduct therefrom.

- (e) The Trustee hereby covenants with the intention that the benefits of this covenant shall enure to the benefit of all Members, Dependants and Employers that it shall transfer or cause to be transferred the Net Income between the various Accounts and Reserves in accordance with its calculations under paragraph (b) of this Clause.

- (f) (i) Notwithstanding anything else in this Deed contained, for the purpose of paying any of the amounts referred to in Clause 4.5(a)(iv), 4.11(b)(vi), 4.11(c)(v) and 4.12(vi), the Trustee shall be entitled to pay those amounts from any of the proceeds of realised assets from any Authorised Investment Fund and/or from income attributable to any Authorised Investment Fund notwithstanding that the obligation to pay any: such amounts was incurred in respect of assets forming the whole or part of the other of those categories of assets.

- (ii) The Trustee in exercising its discretion in accordance with paragraph (i) sub-clause and in all cases shall ensure:
 - (a) If the amount payable is attributable to a particular Authorised Investment Fund, the payment shall be recorded in the accounts and registers of the Authorised Investment Fund; and

 - (b) If the amount payable is not attributable to a particular Authorised Investment Fund the payment shall be recorded in the accounts and registers of each Authorised Investment Fund and shall be apportioned between each Authorised Investment Fund and/or the income in the proportions of the respective values of each Authorised Investment Fund as they bear to each other.

Borrowing Power

- 4.6 Subject to Clause 6.6(ee) the Trustee shall have the power to borrow or raise money only for the purposes and in the circumstances permitted by the Act, and only up to ten per cent (10%) (or such other percentage permitted by the Act) of the value of the Fund as at the time at which the borrowing or raising of money is made and may secure the repayment thereof by charge or mortgage over all or any of the assets or property comprised in the Fund or in such other manner as it thinks fit PROVIDED THAT such borrowing or raising of money is in accordance with the requirements of the Act.

Reserve Accounts

- 4.7 The Trustee shall establish and maintain in respect of the Fund the following Reserve Accounts:
- (i) Investment Fluctuation Reserve,

- (ii) Mortality Fluctuation Reserve, and
- (iii) General Reserve, which may include such sub-accounts as the Trustee determines necessary,

and the Trustee shall determine for each Reserve Account the respective portions thereof included in each Authorised Investment Fund which determination shall, if the Trustees so requires, be in accordance with the advice of an Actuary.

- 4.8
- (a) The Trustee may transfer or cause to be transferred the whole or any part of the Net Income for any Income Calculation Period to the Investment Fluctuation Reserve in order to avoid excessive fluctuations in Income between Income Calculation Periods and the Trustee may in any Income Calculation Period transfer part or all of the Investment Fluctuation Reserve to the Income for that Income Calculation Period
 - (b) The Trustee, after receiving the advice of an Actuary so to do may transfer part or all of the Individual Account for any one or more of the Members, the Pension Benefit Account, contributions to the Fund or Net Income to the Mortality Fluctuation Reserve in order to ensure that any liability of the Fund arising as a result (whether directly or indirectly) of the death or the Permanent Disablement or the Temporary Disablement of a Member which is not fully insured with an Insurer is adequately covered by the Fund and the Trustee, after receiving the advice of an Actuary so to do may transfer part or all of the Mortality Fluctuation Reserve to the Individual Account of one or more of the Members, the Pension Benefit Account or Net Income.
 - (c) The Trustee may:
 - (i) transfer or cause to be transferred the whole or any part of the Net Income for any Income Calculation Period to the General Reserve. The Trustee may in any Income Calculation Period transfer part or all of the General Reserve to the Income for that Income Calculation Period;
 - (ii) record and hold in the General Reserve Account amounts identified as expenses, costs, commissions, fees (including the Adviser Service Fee), taxes (including financial institution duties and debits taxes), land taxes and income and capital gains taxes, insurance premiums and other proper outgoings which have become payable out of the Fund but are unpaid. The Trustee may use part or all of the General Reserve to make payments in respect of such amounts in order to discharge Fund liabilities;

- (iii) record and hold in the General Reserve Account amounts identified as the costs of death and/or permanent disablement and/or temporary disablement benefits. The Trustee may use part or all of the General Reserve to discharge the Fund's liabilities in respect of death and/or permanent disablement and/or temporary disablement benefits; and
 - (iv) record, hold and apply in the General Reserve such other amounts as the Trustee deems appropriate.
 - (d) The Trustee shall formulate from time to time and give effect to a strategy for the prudential management of the Reserve Accounts in accordance with the requirements of the Act.

Pension Benefit Account

- 4.9 (a) The Trustee shall establish and maintain a Pension Benefit Account in respect of the Fund which shall not be allocated between Members and shall record in relation thereto promptly after the close of each Income Calculation Period:
- (A) the accrual of,
 - (i) any amounts transferred from the Members' Individual Accounts, and
 - (ii) any annuity payments received from any annuity, policy effected by the Trustee, and
 - (iii) any allocations from the Forfeited Benefits Register in accordance with Clause 5.27(b), and
 - (iv) any transfers from the Mortality Fluctuation Reserve in accordance with Clause 4.8(b), and
 - (v) any transfers from the Net Income in accordance with Clause 4.5(b)(ii), and
 - (B) the deduction of
 - (vi) each of the pensions paid by the Fund from the Pension Benefit Account, and
 - (vii) the cost of any annuity policies effected by the Trustee, and

- (viii) any transfers to the Mortality Fluctuation Reserve in accordance with Clause 4.8(b), and
- (ix) any transfers to the Net Income in accordance with Clause 4.5(b)(ii),

and the Trustee shall determine the respective portions of the Pension Benefit Account included in each Authorised Investment Fund which determination may, if the Trustee so chooses, be in accordance with the advice of an Actuary.

- (b) Should a Member become entitled to a benefit from the Fund and part ' or all of that benefit is to be a pension benefit then the Trustee shall invite that Member to elect in writing on a form provided by the Trustee for that purpose whether the pension benefit shall be paid from his Individual Pension Account (payable while there is a credit balance) or from the Pension Benefit Account (payable for his life in accordance with Chapter 5).
- (c) Should a Member choose his pension benefit to be payable from the Pension Benefit Account, that part of the Member's Individual Account that is equivalent in value to the pension benefit (determined by the Trustee in accordance with normal actuarial principles) must be credited to the Pension Benefit Account and deducted from the Member's Accrued Benefit as defined in Clause 4.11(b).
- (d) Should a Member choose his pension benefit to be payable from his Individual Pension Account, that part of the Member's Individual Account that is equivalent in value to the pension benefit (determined by the Trustee in accordance with normal actuarial principles) must be credited to the Individual Pension Account and deducted from the Member's Accrued Benefit as defined in Clause 4.11(b).

Fund Account

4.10 The Trustee shall establish and maintain in respect of the Fund a Fund Account.

Member's Individual Account

- 4.11 (a) The Trustee shall establish and maintain an Individual Account for each Member of the Fund which shall record the following:
- (i) the Accrued Benefit as hereinafter defined,
 - (ii) the Employee-Financed Benefit, and
 - (iii) the Employer-Financed Vested Benefit, and

- (iv) the Preserved Benefit, and
- (v) the amounts (if any) transferred to the Pension Benefit Account,
- (vi) the Individual Pension Account (if any) as hereinafter defined, and
- (vii) the number of Units held in each Authorised Investment Fund,

and the respective number of Units held in the Individual Account in each Authorised Investment Fund shall be in accordance with the respective proportion of the Individual Account required to be invested in each Authorised Investment Fund under the Plan Specifications applicable to that Member.

(b) For the purpose of this Deed, Accrued Benefit shall mean the aggregate of:

- (i) the contributions by the Member, plus
- (ii) the contributions by any employer of the Member, plus
- (iii) any transfers from the Mortality Fluctuation Reserve in accordance with Clause 4.8(b), plus
- (iv) any transfers from the General Reserve in accordance with Clause 4.8(c), plus
- (v) any transfers in accordance with Clause 2.6(a), plus
- (vi) any allocations from the Forfeited Benefits Register in accordance with Clause 5.27, plus
- (vii) Amounts that are Contributions-Splitting ETPs to the Member.,

less the aggregate of

- (viii) the proportion of all expenses, costs, commissions, fees (including the Adviser Service Fee), Taxes, insurance premiums and other proper outgoings which the Trustee determines to be attributable to the Member's Individual Account; and
- (ix) the cost of the death and/or Permanent Disablement and or Temporary Disablement benefits (as determined by the Trustee), and

- (x) the amounts of any retirement and/or death and/or Permanent Disablement and/or Temporary Disablement pension benefit paid to the Member, and
- (xi) any transfer to the Mortality Fluctuation Reserve in accordance with Clause 4.8(b), and
- (xii) any transfer to the General Reserve in accordance with Clause 4.8(c), and
- (xiii) Amounts that are Contributions-Splitting ETPs from the Member,

during the period of Fund Service, increased or decreased by the Fund Earning Rate for each Authorised Investment Fund (if applicable) for each Income Calculation Period by applying that rate to the respective portions of the Member's Individual Account invested respectively in each Authorised Investment Fund.

- (c) For the purpose of the Fund, Individual Pension Account shall mean the aggregate of:

- (i) any transfer from the Accrued Benefit of the Member, plus
- (ii) any transfers from the Mortality Fluctuation Reserve in accordance with Clause 4.8(b), plus
- (iii) any transfers from the General Reserve in accordance with Clause 4.8(c), plus
- (iv) any allocations from the Forfeited Benefits Register in accordance with Clause 5.27,

less the aggregate of:

- (v) the proportion of all expenses, costs, commissions, fees, Taxes, insurance premiums and other proper outgoings which the Trustee determines to be attributable to the Member's Individual Pension Account; and
- (vi) the amount of the pension benefit paid to the Member or his Dependents in accordance with Chapter 5, and
- (vii) any transfers to the Mortality Fluctuation Reserve in accordance with Clause 4.8(b), and

- (viii) any transfers to the General Reserve in accordance with Clause 4.8(c),

during the period of entitlement to a pension benefit under this Deed (whether entered on or during any initial period of deferment), increased or decreased by the Fund Earning Rate for each Authorised Investment Fund (as applicable) for each Income Calculation Period by applying that rate to the respective portions of the Member's Individual Account invested each Authorised Investment Fund.

Participating Employer's Plan Account

4.12 The Trustee shall establish and maintain an Employer's Plan Account for each Employer participating in the Fund which shall record the following.

- (i) total contributions by the Employer,;
- (ii) total contributions by the Employer's employees who are Members;
- (iii) any transfer from any other superannuation fund established- by the Employer,;
- (iv) any payments arising from any Insured Benefits in respect of Members who were Employees of the Employer,;
- (v) any allocations of forfeited benefits in accordance with Clause 5.27;
- (vi) the proportion of all expenses, costs, commissions, fees, Taxes, insurance premiums and other proper outgoings which the Trustee determines to be attributable to the Employer's Account;
- (vii) benefit payments to Members who are the Employer's Employees; and
- (viii) the total cost of the death and/or Permanent Disablement and or Temporary Disablement benefits (as determined by the Trustee),

during the period the Employer is participating in the Fund, increased or decreased by the Fund Earning Rate each Income Calculation Period.

Forfeited Benefits Register

4.13 The Trustee shall establish and maintain a Forfeited Benefits Register in respect of the Fund and shall record:

- (a) for a particular Member,

- (i) the amount of benefit forfeited as increased or decreased promptly after the close of each Income Calculation Period by the Trustee applying generally accepted actuarial principles and having regard to the Fund Earning Rate for the most recently expired Income Calculation Period, and
 - (ii) the manner in which the Trustee has applied the whole or any part of such forfeited amount (increased or decreased as aforesaid) in accordance with Clause 5.27, and
- (b) for the Employer of a Member who forfeits any benefits,
 - (i) the amount of the total benefits forfeited in a Fund Year, and
 - (ii) the manner in which the Trustee has applied the amount of the total forfeited benefits in accordance with Clause 5.27.

Suspended Benefits Register

4.14 The Trustee shall establish and maintain a Suspended Benefits Register in respect of the Fund and shall record:

- (a) for a particular Member,
 - (i) the amount of any benefit suspended pursuant to Clause 2.10(a) as increased or decreased promptly after the close of each Income Calculation Period by the Trustee applying generally accepted actuarial principles and having regard to the Fund Earning Rate for the most recently applied Income Calculation Period, and
 - (ii) the manner in which the Trustee has applied the whole or any part of such amount (increased or decreased as aforesaid) in accordance with Clause 5.28, and
- (b) for the Employer of any Member whose benefits are suspended as aforesaid,
 - (i) the amount of the total benefits suspended in a Fund Year; and
 - (ii) the manner in which the Trustee has applied the amount of the total suspended benefits in accordance with Clause 5.28,

and the Trustee shall determine the respective portions of the Suspended Benefits Register invested in each Authorised Investment Fund, which determination may, if the Trustee so chooses, be in accordance with the advice of an Actuary.

CHAPTER 5 BENEFIT ENTITLEMENT

- 5A Where the Benefit Entitlement of a Member under this Deed is subject to a Superannuation Agreement or Splitting Order, the Trustee shall take such action in respect of and deal with that Benefit Entitlement to give effect to the rights of the Non-member Spouse under the Superannuation Agreement or Splitting Order.

Retirement Benefit

- 5.1 A Member who retires on or after his Normal Retirement Date shall be entitled to a Retirement Benefit PROVIDED THAT the Preserved Benefit as recorded in the Member's Individual Account shall only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.
- 5.2 (a) The Retirement Benefit shall be payable in the form of a lump sum, Cashback Pension or Life Pension as notified by the Member to the Trustee in writing and agreed by the Trustee PROVIDED THAT such Cashback Pension and/or Life Pension satisfies the requirements of the Act,
- (b) The Retirement Benefit shall be payable or commence to be payable at anytime that meets the requirements of the Act, and
- (c) The Retirement Benefit shall be of an actuarial value determined by the Trustee equivalent to the amount of the Accrued Benefit as recorded in the Member's Individual Account at the date of payment of the lump sum or transfer to the Member's Individual Pension Account or the Pension Benefit Account as the case may be.

Death Benefit

- 5.3 Should a Member die before being entitled to a Retirement Benefit; a Death Benefit will be payable in accordance with Clause 5.7.
- 5.4 The Death Benefit shall be a benefit equal to the amount of:
- (a) the Accrued Benefit as recorded in the Member's Individual Account at the date of death, plus
- (b) any Insured Benefit on the life of that Member.
- 5.5 Should a Member die while entitled to a Retirement Benefit which is a lump sum and the benefit has not been paid or transferred to the Pension Benefit Account, the Death Benefit shall be a lump sum equal to the amount to which the Member would have been entitled had he lived, payable in accordance with Clause 5.7.

- 5.6 (a) Should a Member die while entitled to a Deferred Benefit (as defined in Clause 5.15 (whether or not the Member has been paid part thereof) a Death Benefit shall be payable in accordance with Clause 5.7 and shall be a lump sum equal to the amount of the Accrued Benefit as recorded in the Member's Individual Account at the date of death.
- (b) A Member who is entitled to a Deferred Benefit as herein provided shall not be eligible for an Insured Benefit.
- 5.7 (a) If permitted by the Act, the Trustee must pay the Death Benefit of a Member for whom it holds a Binding Death Nomination or Non-Lapsing Nomination at death in accordance with the Member's Binding Death Nomination or Non-Lapsing Nomination.
- (b) Where:
- (i) a member is transferred to the Fund in accordance with a successor fund transfer arrangement between the trustee of the transferor fund and the Trustee; and
- (ii) the member has given the trustee of the transferor fund a binding death benefit nomination (**Previous Nomination**) which, in the Trustee's opinion, would have complied with the Act had the Previous Nomination been given to the Trustee,
- the Trustee must pay the Benefit in accordance with that Previous Nomination until the earlier of:
- (1) the expiry of 3 years after the day that the Previous Nomination was first signed or last confirmed or amended by the Member, as notified to the Trustee by the trustee of the transferor fund;
- (2) the revocation of the Previous Nomination by the Member; or
- (3) the provision of a valid Binding Death Benefit Nomination by the Member to the Trustee.
- (c) In the event that no Binding Death Benefit Nomination exists in relation to the Member, but a Non-Binding Nomination exists in relation to the Member, the Trustee must pay the Benefit to or for the benefit of such of the Dependents and/or the Legal Personal Representative of the deceased Member, and in such proportions, as the Trustee in its absolute discretion considers appropriate;
- (d) in the event that no Nomination exists in relation to the Member, the Trustee must pay the Benefit to the Member's Personal Representative;

- (e) Despite sub-clause (d) above, if the Trustee is aware that proceedings have been commenced for the administration of the deceased Member's estate pursuant to Part XI of the *Bankruptcy Act 1966* it must pay the Benefit to or for the benefit of such of the Dependants and/or the Legal Personal Representative of the deceased Member, and in such proportions, as the Trustee in its absolute discretion considers appropriate;
- (f) Where sub-clauses (a), (c) or (d) do not apply, because there is neither a Nomination nor a Personal Representative, subject to sub-clause (g) below, the Trustee must pay the Benefit to or for the benefit of such of the Dependants of the deceased Member and in such proportions as it in its absolute discretion considers appropriate;
- (g) For the purposes of sub-clause (f), where, after reasonable enquiries, the Trustee determines that there are no Dependants eligible to receive the Benefit the Trustee may pay a Non-dependant Benefit to one or more individuals whom the Trustee in its absolute discretion considers appropriate.

5.8 The receipt by a Dependant, the Personal Representative or other person of a Benefit or Non-dependant benefit paid under this clause shall be a complete discharge to the Trustee in respect of an amount paid to that person and the Trustee shall not be bound to see the application thereof.

Permanent Disablement Benefit

5.9 Should a Member retire before being entitled to a Retirement Benefit on the grounds of Permanent Disablement he shall be entitled to a Permanent Disablement Benefit.

5.10 Subject to Clause 5.15, the Permanent Disablement Benefit shall be a lump sum equal to the amount of:

- (a) the Accrued Benefit as recorded in the Member's Individual Account at the date of Permanent Disablement, plus
- (b) any Insured Benefit on the life of that Member.

Temporary Disablement Benefit

5.11 Should a Member remain a Gainfully Employed Person but be absent from work for a period not less than that specified in the Member's Class of Membership, being a period of not less than four (4) weeks, on the grounds of Temporary Disablement he shall be entitled to a Temporary Disablement Benefit.

- 5.12 The Temporary Disablement Benefit shall be a pension of such amount as is specified in the Member's Class of Membership PROVIDED THAT the amount of the said Temporary Disablement Benefit shall not exceed the Member's salary at the date of Temporary Disablement and shall not be less than any Insured Benefit against the Temporary Disablement of that Member and in all cases such benefits payable cease at the time the Member recovers from his Temporary Disablement and PROVIDED FURTHER THAT the said Temporary Disablement Benefit shall not be payable, in excess of two or five years from the date of commencement of the Temporary Disablement Benefit, or to age 65, as specified in the Member's Class of Membership.

Withdrawal Benefit

- 5.13 Should the employment of a Member who is an Employee terminate before becoming entitled to a benefit under this Deed and the Member ceases to be an employee then the Member will be entitled to a Withdrawal Benefit PROVIDED THAT the Preserved Benefit shall be paid in accordance with the requirements of the Act. If the Trustee is permitted under the Act to pay a benefit to a Member who is not an employee, the Trustee may pay a Withdrawal Benefit to the Member PROVIDED THAT the Preserved Benefit shall be paid in accordance with the requirements of the Act.
- 5.14 Subject to Clause 5.15, the Withdrawal Benefit shall be a lump sum equal to the amount as determined by the Class of Membership applicable to that Member PROVIDED THAT the amount of the said Withdrawal Benefit shall not be less than the aggregate of the Employee-Financed Benefit and the Employer Financed Vested Benefit as recorded in the Member's Individual Account at the date of withdrawal and PROVIDED FURTHER THAT the said Withdrawal Benefit shall not be greater than the Accrued Benefit as recorded in the Member's Individual Account at the date of withdrawal.

Transition to Retirement Benefit

- 5.15 If the Trustee agrees, a Member who meets the conditions under the *Superannuation Industry (Supervision) Regulations 1994* for payment of a Non-Commutable Cashback Pension, will be entitled to be paid such a pension, on the terms agreed with the Trustee.
- 5.16 The initial capital value of the pension shall not be greater than the Accrued Benefit as recorded in the Member's Individual Account at the date of commencement of the pension.

Other Form of Benefits

- 5.17 (a) The Permanent Disablement Benefit and Withdrawal Benefit may be paid in either one or more of the following alternate forms:

- (i) capital sum or sums at the date of entitlement or any later date or dates;
- (ii) a Cashback Pension, and/or a Life Pension commencing on the date of entitlement or any later date; or
- (iii) any other form of benefit payable at any time acceptable to the Commissioner,

PROVIDED THAT both the Trustee and the person who is entitled to the Benefit agree on the alternate form of Benefit and PROVIDED FURTHER THAT each form of Benefit is of equivalent value (as determined by the Trustee in accordance with normal actuarial principles) and PROVIDED ULTIMATELY THAT the deferral of payment of a capital sum or the last payment of capital sums or the deferred commencement of a pension is not later than the date required by the Commissioner for that Member and that the Benefit payable to an Adult Child of a Member or to any person who is not a Dependant of a Member must be paid as a lump sum.

- (b) Where the form of benefit involves payment of the Benefit after the date of entitlement the Benefit shall be called a Deferred Benefit

Form of Pension Death Benefits

- 5.18 (a) For a Cashback Pension that commences on or before 9 March 2004, the Member may specify in writing the form of the Death Benefit should the Member die while in receipt of a Cashback Pension which may be payable either:
- (i) as a benefit equal to the remaining amount (if any) of the Individual Pension Account at the date of the Member's death in accordance with Clauses 5.7 and 5.8, or
 - (ii) as a continuing pension to a Member's surviving nominated Dependant.

If the Member does not so specify the form in which the benefit is to be paid, the Trustee shall, in the event of the death of a Member who was entitled to a Cashback Pension, determine whether to pay a Cashback Pension to one or more of the deceased Member's Dependents. If the Trustee, in exercising its discretion, decides to pay a Cashback Pension to a deceased Member's Dependant, it shall be paid in accordance with Clause 5.17. If the Trustee decides not to pay a Cashback Pension to a Member's surviving Dependant or if the deceased Member does not have a surviving Dependant, the balance of the Member's Individual Pension Account shall be paid as a lump sum or as lump sums in accordance with Clauses 5.7 and 5.8.

In the event of the death of a Member's surviving Dependant who was in receipt of a continuing Cashback Pension the Death Benefit shall be a lump sum equal to the remaining amount (if any) of the Individual

Pension Account at the date of the Dependant's death or such other form of benefit acceptable to the Commissioner.

- (aa) For a Cashback Pension (which in this paragraph includes a Non-Commutable Cashback Pension) that commences after 9 March 2004, the Member may specify in writing that, should the Member die while in receipt of a Cashback Pension, the remaining amount (if any) of the Member's Individual Pension Account be paid either:
 - (i) as a benefit in accordance with Clauses 5.7 and 5.8, or
 - (ii) with the consent of the Trustee and subject to the Act, as a continuing pension to a Dependant nominated by the Member to receive the pension.

The Member may, with the consent of the Trustee, make changes to a specification under Clause 5.16(aa)(i) or 5.16(aa)(ii) after the commencement date for the Cashback Pension.

If the Member does not so specify the form in which the benefit is to be paid, or if the Trustee cannot act on a specification, the Trustee shall, in the event of the death of a Member who was entitled to a Cashback Pension, pay the balance of the Member's Individual Pension Account:

- (a) if there is a surviving Spouse of the Member and the Spouse agrees, as a continuing Cashback Pension to the Spouse; or
- (b) if (a) does not apply, as a lump sum or as lump sums in accordance with Clauses 5.7 and 5.8.

In the event of the death of a Member's surviving Dependant who was in receipt of a continuing Cashback Pension the amount (if any) of the Individual Pension Account may be paid as a lump sum in accordance with Clauses 5.7 and 5.8 or as a pension to the person or persons determined by the Trustee.

- (b) Prior to the date of commencing a Life Pension, the Member and the Trustee must agree on the form of benefits payable on the death of the Member which may include continued payment of the pension to the end of a fixed period, or to the date of death of a surviving spouse provided that each form of benefit meets the requirements of the Act.

Levels of Pensions

- 5.19 (a) The initial level of a Cashback Pension (which in this Clause includes a Non-Commutable Cashback Pension) or Life Pension shall be agreed between the Member and the Trustee prior to the commencement of the said Cashback Pension or Life Pension PROVIDED THAT the initial level shall satisfy any maximum or minimum requirements of the Act.

- (b) The level of any pension payable to a Member's surviving Dependant on the death of a Member in receipt of a Cashback Pension shall be agreed between the Trustee and the surviving Dependant PROVIDED THAT the level shall satisfy any maximum or minimum requirements of the Act.
- (c) The level of any pension payable to the Member's surviving spouse on the death of a Member in receipt of a Life Pension shall be agreed between the Trustee and the Member prior to the commencement of the Life Pension PROVIDED THAT such level shall satisfy any maximum or minimum requirements of the Act
- (d) The level of any Cashback Pension in the course of payment may be changed by the Member on any 1st July (or other date acceptable to the Trustee) PROVIDED THAT the Member notifies the Trustee in writing at least 14 days prior to, the change (or such shorter period as is acceptable to the Trustee) and PROVIDED FURTHER THAT any such change is in accordance with any maximum or minimum levels of pension required by the Act.
- (e) The level of any Life Pension in the course of payment may only be changed by agreement between the Member and the Trustee PROVIDED THAT, if the benefit is not fully insured with an Insurer, the Trustee must obtain the advice of an Actuary prior to agreeing to any such change.

Maximum Pension Benefits

5.20 In accordance with the Act and at the request of a Member, the Trustee may in its absolute discretion retain all of part of any benefit payable under this Deed in the Fund until:

- (a) the Member requests that it be paid,
- (b) the Member dies, or
- (c) the Trustee elects for whatever reason to pay the benefit,

whichever occurs first, and the amount then payable shall be the balance of the Member's Individual Account at the date of payment after all credits and debits have been made PROVIDED THAT the benefit must always be paid in accordance with the Act.

Commutation of Pension

5.21 (a) Subject to sub-Clause (b) of this Clause, the person entitled to a Cashback Pension, Non-Commutable Cashback Pension or Life Pension has the sole right to commute that pension in whole or part to an actuarial equivalent capital sum and such right to commute the pension is exercisable at the time at which that person first becomes entitled to the pension or any time thereafter PROVIDED ALWAYS THAT any commutation meets the requirements of the Act.

- (b) Without limiting the proviso in paragraph (a) that any commutation must meet the requirements of the Act, no amount of a Non-Commutable Cashback Pension shall be commuted and cashed if the cashing of the commutation is prohibited by, or exceeds the amount permitted by, Part 6 and Schedule 1 of the *Superannuation Industry (Supervision) Regulations 1994* or any other requirement of the Act.
- (c) The amount of the capital sum shall be determined by the Trustee applying generally accepted actuarial principles and without limiting the generality of that determination:
 - (i) in the case of the commutation of a Cashback Pension or Non-Commutable Cashback Pension, the capital sum shall be deducted from the Member's Individual Pension Account; and
 - (ii) in the case of the commutation of a Life Pension that is fully insured with an Insurer then the capital sum shall not exceed the commutation proceeds from such Insurer, and
 - (iii) in the case of the commutation of a Life Pension that is not fully insured with an Insurer, then the calculation of the capital sum shall be in accordance with the requirements of the Commissioner (if any).

Payment of Benefits

- 5.22 (a) A Member or Dependant or the Personal Representative of a Member who wishes to claim a benefit from the Fund shall apply in writing on a form approved by the Trustee for a benefit claim and shall supply such information and evidence as the Trustee may reasonably require.
- (b) All questions as to whether any person is entitled to a payment out of the Fund and if so the amount of such payment shall be determined by the Trustee whose decision shall be final.
- (c) Where a Member Account is subject to a Payment Flag:
 - (i) the Member must not apply to claim a benefit from the Fund in respect of that Account; and,
 - (ii) the Trustee cannot make a benefit payment from the Fund in respect of that Account.
- 5.23 Should the person entitled to a benefit be under the age of majority, the Trustee may pay all or part of any benefit to any other person to be held in trust for application on behalf of the person entitled to a benefit or his Dependants and the receipt of the person to whom the benefit is paid shall be a complete discharge to the Trustee for the payment in respect of the person entitled to a benefit.
- 5.24 Any benefit entitlement of the Member or his Dependants may be paid by Cash or transfer of ownership of life insurance policies as the Trustee determines.

The Trustee may, with the agreement of the Member or beneficiary to whom a benefit is payable, transfer investments of the Fund of equivalent value to such Member in lieu of paying the whole or part of the amount otherwise payable under this Deed PROVIDED THAT the Trustee obtains from the Commissioner an acknowledgement that such transfer will not cause the Fund to fail to satisfy the requirements of the Act.

- 5.25
- (a) Pensions shall be payable monthly unless the Trustee decides in its sole discretion that the pension shall be payable at other intervals.
 - (b) The first instalment of any pension shall fall due for payment on the last day of the month in which the Member becomes entitled to the pension or such other day as the Trustee decides.
 - (c) The last instalment of any pension payable from the Pension Benefit Account shall fall due for payment upon the last day of the month immediately preceding the date of the Member's death or, if he or she is survived by a widow, or widower, at the date of death of the said widow or widower as the case may be or such other day as the Trustee decides.
 - (d) The last instalment of any pension payable from the Individual Pension Account of the Member shall fall due for payment upon the last day of the month:
 - (i) immediately preceding the date of the Member's death or, if a pension is paid to a Member's surviving Dependant, at the date of death of the Dependant as the case maybe, or
 - (ii) the balance of the Individual Pension Account is less than the monthly pension that is payable (at which time the last instalment shall be the balance of the Individual Pension Account),

whichever is the earlier.

- 5.26 All amounts payable hereunder shall be calculated in Australian currency according to the current rate of exchange at the date of payment.

Member's Debt

- 5.27 The Trustee may, in its absolute discretion, either on the request of an Employer or of its own motion, deduct from any payment to a Member any debt due from the Member to the Employer or the Fund on account of dishonesty, fraud or defalcation and the Trustee shall, subject to the requirements of the Act, pay the amount so deducted to the Employer or the Fund as the case may be.

Forfeiture of Benefits

- 5.28 (a) Benefits payable out of the Fund shall at the option of the Trustee be forfeited if the person otherwise entitled thereto:
- (i) assigns, alienates or charges such benefits or part thereof, or
 - (ii) owing to mental illness requires care, treatment or control for his own good or in the public interest and is in the opinion of the Trustee for the time being incapable of managing himself or his affairs.
- (b) Subject to the provisions of the Act, the Trustee may not recognise, encourage or sanction:
- (i) any assignment of a Member's benefit; or
 - (ii) any charge over the Member's benefit.

Application of Forfeited Benefits

- 5.29 Subject to the requirements of the Act, the Trustee may apply any benefits forfeited by Members or remaining in the Fund by virtue of the provisions of this Deed towards any one or more of the following purposes:
- (a) the provision of grants to one or more Members of the Fund or Dependents by way of welfare benefits, sickness benefits or benefits to meet individual cases of hardship;
 - (b) the provision of supplementary benefits for retired Members of the Fund (including a transfer to the Pension Benefit Account);
 - (c) the provision on a reasonable basis of additional benefits for existing Members of a Fund;
 - (d) the payment of any contribution due by a Member who is suffering hardship;
 - (e) the payment of any contribution due by an Employer provided that any such application shall only be in respect of forfeited benefits of the Employees of that Employer;
 - (f) the payment of moneys to the Commissioner as unclaimed moneys in accordance with Clause 5.29; and
 - (g) any other purpose approved by the Commissioner,

PROVIDED ALWAYS THAT such forfeited benefits be applied in the following manner:

- (i) any benefit paid whilst any Member is in the service of his employer shall be paid only to alleviate hardship;
- (ii) forfeited benefits may only be applied for the benefit of Members, their Dependants and Retired Members who are or were at the date of the forfeiture or retirement, as the case may be, entitled to benefits from this Deed; and
- (iii) the benefits forfeited by a Member who is employed by an Employer shall only be applied in accordance with the before mentioned purposes for the benefit of the remaining Employees or former Employees of that Employer or their Dependants.

Application of Suspended Benefits

- 5.30 (a) Where a Member or the Employer of a Member (as the case may be), in relation to whom the payment of any benefits or pension has been suspended pursuant to paragraph (a) of Clause 2.10, furnishes all information requested by the Trustee in relation to that Member under that paragraph prior to those benefits or that pension becoming forfeited benefits under this Clause 5.28, the Trustee shall, subject to its covenants hereunder pay to that Member the benefit or the pension which that Member would have been entitled to be paid had the information been furnished promptly to the Trustee after request.
- (b) Where a Member or the Employer of a Member (as the case may be) remains in default under paragraph (a) of Clause 2.10 for a period of twelve (12) consecutive Months, the Trustee may at any time thereafter and notwithstanding any delay in so doing declare that all benefits of that Member recorded in the Suspended Benefits Register in relation to that Member are forfeited benefits whereupon those benefits shall be forfeited.

Unclaimed Money

- 5.31 The Trustee shall comply with the requirements of the Act in relation to the payment of unclaimed money.

Financial Hardship

- 5.32 The Trustee may, in its absolute discretion, pay part or all of the Member's Withdrawal, Benefit (calculated in accordance with Clause 5.14) to a Member who is not otherwise entitled to be paid a benefit under this Deed, if the Trustee is satisfied that the Member would suffer financial hardship if part or the whole of his benefit is not paid to him. Any such payment must first be approved by the Commissioner, if the Act so requires.

Payment of Benefit in Other Circumstances

- 5.33 The Trustee may, in its absolute discretion, pay part or all of the amount of the balance of the Member's Individual Account to a Member, or another person including the Commissioner, in the circumstances provided for in the Act, notwithstanding the restrictions imposed by this Deed.

Deduction of Income Tax from Benefit

- 5.34 The Trustee may deduct from any contribution or benefit payable the amount of any Tax that is calculated by the Trustee to be payable in respect of such benefit and shall remit any amount so deducted to the Commissioner of Taxation.

Legislative Requirements Applicable to Non-Commutable Cashback Pensions

- 5.35 (a) In the case of a pension payable as a Non-Commutable Cashback Pension this Deed is deemed to include each requirement of the Act that the rules under which a pension is provided must satisfy for the pension to be a Non-Commutable Cashback Pension, and a pension for the purposes of the Act.
- (b) To the extent that there is any inconsistency between a requirement deemed to be included in this Deed in relation to a Non-Commutable Cashback Pension by paragraph (a), and any other provision of this Deed, the relevant requirement in relation to the Non-Commutable Cashback Pension prevails.

CHAPTER 6 THE TRUSTEE

- 6.1 (a) Subject only to the covenants on the part of the Trustee herein contained in relation to the Fund and to Clause 4.3, the Fund shall be managed by the Trustee with full and complete powers of management including without limitation, the absolute discretion as to the investment of any Cash forming part of the Fund and as to the purchase, sale, transfer, exchange or alteration of Authorised Investments and as to borrowings and incurring of other liabilities in relation to the Fund (with full power to delegate to its officers and employees or any of them and/or to any subsidiary of the Trustee and the officers and employees of any such subsidiary or any of them all acts matters and things not requiring or involving the Trustee's judgement or discretion) and the Trustee hereby agrees to carry out and perform the duties and obligations on its part which are herein contained during the period of the Fund and the Trustee shall be subject to retirement as hereinafter provided in this Deed. Nothing herein contained shall be construed to prevent the Trustee from establishing or acting as trustee for other trusts whether of a nature similar to or different from the trusts of this Deed.

- (b) Without in any way affecting the generality of the foregoing the Trustee may in carrying out and performing the duties and obligations on its part which are herein contained:
- (i) by Power of Attorney appoint any person to be attorney or agent of the Trustee for such purposes and with such powers and authorities (not exceeding those vested in the Trustee) as it thinks fit with power for the attorney or agent to sub-delegate any such powers authorities or discretions and also to authorise the issue in the name of the Trustee of documents bearing facsimile signatures of the officers of the Trustee or of the attorney or agent either with or without proper manuscript signatures of their officers thereon PROVIDED THAT the Trustee in any such power of attorney and the attorney or agent by the terms of any such sub-delegation may insert such provisions for the protection and convenience of those dealings with any such attorney or agent or sub-delegate as they may think fit;
 - (ii) appoint in writing or otherwise any person to be sub-agent of the Trustee as the Trustee may think necessary or proper for such purposes and with such powers and authorities (not exceeding those vested in the Trustee) as it thinks fit and to supersede or suspend any such sub-agent for such cause or reason as the Trustee may in its sole discretion think sufficient with or without assigning any cause or reason and either absolutely or for such time as it may think proper,

PROVIDED THAT the Trustee shall remain liable for all acts or omissions of any attorney agent sub-delegate or sub-agent appointed under the preceding provisions of this Clause and shall be responsible for the fees and expenses of any such attorney agent sub-delegate or sub-agent but shall be entitled to rely in good faith on information provided to it by any of those persons.

Period of Fund and termination thereof

- 6.2 (a) The Fund shall endure for such period as is allowed by law for the duration of the trusts hereby established.
- (b) (i) The Trustee may notify the Members in writing that the Fund is to be terminated on a specified date. The Fund shall be terminated on the date specified, hereinafter called the "Closure Date".
- (ii) At the Closure Date the Trustee shall immediately make a call for any arrears of contributions and not accept further contributions.
- (iii) The Trustee shall distribute amongst the Members the net assets of the Fund at the Closure Date in the manner the Trustee considers appropriate in its absolute discretion PROVIDED THAT each Member is distributed at least his Employee-Financed Benefit.

- (iv) For each Member at the Closure Date, the Trustee shall pay to a superannuation trust or Approved Deposit Fund nominated by the Trustee that Member's Accrued Benefit (if any) determined in accordance with paragraph (iii) of this sub-Clause.
- (v) Subject to paragraph (iv) of this sub-Clause, the Trustee shall effect the payment of the allocated net assets of the Fund in accordance with this Deed as the Trustee may determine PROVIDED THAT so much of each Member's entitlement hereunder as is the Member's Preserved Benefit as recorded in his Member's Individual Account shall only be paid in one of the circumstances identified in the definition of Preservation Requirement in Clause 1.1.
- (c) Subject to any provision to the contrary in the Act, in the event of the termination of the Fund due to the death of the Dependant of the last Member or at the death of the last Member if he has no Dependant and the Fund has remaining assets, then the amount of remaining assets shall be paid to the Trustee.
- (d) The Trustee shall be entitled to retain out of any moneys in its hand under the provisions of this- Clause full provision for and to pay thereout all costs, charges, expenses, liabilities (whether actual or contingent), claims, demands incurred made or apprehended by the Trustee in connection with the Fund including the fees of any actuaries, agents, solicitors, brokers, bankers, accountants or other persons whom the Trustee may employ in connection with the winding up of the Fund and shall be entitled out of the moneys so retained to be indemnified and saved harmless against any such costs and charges expenses claims and demands. To the extent to which any moneys are retained by the Trustee, the Trustee shall hold those moneys or cause those moneys to be distributed in accordance with the provisions of this Deed.

Voting rights on Authorised Investments

- 6.3 (a) Subject to the provisions of this Clause all rights of voting (if any) conferred by the Authorised Investments comprised in the Fund shall be exercised in such manner as the Trustee may determine and neither the Trustee nor any member shall have any right to interfere therein.
- (b) Subject to and without in any way limiting Clause 6.1 or the covenants given by the Trustee in this Deed the Trustee shall not be under any liability or responsibility in respect of the management of the companies or bodies or authorities in or from which any Authorised Investments are held (other than companies, bodies or authorities under the control of the Trustee) nor in respect of any vote or action taken or consent given by the Trustee in person or by proxy or attorney in regard thereto and neither the Trustee nor the holder of any such proxy or power of attorney shall incur any liability or responsibility by reason of any error of law or mistake of fact or any matter or thing done or omitted or approval voted or given or withheld by the Trustee or by the holder of such proxy or power of attorney under this Deed and the Trustee shall be under no obligation to anyone with respect to

any action taken or caused to be taken or omitted by the Trustee or by such holder of a proxy or power of attorney PROVIDED THAT nothing in this Clause 6.3 shall have the effect of relieving the Trustee from any liability it may have by reason of its own negligent or wilfully wrongful actions or those of its proxies or attorneys AND PROVIDED FURTHER THAT nothing in this Clause 6.3 shall operate to create or increase any duties or obligations on the Trustee, its proxies or attorneys.

Trustee's Powers and Indemnities

6.6 Without prejudice to any indemnity allowed by law or given elsewhere in this Deed to the Trustee:

- (a) The Trustee shall not incur any liability in respect of any action taken or thing suffered by the Trustee in reliance upon any notice, resolution, direction, consent, certificate, receipt, affidavit, statement, certificate or other paper or document reasonably believed by the Trustee to be genuine and to have been passed executed or signed by the proper parties and, without limiting the generality of the foregoing, the Trustee shall not incur any liability in respect of any action taken or thing suffered in reliance on any information or material of any nature whatsoever supplied by or at the direction of or which the Trustee reasonably believes to have been supplied by or at the direction of a Member.
- (b) The Trustee shall not incur any liability to anyone (including any Member) in respect of any failure to perform or do any act or thing which by reason of any provision of any present or future laws of the Commonwealth of Australia or of any State or Territory thereof or any ordinance rule regulation or by-law made pursuant thereto or of any decree order or judgement of any competent Court the Trustee shall be hindered prevented or forbidden from doing or performing.
- (c) The Trustee shall not be liable to account to any Member or otherwise for any payments made by the Trustee in good faith:
 - (i) to any duly empowered fiscal authority of the Commonwealth of Australia or of any State or Territory thereof for Tax (including, without limitation, financial institutions duty, debits taxes, land taxes and income and capital gains taxes) upon the Fund or with respect to any transaction under this Deed notwithstanding that any such payment ought or need not have been made; or
 - (ii) for or on account of the retention of any moneys or assets in the Fund to meet or any payments made to meet any prospective liabilities on the part of the Trustee in relation to the Fund to such fiscal authority.
- (d) The Trustee may act upon the opinion or advice of or statements by or information obtained from barristers or solicitors instructed by the Trustee or any bankers, actuaries, accountants, brokers, valuers and

other experts and persons which the Trustee reasonably believes to be independent of the Trustee and who are believed by the Trustee in good faith and upon reasonable grounds to be experts in relation to the matters upon which they are consulted and, in the case of Actuaries or Approved Valuers, to satisfy the requirements contained in the respective definitions of "Actuary" and "Approved Valuer" in Clause 1.1 and the Trustee shall not be liable for anything done or suffered by it in good faith in reliance upon such opinion advice statement or information. Any such advice opinion or information may be verbal or may be by way of letter telegram facsimile or telex and the Trustee shall not be liable for acting on any advice opinion or information given by such means although the same contains some error or is not authentic.

- (e) Where the Trustee relies in good faith pursuant to paragraph (d) of this Clause upon any advice or information tendered to it by any barrister, solicitor, banker, actuary, accountant, broker, valuer or other expert or by a Government official it shall not be responsible for any misconduct mistake oversight error of judgement forgetfulness or want of prudence on the part of any such barrister, solicitor, banker, actuary, accountant, broker, valuer or other expert.
- (f) Except as otherwise expressly provided herein the Trustee shall as regards all the trusts, powers, authorities and discretions vested in it have absolute and uncontrolled discretion as to the exercise thereof whether in relation to the manner or as to the mode of and time of the exercise thereof.
- (g) Nothing in this Clause or elsewhere in this Deed shall:
 - (i) permit the Trustee, and each Director of the Trustee, to be indemnified against liabilities for acts or omissions that are:
 - (a) dishonest; or
 - (b) attributable to an intentional or reckless failure to exercise the degree of care and diligence required of a trustee;
 - (ii) permit the Trustee and directors of the Trustee to be indemnified for any penalty imposed on them under the Act.
- (h) Except for any liability arising by virtue of its default or neglect the Trustee shall not be bound to make any payment to or at the direction of Members except out of the Fund.
- (i) Subject to any other provisions of this Deed and any statute or rule of law nothing in this Deed shall prevent the Trustee or any parent company of the Trustee or any subsidiary or related company (within the meaning of the Corporations Law) or any of them or the directors or officers of any thereof (all being included unless the context otherwise requires in the expression "the Trustee" where hereafter used in this sub-clause) from participating in or from otherwise at any time contracting or acting in any

capacity as representative or agent or entering into any financial banking development insurance agency broking or other transaction with any other of them or any Member or any company an investment in or with which forms part of the Fund or from being interested in any such contract or transaction or otherwise and none of them shall be in any way liable to account either to any of them or to the Members or any of them for any profits or benefits (including but without limiting the generality thereof any customary bank charges commission exchange brokerage and fees) made or derived thereby or in connection therewith and the Trustee shall not by reason of its fiduciary capacity be in any way precluded from making any contracts or entering into any transactions with itself as Trustee or from undertaking any banking financial or agency services for itself as Trustee and without prejudice to the generality of these provisions it is expressly declared that such contracts and transactions include any contract or transaction in relation to the subscription for or placing of or dealing with any Authorised Investments by the Trustee or of any other company in which it is interested and the acceptance of any contract of loan or deposit or other contract or transaction which any person or company not being a Trustee under this Deed could or might have lawfully entered into with any such company or with itself as Trustee and the Trustee shall not be accountable either to any such other company or the Members for any profits arising from any such contracts transactions or offices.

- (j) If the Trustee or its officers or the parent, related or subsidiary companies and officers or directors thereof referred to in sub-clause (i) of this Clause have an interest directly or indirectly in respect of any transaction affecting the Fund then those persons shall act, in connection with any such transactions which give rise to a fiduciary relationship with Members, as the case may be with the utmost good faith towards Members, as the case requires.
- (k) Whenever the Trustee shall sell or transfer any Authorised Investment or other property it shall be indemnified by the person entitled to the proceeds of sale or to such transfer against all costs, charges and expenses (including stamp duty) in connection therewith.
- (1) In the event of the liquidation or dissolution of any corporation or if for any other reason it becomes impossible or impractical to carry out provisions of this Deed in respect of such corporation or otherwise the Trustee shall not be under any liability therefor or thereby or incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done by it in good faith hereunder.
- (m) The Trustee shall not be liable for the failure of any person or corporation (other than its attorneys, agents, sub-delegates or sub-agents appointed in accordance with Clauses 6.1(b) or any Custodian appointed hereunder) to carry out any agreement on his or its part or for anything except its own neglect default or breach of duty hereunder.

- (n) No Member shall otherwise than in accordance with the provisions of this Deed be entitled to require the transfer to him of any property comprised in the Fund nor be entitled to interfere with the exercise by the. Trustee of any of the trusts powers authorities or discretions conferred upon it by this Deed or in respect of such property.
- (o) If at any time the Trustee is required by any Federal or State Government or by any statute to lodge approved deposits, securities or bonds for the additional protection of Members, as the case may be the Trustee will provide the same from its own resources and it shall have no claim on the Fund for such purpose PROVIDED THAT if the Trustee elects not to comply with such requirements, then it shall immediately give to the Members notice of that intention and shall immediately retire as Trustee of the Fund.
- (p) (i) Subject to any provision of this Deed, except in respect of any fraud or any neglect default breach of duty omission or breach of trust on the part of the Trustee in no event shall the Trustee be. liable to the Members to any greater extent than in respect of Authorised Investments, Cash and other property of the Fund respectively vested in the Trustee or received or to be received by it in accordance with the provisions of this Deed.
- (ii) In the case of any fraud or any neglect, default, breach of duty, omission or breach of trust on the part of the Trustee, in no event shall the Trustee be liable to account to the Members in respect of Authorised Investments, Cash or other property vested in the Trustee in its capacity of trustee of any other fund.
- (q) The Trustee shall not be required to effect any transaction or deal with any part of the Authorised Investments on behalf of or for the, benefit or at the request of any Member or Dependant or Employer or Personal Representative unless such Member or Dependant or Employer or Person Representative (as the case may require) shall first have paid in Cash or otherwise provided to the Trustee's satisfaction for all duties, taxes, governmental charges, brokerage, transfer fees, registration fees, and other charges (whether similar to the foregoing or not and including, without limitation, all financial institutions duties, debits and taxes, land taxes and income and capital gains taxes, whether in respect of the relative part of the Authorised Investments or of the Fund or otherwise (herein called collectively "duties and charges")) which may have become or may be payable in respect of or prior to or upon the occasion of such transaction or dealing PROVIDED ALWAYS THAT the Trustee shall be entitled if it so thinks fit to pay and discharge all or any of such duties and charges on behalf of the Member or Dependant or Employer or Personal Representative (as the case may be) and to retain the amount so paid out of any moneys or property to which such Member or Dependant or Employer or Personal Representative may be or become entitled hereunder.
- (r) (i) The Trustee may bring institute and prosecute any action suit or other proceedings to obtain or recover any moneys that are payable to the Trustee in accordance with the provisions of this Deed and may also bring legal proceedings to recover damages against any person

arising out of any loss suffered by any one or more Members, Dependants, Personal Representatives or Employers as a result of any negligence, default, omission, breach of duty or breach of the terms of this Deed and the Trustee may abandon, settle, compromise or release any such action, suit or other proceedings as it may consider desirable.

- (ii) The Trustee may institute, prosecute, defend or otherwise appear in any action suit or other proceeding in any Court or tribunal in respect of any matters touching or concerning the Authorised Investments, this Deed of the Fund.
- (iii) All costs and disbursements incurred by the Trustee (including costs of obtaining advisory opinions) in anticipation of or in connection with any such action suit or proceeding and all costs and disbursements incurred by the Trustee in obtaining any legal advice or opinions concerning or relating to the interpretation and construction of this Deed or any provision hereof shall notwithstanding any other provision of this Deed be deducted from and paid out of the Fund such deduction being made from the Fund from time to time until all such costs and disbursements have been paid in full.
- (s) The Trustee shall be indemnified out of the Fund from and against any expense and liability that may be incurred in prosecuting or defending any action or suit in respect of the provisions of the Deed, except where the action or suit arises out of any default or negligence or breach of trust of the Trustee.
- (t) The Trustee shall have the right (upon executing this Deed and thereby giving the covenant set out in Clause 6.7 (iii) effect) to have investments:
 - (i) in a case where the Trustee is precluded by the constitution of the issuer from holding those investments in its own name vested in officers, of the Trustee; and
 - (ii) in any case, vested in a Custodian as provided in this Deed or in any other person in whom the Trustee would apart from anything herein contained be entitled to vest those investments pursuant to the Trustee Act, 1925 (New South Wales) or any similar legislation in any other State or Territory of Australia.
- (u) Nothing in this clause shall limit or detract from the provisions of Clause 6.7 (i) and the Trustee's duty of care diligence and vigilance in respect of the trusts herein or prevent or restrict any determination as to whether there has been a breach of trust or affect the operation of the

provisions of any statute prescribing the circumstances under which the Trustee may obtain relief from breach of trust.

- (v) Whenever the Trustee buys or sells any Authorised Investments the Trustee shall have the fullest discretion to prescribe the time and mode and broker (if any, and subject to the restrictions on brokerage contained in the Act) for such purchase or sale including the right to direct a postponement of such purchase or sale as in its discretion it shall think fit.
- (w) Without prejudice to and subject to any other of the other provisions of this Deed, the Trustee shall be indemnified and shall be entitled to be reimbursed out of the Fund in respect of all stamp duty, receipt duty, transaction tax or any like impost, State or Federal, which it may incur or which is or may be imposed and in respect of all expenses and liabilities which it may reasonably incur in or about the receipt, collection, investment, disposal and distribution of applications of Members or Employers or moneys or properties received by it or in or about the performance or exercise of its duties and powers hereunder and otherwise under or by virtue of or in respect of the Fund and for the purpose of such indemnity and reimbursement may from time to time realise such investments of the Fund, in such manner and at such times as may be determined by the Trustee.
- (x) In the event that the Trustee has incurred a liability as Trustee and the Trustee is entitled under the terms hereof or otherwise as allowed by law to be indemnified in respect of such liability the Trustee may claim such indemnity from the Fund but the Trustee shall not be entitled to be indemnified in respect thereof by any Member, Dependant, Personal Representative or Employer unless that Member, Dependant, Personal Representative or Employer has agreed to so indemnify the Trustee in a written agreement separate from this Deed.
- (y) Notwithstanding any other provision of this Deed (but without prejudice to any such separate agreement as is referred to in paragraph (x) of this Clause) no Member, Dependant, Personal Representative or Employer shall by reason of any right which they may have hereunder or any interest which they may have in the Fund or by reason of the relationship hereby created with the Trustee, be under any obligation personally to indemnify the Trustee or any creditor of it in the event of there being any deficiency of the assets of the Fund as compared with the liability of the Trustee in relation thereto and the only rights if any of indemnity of such Trustee or of such creditor shall be limited to having recourse to the Fund.

- (z) The Trustee shall be entitled to rely on the validity of any signature on any Plan Specification, membership application, transfer request or other instrument and shall not be in any way liable to make good out of its own funds any loss incurred by any person in the event of such signature being forged or otherwise ineffective which loss (if any) shall, subject to any right of reimbursement from any other person, be borne by the Fund provided such reliance is based upon a reasonable belief that the signature is genuine.
- (aa) The Trustee shall have power to elect that the Fund become a regulated superannuation fund under SIS.
- (bb) The Trustee shall have power to act on a direction given by a Court, the Commissioner of the Superannuation Complaints Tribunal established under the Superannuation (Resolution of Complaints) Act, 1993 (C'th).
- (cc) The Trustee shall have the power to comply with the covenants of trustees imposed by SIS.
- (dd) Subject to the provisions of this Deed the Trustee shall have the power to do all things necessary or convenient to be done for or in connection with the purchase, acquisition, sale, transfer, assignment or disposition of Authorised Investments and its functions under this Deed and without prejudice to the generality of this Clause 6.6 and without limiting the powers otherwise vested in the Trustee, it is hereby declared that the Trustee shall have the following powers in respect of the Fund, which shall in no way be read construed or limited as applying or relating to Authorised Investments but shall be read and construed as a separate and independent powers of the Trustee in relation to the whole or any part of the Fund:
 - (i) to participate in the rights and obligations, including obligations to contribute in any manner to the liabilities of the parties, under any agreement relating to Authorised Investments;
 - (ii) to create, grant, renew, alter or vary any mortgage, charge or other encumbrance over the whole or any part of the Fund for any purpose whatsoever and upon such terms and conditions as the Trustee may in its absolute discretion think fit;
 - (iii) to initiate or agree to any one or more of the following:
 - (A) the release, modification or variation of any rights, privileges or liabilities of any shares or securities from time to time forming part of the Fund;

- (B) a scheme of arrangement for or reconstruction of any corporation including any increase or reduction in the capital of any corporation;
- (C) the amalgamation or merger of any corporation with any other corporation;
- (D) the sale or other disposition of all or any part of the property or undertaking of any corporation;
- (iv) to enter into any arrangements with any Government, public body or public authority to obtain any rights, authorities or concessions or clearances and to give any undertakings binding upon the Trustee either generally or on conditions as the Trustee deems fit and to carry out, exercise and comply with any of the same;
- (v) to lease to and to accept surrenders of leases from any lessee, to compromise with lessees and others and to execute and pay for repairs and improvements;
- (vi) to institute, prosecute and compromise legal proceedings;
- (vii) to attend and vote at meetings of any companies;
- (viii) to build, demolish, alter, repair, extend, rebuild, improve, reconstruct or develop any property being or included in any investment of the Fund, and in connection with a subdivision or otherwise, to dedicate land grant easements or other rights and make any other disposal or arrangement facilitating development;
- (ix) to promote or carry on or deal with any business scheme or undertaking relating to Authorised Investments in any country upon such terms and conditions as the Trustee thinks fit;
- (x) to insure or reinsure any risks, contingencies or liabilities of the Fund with any insurance company, friendly society, superannuation fund or hue company or body,
- (xi) subject to the provisions of this Deed, to issue or provide pensions or annuities to Members or Personal Representatives or their Dependants;
- (xii) to deduct income tax from the payment of a benefit to a Member or Personal Representative or Dependand and remit tax so deducted to the Commissioner in accordance with the Act;

- (xiii) to deduct from any contribution transfer deposit investment income or capital appreciation of the Fund any income tax or other tax in respect of that income or appreciation for which the Trustee becomes liable;
 - (xiv) subject to the provisions of this Deed, to lend and advance money or give credit to any person (whether with or without security) and to guarantee the performance of any agreement, contract, undertaking, promise or other obligation by any person or corporation and to indemnify any person or corporation against any loss, damage or liability (whether actual or contingent) suffered or incurred by that person or corporation (and, without limiting sub-paragraph (ii) of this paragraph (dd), the Trustee may secure any such guarantee or indemnity by mortgage, charge or other encumbrance) and generally to secure or undertake in any way the repayment of moneys lent or advanced to or the liabilities suffered or incurred by any other person or corporation and otherwise to assist any other person or corporation;
 - (xv) to do all things as may be necessary in order to collect any moneys payable by any Employer or Member hereunder and, without limiting the generality of the foregoing, to enter into any agreements, undertakings or arrangements or to give any indemnities in favour of any person for the purpose of entering into or arranging any direct debiting service to permit the Trustee to collect amounts due from Employers or Members hereunder by a direct debit upon the Employer's or Member's bank account;
 - (xvi) to appoint a Custodian either within or outside Australia in accordance with Chapter 7.
- (ee) Without limiting paragraph (dd) of this Clause or the powers otherwise vested in the Trustee but subject to the conditions set out in sub-paragraphs (i), (ii) and (iii) below and to Clause 4.6, the Trustee shall have power to borrow with or without security for any of the purposes of this Deed and to give security for any such borrowing over any of the investments of the Fund .and the following provisions shall apply to any such borrowing.
- (i) for the purposes of this paragraph (ee), "borrowing" includes obtaining overdraft accommodation from a bank, loan or deposit, or any other form of financial accommodation whatsoever and "borrow" shall have a corresponding meaning PROVIDED HOWEVER THAT the Fund shall not at any time invest with the Trustee or any Member in a manner that breaches the investment guidelines and/or requirements of the Act or of the Commissioner as stipulated from time to time;

- (ii) the proceeds of any such borrowing shall be part of the Fund and any Authorised Investments acquired by the application of such proceeds shall be deemed to be investments of the Fund;
- (iii) the Trustee may borrow such moneys as are required for the purposes of the Fund if the total liabilities including the subject borrowing of the Fund will not exceed 10% of the value of the Fund as at the time the borrowing is effected and, if thought fit to give security for any such borrowing over any or all of the investments comprised in the Fund provided that the Trustee shall not be required to accept any personal liability for such borrowing,

PROVIDED ALWAYS HOWEVER THAT any such borrowing is solely for a purpose permitted by the Act and is in accordance with the requirements of the Act.

- (ff) The Trustee shall have the power to do those things permitted or required by the Act.
- (gg) The Trustee may make rules and adopt policies in relation to any matters that the Trustee considers appropriate for the convenient administration of the Fund.

Covenants by the Trustee

6.7 The Trustee hereby covenants, with the intent that the benefit of the covenants shall enure to the Members, Dependants and Employers jointly and to each of them severally, that:

- (i) The Trustee will exercise all due diligence and vigilance in carrying out its functions and duties and in protecting the rights and interests of the Members, Dependants and Employers to which this Deed relates.
- (ii)
 - (a) Subject to paragraph (b) of this sub-Clause except as in this Deed provided, the Trustee shall not sell mortgage charge or part with the possession of (or permit any nominated officers so to do) any of the Authorised Investments comprised in the Fund
 - (b) The Trustee may lodge any documentation evidencing its ownership of any Authorised Investments with a securities system which is and at all relevant times remains independent of the Trustee and will ensure that prominent disclosure of the nature and level of risk associated with utilising such securities system is made in any customer information brochure.
- (iii) The Trustee hereby covenants that any of the persons referred to in Clause 6.6(t) will duly observe and perform the covenants and

obligations of this Deed in the same manner as is required of the Trustee, and hereby indemnifies the Fund against any loss or damage to the Fund or the Members which may have been incurred or sustained in connection with, or arising out of any breach or default of any such person in the observance or performance of any such covenant or obligation.

- (iv) The Trustee will ensure that the total of all amounts:
 - (i) borrowed by the Trustee pursuant to the provisions of this Deed and not repaid shall not at any time ("the relevant time") exceed ten per cent (10%) of the value of the Fund as at the relevant time; and
 - (ii) for which the Fund or the Trustee is liable under Futures Contracts or options to purchase or sell Authorised Investments shall not at any time ("the relevant time") exceed five per cent (5%) of the value of the Fund as at the relevant time. The Trustee will further ensure that at all times there is retained in the Fund sufficient Cash to meet margin calls on Futures Contracts and deposits on options.

- (v) Where Cash is received from or on account of any Member by way of contribution to the Fund, the Trustee will establish and keep at a bank or banks one or more trust accounts designated or evidenced as such into which it shall pay not later than the next Working Day following the day on which that Cash is received all such moneys received as aforesaid in such State or Territory AND no moneys shall be withdrawn from any such trust accounts except for the purpose of:
 - (i) payment for contributions or transfers to the Fund;
 - (ii) refund to any applicant whose application has not been accepted; and
 - (iii) any payment that is otherwise authorised by law or by this Deed.

- (vi) (i) The Trustee shall, on receipt of application moneys for interests in the Fund, where the application moneys are not accompanied by an application form either refund the money or hold the moneys in a trust account, on trust for the applicant and in the applicant's name, until the application form is received. If the application form is not received within 30 days after the application moneys are received, the Trustee shall return the application moneys to the applicant. If the application moneys are accompanied by an application form, the Trustee shall apply the moneys to the issue of the interests stated in the application form, as soon as practicable, but not later than the close of business on the next Working Day after receipt of the moneys;

- (ii) the moneys to the issue of the interests stated in the application form, as soon as practicable, but not later than the close of business on the next Working Day after receipt of the moneys;
 - (iii) Any income which accrues in respect of such application moneys less any costs and disbursements incurred in respect of the holding by the Trustee of such application moneys shall be either,
 - (a) refunded to the applicant; or
 - (b) added to and deemed to form part of the application moneys, depending on the request of the Member.
- (vii) The Trustee will ensure as far as practicable that at all times during each financial year the investments of the Fund will satisfy the requirements of the Act.
- (viii) The Trustee covenants to maintain the status of the Fund as a complying superannuation fund.
- (ix) The Trustee will act honestly in all matters concerning the trust
- (x) The Trustee will exercise, in relation to all matters affecting the Trust, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide.
- (xi) The Trustee will ensure that the Trustee's duties and powers are performed and exercised in the best interests of the Members.
- (xii) The Trustee will keep the money and other assets of the Trust separate from any money and assets, respectively:
 - (i) that are held by the Trustee personally, or
 - (ii) that are money or assets, as the case may be, of a standard employer-sponsor (as defined in the Act) or an Associate of a standard employer-sponsor of the Fund
- (xiii) The Trustee will not enter into any contract, or do anything else, that would prevent the Trustee from, or binder the Trustee in, properly performing or exercising the Trustee's functions and powers.
- (xiv) The Trustee will formulate and given effect to a strategy for the prudential management of the Reserve Accounts, in accordance with the requirements of the Act.

- (xv) The Trustee will allow a Member access to any information or documents prescribed in the Act.
- (xvi) The Trustee will, for so long as the Act requires it, take all reasonable steps to ensure that there are at all times in force, arrangements under which:
 - (i) beneficiaries of the Fund have the right to make enquiries or complaints about the operation or management of the Fund in relation to that beneficiary; and
 - (ii) such enquiries or complaints are dealt with within 90 days.
- (xvii) The Trustee shall not pay brokerage or commission except in the circumstances permitted in the Act.
- (xviii) The Trustee shall comply with such cooling off periods as are imposed by the Act.

Records of Meetings

- 6.8 The directors of the Trustee must keep, and retain for at least 10 years, minutes of all meetings of the directors at which matters affecting the Fund were considered.

Retirement of Trustee

- 6.9 (i) The Trustee covenants subject to the provisions of the Act that it will retire from the Fund in any of the following events, namely:
- A. where the Trustee ceases to carry on business;
 - B. on the Trustee being placed in liquidation, other than for the purpose of amalgamation, reconstruction or a purpose of a similar kind, or in official management;
 - C. where a receiver, or a receiver and manager; is appointed in relation to the property of the Trustee and is not removed or withdrawn within 30 days of the appointment; or
 - D. if the Trustee is not, or is no longer, empowered to act as trustee.

On the retirement of the Trustee under any of the foregoing provisions of this sub-Clause the Trustee shall be entitled to appoint in writing subject to any approval required by law some other corporation to be the Trustee of the Fund.

- (ii) The Trustee may retire upon giving the Members three (3) months (or such lesser period as is determined by the Trustee) notice in writing of its desire so to do and subject to any approval required by law by deed appoint in its stead a Constitutional Corporation nominated by the Trustee as new Trustee.
- (iii) The Trustee shall on retirement vest the Fund or cause it to be vested in such new Trustee and shall deliver to such new Trustee all books documents records and other property whatsoever relating to the Fund. The costs and expenses incidental thereto shall be recouped from the Fund.
- (iv) The corporation so appointed under sub-Clause (ii) or (iii) of this Clause shall execute a Deed in such form as the Trustee may require whereby such corporation shall undertake to the Members, Dependants, Personal Representatives and Employers as the case requires jointly and severally all the obligations of the retiring Trustee hereunder in relation to the Fund and from the date of its retirement or removal as the Trustee of the Fund the retiring Trustee shall be released from all further obligations hereunder in relation to the Fund PROVIDED ALWAYS THAT no release under the provisions of this sub-cause shall extend to any existing or antecedent neglect or breach of trust on the part of the retiring Trustee or any existing or antecedent breach of its duties imposed by statute or rule of law. The new Trustee shall and may thereafter exercise all the powers and enjoy all the rights and shall be subject to all duties and obligations of the Trustee hereunder in relation to the Fund as fully as though such new Trustee had originally been named as a party hereto.
- (v) If the Trustee retires or is removed from office pursuant to any provision of this Deed and no new Trustee is appointed within sixty days from the date when such vacancy occurs, the Trustee shall terminate the Fund forthwith by giving notice in writing to each Member.

Remuneration of Trustee

- 6.10 (i) The Trustee shall be entitled to receive and retain for its own use out of the Fund by way of remuneration a fee for administering the Fund calculated on the following basis:
- (a) Within ten days from the end of each Income Calculation Period in: each year during the period of the fund the Trustee shall raise from the capital and/or income of the Fund such sum as may be necessary to pay to the Trustee its remuneration in relation to the Fund.
 - (b) In addition to any other remuneration payable to the Trustee, the Trustee shall be entitled to receive a sum equal to:

- (A) an amount equal to $2.0/365$ (or 0.0054794) for persons who become Members of the Fund on or after 1 January 2001; or
- (B) an amount equal to $1.5/365$ (or 0.0041095), from the effective date determined by the Trustee under clause 2.1(f) for employees who cease on or after 1 October 1998 to be an employee of an Employer.
- (C) an amount equal to $1.5/365$ (or 0.0041095), from 1 October 1998 for employees who had ceased to be an employee of an Employer at 31 July 1998; or ceased to be an employee of an Employer between 1 August and 30 September 1998,
- (D) The Trustee may charge a Member who is an Employee, an Adviser Service Fee - Employer at the rate agreed to by the Employer, and/or an Adviser Service Fee - Member at the rate agreed to by the Member.

per centum multiplied by the number of days in the Income Calculation Period multiplied by the value of the Fund at the end of each Income Calculation Period;

- a membership fee of \$2.50 (to be adjusted with effect from 1 April of each year if any increase in AWOTE during the calendar year prior to such date and by the percentage increase during that period) to be deducted from each Member's Individual Account at the end of each Month; plus
- a benefit payment fee, with the exception of pensions, of \$42.00 (to be adjusted with effect from 1 April of each year if any increase in AWOTE during the calendar year prior to such date and by the percentage increase during that period) to be deducted from the relevant Member's Individual Account prior to payment of a benefit by the Fund; plus
- a pension payment fee of \$10.00 (to be adjusted with effect from 1 April of each year if any increase in AWOTE during the calendar year prior to such date and by the percentage increase during that period) to be deducted from the relevant Member's Individual Account prior to each pension payment by the Fund.

- (c) In addition to any other remuneration payable to the Trustee, the Trustee shall be entitled to a fee calculated as it shall determine from time to time in relation to an application for spouse contributions-splitting pursuant to Clause 3.9.
- (ii) The Trustee may at its discretion from time to time elect to accept a remuneration with respect to any Income Calculation Period which is a sum equal to a lower percentage than any of the figures set out in sub-clause (i) of this Clause.

Meetings of Members

- 6.11
- (a) The Trustee may at any time and in accordance with Clause 6.12 convene a meeting of Members
 - (b) At least ten (10) days notice stating the place day and hour of a meeting and the general nature of the business to be transacted thereat and containing such' or any further information as the Trustee may think fit and the terms of any resolution to be proposed shall be given prior to any meeting of the Members. Such notice shall be given to all Members but the accidental omission to give such notice to or the non-receipt of a notice of meeting by a Member shall not invalidate the meeting. The Trustee and any person on behalf of the Trustee and its or his solicitors and any director or secretary officer or solicitor or auditor or actuary of the Trustee and any counsel instructed by the solicitors of the Trustee may attend any meeting of the Members and all such persons shall have- the right of audience.
 - (c) No business shall be transacted at any meeting of Members unless a quorum is present when the meeting proceeds to business. The quorum necessary for a meeting at which an Ordinary Resolution only is to be proposed shall be persons present in person who number or represent by proxy at least ten percent (10%) of the number of Members, as the case requires and for a meeting of which a Special Resolution is to be proposed shall be persons present in person who number or represent by proxy at least fifty-one percent (51 %) of the number of Members, as the case requires. If within fifteen minutes from the time appointed for any meeting a quorum is not present the meeting shall:
 - (i) if called for the purpose of passing an Ordinary Resolution only stand adjourned to the same day in the next week at the same time and in the same place;
 - (ii) if called for the purpose of passing a Special Resolution, stand adjourned for such period as the chairman shall direct and a further fourteen (14) days' notice of the proposed resolution and of the fact that those present in person or by proxy will constitute a quorum at an adjourned meeting and the place day and hour of such adjourned meeting shall be given to all Members by the Trustee; or

- (iii) if called in accordance with Clause 6.12, not proceed.
- (d) At an adjourned meeting the Members present as the case may be in person or by proxy (whatever their number) shall form a quorum and shall have power to pass an Ordinary Resolution or Special Resolution. The Trustee or its duly appointed representatives shall be entitled to attend and address the meeting.
- (e) The person (if any) nominated in writing by the Trustee shall be entitled to take the chair and if no such person is nominated or if at any meeting the person nominated shall not be present within fifteen minutes after the time appointed for holding the meeting, the Members present as the case may be shall choose one of their number to be the chairman.
- (f) Every question submitted to a meeting of the Members shall be decided by a show of hands unless it is a question which under the Deed or SIS must be decided by a percentage of Members represented, or unless a poll be properly demanded as hereinafter mentioned and in the case of an equality of votes the chairman shall both on the show of hands and at a poll have a casting vote in addition to the vote or votes (if any) to which he may be entitled as a Member.
- (g) On a show of hands every person who is either a Member or proxy for a Member shall have one vote and on a poll every Member who is present in person or by proxy shall have one vote for each Member he represents.
- (h) A Member of unsound mind or in respect of whom an order has been made in any court having jurisdiction in lunacy may vote, whether on a show of hands or on a poll by his committee curator bonis or other person appointed by such court and such committee curator bonis or other person may on a poll vote by proxy.
- (i) No objection shall be raised to the qualification of any voter except at the general meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting for a decision and his decision shall be final and conclusive.
- (j) On a show of hands and on a poll votes may be given either personally or by proxy and a proxy shall have the same right of audience as a Member.
- (k) The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing or if the appointer is a corporation either under its common seal or under the hand of an officer or attorney duly authorised.
- (l) Any person may act as a proxy whether or not he is a Member.
- (m) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of

such power or authority shall be deposited (which may include deposit by way of facsimile) with the Trustee or its nominee not less than 48 hours before the time appointed for holding the general meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid. . No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution.

- (n) An instrument appointing a proxy may be in the following form or in any other form which the Trustee may approve.

"I

of

being a Member of [LifeTrack Corporate Superannuation] hereby appoint

of

to vote for me and on my behalf at the meeting of members to be held on the day of and at any adjournment thereof. - If no proxy is nominated in this instrument, then the chairman of the meeting shall be my proxy for the purposes set out above.

Signed at by me this day of .

This form is to be used to vote in favour of/against the resolution.

Strike out whichever is not desired. Unless otherwise instructed, the proxy may vote as he thinks fit.

- (o) A vote given in accordance with the terms of an instrument of proxy shall be valid despite the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death insanity or revocation as aforesaid shall have been received by the Trustee before the commencement of the general meeting or adjourned meeting at which the proxy is used.
- (p) At any meeting of the Members unless, a poll is demanded by the chairman or Members present in person who number or represent by proxy at least one-tenth of the number of Members respectively and entitling the Members to vote on the resolution, a declaration by the chairman that a resolution has been carried or carried by any particular majority or lot or not carried by any particular majority or lot shall be conclusive evidence of the fact. A poll may be demanded either before or after any question is put to a show of hands. This provision does not apply in respect of a resolution passed in accordance with Clause 6.12.

- (q) If at any general meeting a poll is demanded as aforesaid; it shall be taken in such manner and either at once or after an adjournment as the chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn.
- (r) Any poll demanded at a general meeting of Members on the election of a chairman or any question of adjournment shall be taken at the meeting without adjournment. The demand for a poll shall not prevent the continuance of a meeting or the transaction of any business other than the question on which the poll has been demanded.
- (s) A resolution (whether ordinary or special) passed at a general meeting of the Members duly convened and held in accordance with this Deed shall be binding upon all the Members whether present or not present at such meeting.
- (t) Notwithstanding the foregoing provisions of this Clause:
 - (i) a resolution reduced into writing and signed by not less than fifty one percent (51%) of the Members for the time being as the case may be shall be as valid and effectual as if it had been passed as an Ordinary Resolution at a meeting of the Members duly convened;
 - (ii) a resolution reduced into writing and signed by not less than seventy five percent (75%) of the Members for the time being as the case may be shall be as valid and effectual as if it had been passed as a Special Resolution at a meeting of the Members duly convened.

Any such resolution may consist of several documents in like form each signed by one or more Members, as the case requires. This provision does not apply in respect of a meeting held in accordance with Clause 6.12.

- (u) Minutes of all resolutions passed and proceedings had at every general meeting of Members shall be made and duly entered in a book to be provided for that purpose in relation to the Fund by the Trustee and any such minutes as aforesaid if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting (if any) of Members as the case may be shall be conclusive evidence of the matters therein stated and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat or proceedings had to have been duly passed and had.

Amendments to Deed

- 6.12 (a) Subject to any approval required by law, including, without limiting the generality of the foregoing, the Act, the Trustee shall be entitled by

deed supplemental hereto to alter, modify, add to or cancel the provisions of this Deed (whether as set out herein or as previously altered, modified added to or cancelled by any such supplemental deed), including this present Clause and the name of the Fund or to alter, modify, add to or cancel the- provisions of any such supplemental deed:

- (i) in such manner and to such extent as may be required to satisfy the requirements of any statute, ordinance, rule, regulation or by-law which may be passed and which affects the trust funds constituting the Fund (including, without limiting the generality of the foregoing, the Act);
- (ii) in such manner and to such extent as may be required to enable the provisions of this Deed to be more conveniently, advantageously, profitably or economically administered or managed; or
- (iii) in such other manner and to such extent as the Trustee may from time to time determine;

PROVIDED THAT:

(A) in the case of any alteration, modification, addition or cancellation under paragraph (ii) or (iii) of this Clause 6.12(a), the Trustee is reasonably satisfied that the alteration, modification, addition or cancellation does not adversely affect the interest or rights of Members; or

(B) if the Trustee is not reasonably satisfied that any alteration, modification, addition or cancellation under paragraph (ii) or (iii) of this Clause 6.12(a) does not affect the interest or rights of Members:

(1) the Trustee has provided the Members by notice with such information as the Trustee reasonably believes a Member would reasonably need:

(I) to understand the nature or purpose;
and

(II) to make an informed judgement about the effect,

of the alteration, modification, addition or cancellation and notified the Members in that - notice of their right to cause a meeting of Members to be held to prevent the alteration,

modification, addition or cancellation being effected by the Trustee in accordance with the requirements provided in Clause 6.12(a)(13)(2) and informed them how this procedure operates, at least 30 days prior to the alteration, modification, addition or cancellation taking effect; and

(2) (I) the Trustee has organised a meeting of Members to be held at which a resolution to oppose the proposed alteration, modification, addition or cancellation will be put forward, if 25% of the Members personally inform the Trustee, in writing within 10 days of the date on which the notice referred to in Clause 6.12(a)(B)(1) is deemed to be received in accordance with this Deed, that they wish such a meeting to be held; and

(II) if the Trustee is required to organise a meeting in accordance with paragraph B(2) of Clause 6.12(a) (the Trustee has no onus to ensure quorum requirements are satisfied) and the quorum requirements for the meeting are satisfied, being a meeting at which Members representing not less than twenty-five percent (25%) of the amounts standing to the credit of the Members' Accounts must be present, either personally or by proxy or corporate representative, and at which Members representing less than seventy-five percent (75%) of the amounts standing to the credit of Members' Accounts of the Members who were present (in person or by proxy or representative) at that meeting, voted in respect of that resolution; or

(C) no alteration, modification, addition or cancellation under this clause 6.12(a) shall reduce vary or otherwise limit the benefit of Ex-Guild Superannuation Plan Members as at the date thereof except with the written consent of all the Ex-Guild Superannuation Plan Members or the Ex-Guild Superannuation Plan Member whose benefit is to be so reduced, varied or limited.

(b) Notwithstanding the provision provided in sub-Clause (a) of this Clause, where the Act requires a form of approval to such alteration, modification,

addition or cancellation otherwise than by such resolution, the alteration, modification, addition or cancellation shall not take effect unless and until such other form of approval is obtained in accordance with the Act.

- (c) The Trustee shall (without limiting the provisions of sub-Clause (a) of this Clause) take all reasonable steps necessary to cause this Deed to be amended from time to time to satisfy the requirement of any statute, ordinance, rule, regulation or by-law that is referred to in sub-clause (a) but if the Trustee is of the opinion that, as a result of such requirements, the assets of the Fund or any part thereof are to be invested or deposited otherwise than freely in accordance with the discretions given to the Trustee hereunder or if as a result of any such law it appears to the Trustee to be in the interest of the Members so to do, then the Trustee may resolve that the Fund is to terminate and thereupon it shall terminate and be wound up.
- (d) The Trustee shall notify all Members of the nature and purpose and the effect, if any, on the Members' benefit entitlements of any such amendments to this Deed as soon as practicable after such amendment is made PROVIDED ALWAYS THAT the failure to notify a Member shall not invalidate the application of such amendment in respect of that Member.

Notices

- 6.13 Any notice required to be given to the Members hereunder shall be deemed to have been duly given if given in writing to the Members respectively by letter addressed to them at their respective addresses as appearing in the Registers. Any notice given by post shall be deemed to have been served on the third day following the day when it was posted and in proving such service it shall be sufficient to prove that the letter containing the notice was properly, addressed and posted and a statement signed by the Trustee that it was so posted shall be conclusive of that fact.

Actuarial Review

- 6.14 The Trustee may instruct an Actuary to make a valuation of the assets and liabilities of the Fund and shall provide him with such information as he shall require for this purpose. The Trustee may from time to time instruct an Actuary to review any Authorised Investment Fund and the liabilities attributable to any Authorised Investment Fund. The Actuary shall report in writing to the Trustee upon the results of his valuation and/or review and will forthwith provide a copy of the report to the Auditor. The Trustee shall promptly take any action recommended in that report.

Retirement of Participating Employer

- 6.15 The participation in the Fund of an Employer may be terminated:
- (a) by the Employer by notice in writing to the Trustee; or
 - (b) by the Trustee by notice in writing to the Employer.

6.16 On termination of participation in the Fund as aforesaid:

- (a) the Trustee after consultation with the Participating Employer shall specify a future date (hereinafter called "the Retirement Date") upon which the Employer (hereinafter called "the Retiring Employer") shall retire;
- (b) the Retiring Employer shall forthwith pay all arrears, if any, or contributions up to the Retirement Date;
- (c) benefits which have become payable on or before the Retirement Date shall continue to be payable out of the Fund;
- (d) the Trustee shall certify the amounts recorded in the Members' Individual Accounts including arrears (if any) of contributions still to be made pursuant to paragraph (b) of this Clause, as is properly attributable to the Members who were in the employ of the Retiring Employer at the Retirement Date;
- (e) the Trustee shall advise each Member who was employed by the Retiring Employer on the Retirement Date in writing that the Retiring Employer has ceased participating in the Fund; and
- (f) for each Member who was employed by the Retiring Employer on the Retirement Date, the Trustee shall hold in trust for that Member the amount recorded in his Individual Account as determined in paragraph (d) of this Clause until a benefit is payable in accordance with Chapter 5 or a transfer is made in accordance with Clause 2.7.

Policy Committees

- 6.17
- (a) An Employer may, at any time, determine that a Policy Committee representing that Employer and the Members employed by that Employer be appointed.
 - (b) The Trustee must, whenever required to do so by the Act, take all reasonable steps to ensure that a Policy Committee is appointed.
 - (c) A Policy Committee shall be formed:
 - (i) at the discretion of the Employer, inhere the Act does not require its formation; or
 - (ii) in accordance with Clause 6.17(d), where the Act does require its formation.
 - (d) One-half of the members of the Policy Committee shall be Employer representatives nominated by the Employer (herein called "Employer Representatives") and one-half shall be Member representatives (herein called "Member Representatives"). The Member

Representatives shall be elected at the discretion of the Employer, either at a meeting called in accordance with Clause 6.17(d)(i) or by a poll conducted in accordance with Clause 6.17(d)(v):

- (i) A meeting of Members employed by an Employer shall be called by the Employer in accordance with Clause 6.17(d)(ii) in relation to the election or removal of Member Representatives or for any other purposes.
- (ii) A meeting of Members for the purposes of Clause 6.17(d)(i) shall be called as follows:
 - (a) the Employer shall circulate a notice of the meeting to the Members by either handing it to each Member personally or by sending it to the Member at the business or private address of the Member last known to the Employer PROVIDED THAT accidental or unintentional failure to notify any Member shall not invalidate any meeting of Members;
 - (b) a meeting of Members shall not be held prior to the expiration of 3 weeks from the date of giving or mailing the notice of the proposed meeting;
 - (c) the notice given to Members shall stipulate the time and place of such meeting, the reason for calling it and provide an agenda for the meeting, and
 - (d) a meeting may be held at more than one location determined by the Employer.
- (iii) Where the purpose of the meeting is to elect one or more Member Representatives:
 - (a) the Employer shall appoint a returning officer,
 - (b) the notice of the meeting shall call for nominations to fill any office of Member Representative and state the date by which such nominations must be received by the returning officer;
 - (c) any nomination of a Member to act as a Member Representative must be signed by the nominated Member and by the proposer and seconder of such Member and be forwarded to the returning officer no later than 4 days before the appointed day of the meeting,

- (d) if, 3 days before the appointed day of the meeting, there have been no nominations, the meeting shall be adjourned for a period of 4 weeks and fresh notice to Members shall be given in accordance with the provisions of this Clause;
 - (e) if there are one or more nominations but the number of nominees does not exceed the number of vacancies in the office of Member Representative, the meeting shall be cancelled and the nominees shall be declared by the returning officer to be elected.
- (iv) The following procedure shall apply at the meeting of Members and to the election of Member Representatives by means of a meeting:
- (a) the Employer or a delegate of the Employer shall appoint the chairman of the meeting;
 - (b) a quorum shall consist of one-third of the Members present either in person or represented by proxy provided that if the meeting is being held at more than one location, there shall be a quorum if one-third of the Members are present either in person or represented by proxy at the various locations but a Member shall not be entitled to attend the meeting or be represented by proxy at more than one location;
 - (c) questions to be decided at the meeting shall be decided by a simple majority of the Members present or represented by proxy and voting,
 - (d) where a purpose of the meeting is the election of one or more Member Representatives, the chairman shall distribute to each Member present at the meeting a ballot paper listing in alphabetical order the names of Members nominated as Member Representatives;
 - (e) the Members present at the meeting or represented by proxy may record one vote for each vacancy in the office of Member Representatives;
 - (f) the Member who receives the greatest number of votes shall become a Member Representative;
 - (g) where more than one Member Representative is to be elected, the Member who receives the next greatest number of votes after the election of a Member

Representative shall be elected a Member Representative until all vacant positions have been filled;

- (h) where not all of the vacancies of the office of Member Representatives are filled in accordance with the foregoing, procedure, the elected Member Representative or Representatives shall appoint the other Member Representatives by deed; and
- (i) the Employer shall advise the Members by notice in writing of the names of the Members appointed as Member Representatives;
- (v) Where the Employer determines that an election of Member Representatives shall be conducted by a poll, the following procedure shall apply:
 - (a) the Employer shall appoint a returning officer and shall circulate a notice to the Members by either handing it to each Member personally or by sending it to the Member at the business or private address of the Member last known to the Employer provided that accidental or unintentional failure to send a notice to a Member shall not invalidate the poll. The notice shall call for nominations to fill any vacancy or vacancies in the office of Member Representatives, shall state the date by which such nominations must be received by the returning officer and state that any nomination of a Member to act as a Member Representative must be signed by a nominated Member and by the proposer and seconder of such Member;
 - (b) if no nominations have been received by the returning officer by the date referred to in sub-paragraph (a), the Employer shall circulate a fresh notice in accordance with the provisions of this Clause;
 - (c) after the date for receipt of nominations has passed, if the number of nominees does not exceed the number of vacancies in the office of Member Representative, the nominees shall be declared by the returning officer to be elected;
 - (d) after the date for receipt of nominations has passed, if there has been more nominees than there are vacancies in the office of Member Representative, the Employer shall distribute a ballot paper to each Member by either handing it to each Member personally or by sending it to the Member at the business or private address of the Member last known to the Employer provided that accidental or unintentional failure to distribute a ballot

- paper to a Member shall not invalidate the poll. The ballot paper shall list in alphabetical order the names of Members nominated for election as Member Representatives. A note shall be included on the ballot paper requesting the Members to record one vote for each vacancy in the office of Member Representative and specifying- the date by which the ballot paper must be returned to the returning officer,
- (e) the Member who receives the greatest number of votes shall become a Member Representative;
 - (f) where more than one Member Representative is to be elected, the Member who receives the next greatest number of votes after the election of a Member Representative shall be elected a Member Representative until all vacant positions have been filled;
 - (g) where not all of the vacancies of the office of Member Representatives are filled in accordance with the foregoing procedure, the elected Member Representative or Representatives shall appoint the other Member Representatives by deed; and
 - (h) the Employer shall advise the Members by notice in-writing of the names of the Members appointed as Member Representatives.
- (vi) Any Member Representative may be removed by a resolution of Members passed at a meeting of Members convened and conducted in accordance with the provisions of Clauses 6.17(d)(ff) and (iv) or by a resolution adopted in a poll of Members conducted in accordance with Clause 6.17(d)(v). The Employer shall, in its discretion, call such a meeting or conduct a poll if 5% of the Members employed by that Employer requisition the Employer in writing that one or more Member Representatives be removed from office.
 - (vii) If the Employer determines that the requisition for the removal of a Member Representative be voted on by the Members in a poll, the following procedure shall apply.:
 - (a) the Employer shall appoint a returning officer and circulate a notice within 28 days of receiving the requisition, to the Members by either handing it to each Member personally or by sending it to the Member at the business or private address of the Member last (mownknown to the Employer, stating that the required number of Members have requisitioned that the Members vote on the removal of the relevant Member Representative or Representatives;

- (b) a ballot paper shall be enclosed with the notice requesting each Member to record a vote or votes on whether the relevant Member Representative or Representatives shall be removed from office;
 - (c) the ballot paper shall specify the date by which the ballot paper must be returned to the returning officer to constitute a valid vote; and
 - (d) if a majority of the Members who have cast a valid vote have voted in favour of a Member Representative being removed from office, that Member Representative shall be removed from office from the date on which the Employer advises that Member Representative of the outcome of the vote to remove that Member Representative from office.
- (viii) A Member Representative shall cease to be a Member Representative on the earlier of the day on which:
 - (a) he ceases to be a Member, or
 - (b) he ceases to be an Employee; or
 - (c) he is removed from office by a meeting or poll of the Members;
 - (d) he resigns his office; or
 - (e) he dies; or
 - (f) he becomes bankrupt or has, within the preceding 3 years, made an assignment to or composition with his creditors under Part X of the Bankruptcy Act, 1966(C'th) or any replacement legislation; or
 - (g) he is declared mentally ill or becomes liable to have his affairs dealt with under the laws relating to mental health.
- (ix) Employer Representatives may be appointed to office and removed from office by the Employer.
- (e) Any vacancy in the office of membership of the Policy Committee shall, where such vacancy is required to be filled, be filled within 90 days (or within such other number of days as are provided for in the Act) of the date on which the vacancy occurred.
- (f) Where the Act requires the appointment of a Policy Committee, the Trustee must:

- (i) ensure that any Policy Committee so formed meets at least once in every twelve month period;
 - (ii) provide such facilities as are reasonably necessary to enable the Policy Committee to meet and function effectively; and
 - (iii) arrange for a representative of the trustee to attend each meeting of the Policy Committee if the Committee so requests.
- (g) The Trustee may recoup:
 - (i) costs incurred in providing facilities and information and attending meetings of the Policy Committees, from the Fund;
 - (ii) costs additional to those in paragraph (i) of this sub-Clause incurred as a consequence of the actions of any specific Policy Committee, by levying a charge against the benefits of those Members who are represented by that Policy Committee.
- (h) Each Policy Committee may, subject to the requirements of the Act, regulate its meetings at it sees fit, provided always that:
 - (i) valid meetings can be held by telephone conference;
 - (ii) two-thirds of the members of the Policy Committee shall be a quorum;
 - (iii) a resolution of the members of the committee shall be valid and binding if at least two thirds of the total number of the members of the committee have voted in favour of it; and
 - (iv) a resolution, in writing, signed by at least two-thirds of the members of the Policy Committee shall have the same effect and validity as a resolution of the members of the committee passed at a duly convened meeting.
- (i) Each Policy Committee shall represent its Members on all matters related to the administration of the Fund in so far as they affect those Members and, without limiting the generality of that function, shall:
 - (i) advise the Trustee and receive information from the Trustee on:
 - (a) the operation and performance of the Fund; and
 - (b) the investment strategy and investment performance of the Fund;
 - (ii) assist the Trustee in dealing with complaints or inquiries about the operation or management of the Fund; and

- (iii) perform such other functions as are required under the Act.

CHAPTER 7

Custodian

- 7.1 The Trustee may, subject always to the covenants of the Trustee herein contained and in particular to the covenants contained in Clause 6.7, from time to time appoint any one or more corporations (being or each being a corporation of a type referred to in the definition of "Custodian" in Clause 1.1) to perform the following actions within Australia or in any other country in the name of the Trustee or at the direction of the Trustee in its own name or in a name nominated by the Custodian or Sub-Custodian and approved by the Trustee as nominee for the Trustee:
- (a) purchase or sell, in a country in which the Custodian is resident by itself or through a Sub-Custodian appointed by the Custodian in accordance with Clause 7.2 at the direction of the Trustee, Authorised Investments and execute all transfers and assurances necessary for any such purpose;
 - (b) receive and hold, on behalf of the Trustee by itself or through any Sub-Custodian appointed as aforesaid, any Authorised Investments and any document of title thereto in safe custody in the country of purchase;
 - (c) procure registration of such Authorised Investments in registrable form;
 - (d) procure safe custody of such Authorised Investments in bearer form by a recognised clearing system nominated by the Custodian or Sub-Custodian and approved by the Trustee;
 - (e) receive, hold and disperse moneys in the name of the Trustee at the direction of the Trustee; and
 - (f) perform all actions incidental to any of the foregoing powers.
- 7.2 A Custodian may with the written consent of the Trustee appoint in any jurisdiction in which it is appointed to act as a Custodian and in which it does not carry on as its principal business the business of banking or the provisions of trustee services such other corporation which is independent of the Trustee and carries on as its principal business the business of banking or the provision of trustee services and satisfies the requirements set out in the definition of Custodian to act as Sub-Custodian of the Fund.
- 7.3 The Trustee may by the terms of any such appointment insert such provisions for the protection and convenience of those dealing with any such Custodian as it thinks fit PROVIDED THAT notwithstanding any such appointment the Trustee shall remain liable for any act or omission of any Custodian as if any

such act or omission was an act or omission of the Trustee. The Trustee shall be responsible for the payment of the fees and expenses of such Custodian but shall be entitled to be reimbursed out of the Fund in respect of any such fees and expenses subject to a maximum equal in aggregate in respect of all Custodians in any Income Calculation Period to the aggregate for each day of that period to 0.000685% of the value of the Fund as at the Income Calculation Date relevant to the immediately preceding Income Calculation Period. If the aggregate of the fees and disbursements of all Custodians exceed, the aforesaid amount, the excess shall be met by the Trustee.

- 7.4 The Trustee shall make it a term of any such appointment that the Custodian agrees irrevocably to be bound by the terms of this Deed as they apply to the Fund governing the appointment and conduct of the Custodian and to submit to the jurisdiction of Courts of competent jurisdiction in the State of New South Wales in respect of all matters relating to the Fund.
- 7.5 The Trustee covenants that it will observe and perform the requirements of the Act in relation to Custodians.

CHAPTER 8

Miscellaneous

- 8.1 Any moneys payable by the Trustee to a Member or Dependant or Personal Representative or Employer under the provisions of this Deed may be paid by crossed "not negotiable" cheque made payable to the Member or Dependant or Personal Representative or bearer and sent through the post to the registered address of such payee or otherwise delivered, dispatched or made available to be collected as the Member or Dependant or Personal Representative or Employer may from time to time specify. Payment of every such cheque if duly presented and paid shall be a satisfaction of the moneys payable and shall be good discharge to the Trustee.
- 8.2 Applications to become a Member or Employer and instruments of transfer and transmission shall be retained by the Trustee but on the expiration of seven (7) years from the date of each thereof the same may in the absolute discretion of the Trustee be destroyed.
- 8.3 The terms and conditions of this Deed as they apply to the Fund as duly altered, modified, added to or cancelled from time to time shall be binding on the Trustee and each Member, Dependant, Personal Representative, Employer and all persons claiming through them respectively as if such Member, Dependant, Personal Representative or Employer has been party to this Deed.
- 8.4 A copy of this Deed shall at all times during usual business hours be available by the Trustee at its registered office for the inspection of Members, Dependents, Personal Representatives or Employers who shall be entitled to receive from the Trustee a copy of this Deed on payment to the Trustee of the sum of twenty dollars (\$20.00) or such other sum as the Trustee may from time to time prescribe, if permitted under SIS.

- 8.5 Notwithstanding any other provisions of this Deed, the Trustee shall be entitled to be indemnified and shall be entitled to reimburse itself out of the Fund in respect of all costs charges liabilities and expenses (including all Tax) of the Fund which it may incur or which is or may be imposed on or properly received by it or in or about the performance or exercise of its duties and powers hereunder in relation to the Fund and otherwise under or by virtue of or in respect of the Fund and for the purposes of such indemnity and reimbursement may from time to time realise such Authorised Investments of the Fund in such manner and at such time as is determined by the Trustee.
- 8.6 It is not the intention of the Trustee to make provision for the replacement of any part of the Fund which tends to depreciate in value through use or effluxion of time.
- 8.7 The Fund and no other fund shall comprise the only trust property in respect of which the duties and obligations of the Trustee arise under this Deed.
- 8.8 This Deed shall be construed and governed at all times by the law in force from time to time in the State of New South Wales, Commonwealth of Australia, which law it is agreed hereby shall be the proper law hereof and the Members, Dependants, Personal Representatives and Employers for the time being shall accept such jurisdiction.
- 8.9 The amounts payable by Members or others with respect to inspection of records or documents or obtaining of copies of those records or documents of this Deed may be increased from time to time by such amount as is determined by the Trustee.
- 8.10 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 dealing of the Employer with the Employee.
- 8.11 The fact of being a Member shall not be used as a ground for claiming or increasing damages in a claim by the Member for alleged wrongful termination of employment or for claiming the payment of any amount on retrenchment.
- 8.12 Notwithstanding any of the provisions of this Deed the requirements contained in the Act and the regulations made thereunder are deemed to be included in this Deed' to the extent that they impose requirements on the Trustee or are required by the Act to be so incorporated and in the event of any inconsistency between the provisions of this Deed and the Act or Regulations, the latter shall prevail.
- 8.13 If a provision of this Deed would otherwise be invalid in part or in whole because it subjects the Trustee to direction by another person then the provision is taken not to subject the Trustee to direction by that person but to give the Trustee the power to treat such a direction as a request and in its discretion agree to act in a manner consistent with it.
- 8.14 If a provision of this Deed would otherwise be invalid in part or in whole because it permits a person to exercise a discretion without the consent of the Trustee, that provision is taken to require the Trustee's consent for the exercise of the discretion.

- 8.15 If any provision of this Deed has the effect of depriving the Trustee of its right to be reimbursed or indemnified out of the Fund in circumstances or to an extent that would, but for this clause, render the provision void because of section 56(1) of SIS, the provision is not to have the effect of depriving the Trustee of that right in those circumstances or to that extent but is to have the effect of depriving the Trustee of that right in respect of any liability of the kind mentioned in section 56(2)(a) or (b) of SIS.
- 8.16 If any provision of this Deed has the effect of exempting the Trustee or a director of the Trustee from liability in circumstances or to an extent that would, but for this clause, render the provision void because of sections 56(2) or 57(2) of SIS respectively, the provision does not have the effect of exempting the Trustee or a director of the Trustee from liability in those circumstances or to that extent.
- 8.17 If any provision of this Deed has the effect of depriving the Trustee of its right to be reimbursed or indemnified out of the Fund in circumstances or to an extent that would, but for this clause, render the provision void because of section 56(3) of SIS, the provision is not to have the effect of depriving the Trustee of that right in those circumstances or to that extent.
- 8.18 Notwithstanding any other provision of this Deed, this Deed may only be amended in accordance with SIS.
- 8.19 Notwithstanding any other provision of this Deed, the Trustee may only be removed or suspended in accordance with SIS.

ANNEXURE B

Division VI: AustChoice Super

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In the interpretation of this Deed and in any document issued hereunder, the words and phrases set out below have, unless the context otherwise requires, have the meanings respectively ascribed to them:

"Accounts" in relation to a Division means a statement of financial position, an operating statement and such other accounts and statements as are required to be prepared in respect of the Division for a particular period pursuant to the Operational Standards.

"Accumulation Benefit" means a Benefit to which a person is or may become entitled which is by the terms of the Benefit Specification applicable to that person calculated as a balance in accounts kept for that person.

"Act" means the Superannuation Industry (Supervision) Act 1993.

"Actuary" means a person who is a fellow or an accredited member of the Institute of Actuaries of Australia or who is otherwise qualified under the Operational Standards to perform the function of an actuary pursuant to Clause 15.1(b).

"Administration Charge" means the charge calculated pursuant to Clause 13.5.

"Administrator" means an administrator appointed pursuant to Clause 11.8.

"Annuity" has the meaning assigned to that expression in Section 10 of the Act.

"Applicant" means a person who makes application to become a Participant in accordance with Clause 3.2 or a Member in accordance with Clause 3.5.

"Application" means:

- (a) an application for the participation made pursuant to Clause 3.2; and
- (b) an application for membership made pursuant to Clause 3.5.

"**Approved Auditor**" has the meaning assigned to that expression by Section 10 of the Act.

"**Approved Benefit Arrangement**" means a fund or benefit arrangement including without limitation another complying superannuation fund, an Approved Deposit Fund, Retirement Savings Account and an Annuity arrangement into which or from which assets can be transferred into or from the Plan without causing the Plan to be in breach of or to fail to comply with the Operational Standards and includes an Eligible Rollover Fund¹.

"**Approved Country**" means any of Australia, United States of America, United Kingdom, Japan, Hong Kong, Singapore, Malaysia, Taiwan, South Korea, Canada, New Zealand, Italy, France, Switzerland, Germany, Holland and Belgium and such other jurisdictions as the Trustee from time to time determines.

"**Approved Deposit Fund**" has the meaning assigned to that expression by Section 10 of the Act.

"**Approved Trustee**" has the meaning assigned to that expression by Section 10 of the Act.

"**Approved Valuer**" means any person who is:

- (a) independent of the Trustee;
- (b) experienced in relation to the valuation of assets of the kind required to be valued; and
- (c) in the case of a valuation of Land, a member of the Australian Institute of Valuers.

"**Assets of a Division**" means all the Cash and Investments, including Contributions received, held by the Trustee upon the trusts of a Division and without limiting the generality of the foregoing includes:

- (a) the First Contribution;
- (b) amounts owing to the Division by debtors (excluding any bad debts);
- (c) income accruing from Investments of the Division to the extent not included in the preceding paragraph of this definition;
- (d) the proceeds of sale of any Investments;
- (e) any pre-payment of expenditure; and

¹ Deed of Variation dated 13 October 1998

- (f) all additions or accretions (if any) to the Division which arise by way of dividend interest premium or distribution or which are otherwise received and for the time being retained.

"Associated Employer" means in relation to a Division 1 Participant a person, partnership or other body of persons which:

- (a) is in relation to the Participant a Related Body Corporate or is engaged in a business, undertaking or enterprise which is in any way related to or connected with the business, undertaking or enterprise of the Participant; and
- (b) the Participant notifies the Trustee is an Associated Employer in relation to the Participant.

"Auditor" means any person who is an Approved Auditor and is appointed to act pursuant to Clause 15.1(a).

"Australian Accounting Standards" means the standards published from time to time by the Australian Accounting Research Foundation on behalf of the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia.

"Authorised Dealer" means a Corporation that is for the time being declared to be an authorised dealer in the short-term money market under Section 65(1)(a) of the Corporations Law.

"Authorised Investments" means all or any of the following:

- (a) Trustee Securities;
- (b) Public Securities;
- (c) Equities;
- (d) Commodities;
- (e) Derivatives;
- (f) Futures Contracts;
- (g) Debentures;
- (h) the acquisition of any security, deposit or loan guaranteed or supported by an irrevocable letter of credit expiring not less than 7 days after the relevant security, deposit or loan matures established or confirmed by a Bank which has stakeholders' funds on a consolidated basis (as at the date of its most recently publicised audited consolidated financial statements being not

more than 2 years old) in excess of the equivalent (at that date) of twenty million dollars (\$20,000,000.00);

- (i) bills of exchange, promissory notes or other negotiable instruments whether purchased or discounted and which have been either drawn, issued, endorsed or accepted by a Bank or any public statutory body constituted under a law of the Commonwealth of Australia, any State or Territory thereof or of any Approved Country;
- (j) the purchase, leasing or other acquisition of any Land and any improvements, fixtures and fittings erected or installed or to be erected or installed thereon or rights conferring options, rights of first refusal or otherwise relating to the acquisition of Land;
- (k) the purchase, leasing, hiring or other acquisition of any plant, equipment, furnishings and fittings and any other personal property and any share or estate or interest therein;
- (l) deposits with an Authorised Dealer;
- (m) deposits with or the acquisition of certificates of deposit or any other security issued by a Bank;
- (n) any investment of shares in, loans to or deposits with any Building Society;
- (o) Insurance Investments;
- (p) units or sub-units (or the equivalent rights or interests) in any Investment Fund;
- (q) any investment in a Pooled Superannuation Trust including and without limitation in respect of investments to be made in respect of any Division - Division II;
- (r) holding deposits for Authorised Investments which it is proposed to purchase;
- (s) Call Options and Put Options in respect of any Investment provided that the aggregate of all costs and expenses incurred in entering into such Call and Put Options together with:
 - (i) in the case of a Put Option, the excess (if any) of the Value of the Investment the subject of the Put Option over the exercise price receivable under the Put Option; or
 - (ii) in the case of a Call Option, the excess (if any) of the exercise price payable under the option over the value of the Authorised Investment the subject of the Call Option,

- (iii) shall at no time exceed five per centum (5%) of the Value of the Assets of the Division in respect of which the Call Option or Put Option is being taken (or such other limitation from time to time as the Trustee shall from time to time determine) provided that:
 - (iv) where the Trustee holds a Put Option and a Call Option over identical property and each is exercisable on or before the same date, the excess (if any) in respect of such options calculated in accordance with sub-paragraphs (i) and (ii) above shall be disregarded to the extent that the unrealised loss under either option is matched by an off-setting gain under the other option;
 - (v) any excess calculable in accordance with sub-paragraphs (i) or (ii) above shall be disregarded for the purposes of this sub-paragraph (iv) where the option in respect of which such excess is calculable is an option which need not be exercised by the Trustee (such non-exercise attracting no penalty or sanction whatsoever) and in respect of which no off-set has been calculated in accordance with sub-paragraph (iii) above; and
 - (vi) where the Authorised Investment the subject of the option is denominated by a currency other than Australian dollars, the value of such Authorised Investments shall be calculated by converting its value to Australian dollars by such conversion method as the Trustee may agree with the Auditor;
- (t) any investment of money on security (whether by way of a first registered mortgage taken severally or otherwise) of any Land for a term not exceeding five (5) years or such longer term not exceeding thirty (30) years where the interest rate is not fixed for a period in excess of five (5) years at any time and in an amount which when added to moneys owing on any charge ranking prior to or *pari passu* with the security to be taken by the Trustee does not exceed:
- (i) seven-tenths; or
 - (ii) if repayment of the whole of the principal and interest under any mortgage is insured under a mortgage guarantee insurance policy acceptable to the Trustee, nine-tenths,

of the value of the property as determined by an Approved Valuer.

"**Badged Division**" has the meaning assigned to that expression by Clause 2.10(a).

"**Bank**" means a body corporate which carries on the general business of banking.

"Benefit" means the amount that a person is entitled to receive or request payment or part payment from a Division pursuant to the Rules of the Division. The term "Benefit" shall be deemed to include an amount payable in the form of a pension.

"Benefit Specification" means in relation to a Participant the details prescribed in relation to:

- (a) the basis of funding for and payment of any Benefit to be provided in respect of the Participant's participation in a Division; and
- (b) the extent to which Members can make an Option Nomination in lieu of the Participant,

and in particular in relation to Division I includes details of the following for those Employees or Categories of Employees admitted as Members of Division I:

- (a) criteria for eligibility for membership or membership of particular Categories;
- (b) rates of Contributions to be made;
- (c) the proportion of Contributions which will be fully vested in the Members;
- (d) the rates for vesting of Contributions other than fully vested Contributions;
- (e) the types of Benefits payable and the conditions of and manner in which Benefits are to be paid.

"Binding Death Benefit Notice" means a notice given to the Trustee under Clauses 3.11 and 3.12 that complies with the Operational Standards².

"Building Society" means any building society registered as a building society under the provisions of an Act of Parliament of a State or Territory of the Commonwealth of Australia.

"Business Day" means those days other than Saturday, Sunday, Bank holidays and public holidays in the State of New South Wales.

"Call Option" means a call option contract whether or not regularly quoted and traded on a Securities Exchange under which a taker has the right in accordance with that contract or, where applicable, with such articles, rules, by-laws or regulations of a relevant Securities Exchange to purchase a fixed quantity of an Authorised Investment from a writer upon lodgment of an exercise notice in accordance with that contract or with such articles, rules, by-laws or regulations, being a contract which specifies a price and date (or last date) for delivery in the future.

² Deed of Variation dated 5 February 2001

"**Cash**" includes Bank and Building Society cheques and payment orders.

"**Cashing Restriction**" means in relation to a Benefit, a requirement under the Operational Standards that the Benefit may only be cashed on or after the satisfaction by the recipient of a Condition of Release.

"**Category**" means a category of membership specified by the Participant in a Benefit Specification for the purpose of distinguishing between its Employees who are admitted as Members in terms of their membership.

"**Child**" in relation to a person, includes an adopted or step-child or ex-nuptial child of the person.

"**Civil Penalty Order**" has the meaning assigned to that expression in Section 10 of the Act.

"**Clause**" means a Clause of this Deed.

"**Commissioner**" means the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission or such other regulatory body as shall have responsibility for the administration of superannuation³.

"**Commodity**" means any tangible personal property, currency, interest rate, financial index or indices (including any share index) or such other tangible or intangible thing determined by the Trustee for the purposes of this definition.

"**Compulsory Cashing Date**" means in respect of a Participant or Member the date on which the Operational Standards require that the Participant's or Member's Benefit must be paid or commence to be paid to or in respect of the Participant or Member.

"**Condition of Release**" has the meaning assigned to that expression by the Regulations.

"**Constitutional Corporation**" has the meaning assigned to that expression in Section 10 of the Act.

"**Contribution**" or "**Contributions**" means any or all of any deposits, payments or contributions, including Eligible Termination Payments, made to a Division by, for, in respect of or on behalf of a Participant or Member and permitted by the Operational Standards.

"**Contribution Charge**" means the charge calculated pursuant to Clause 13.6.

³ Deed of Variation dated 13 October 1998

"**Contribution Split**" means those contributions made by a Member which are split in whole or part in favour of the Member's Spouse as permitted under the Relevant Requirements.⁴

"**Corporation**" means any statutory corporation, sole corporation or company formed or incorporated according to law.

"**Current Pension Liability**" has the meaning given to that expression by Part IX of the Tax Act.

"**Custodian**" means any custodian appointed by the Trustee pursuant to Clause 11.9.

"**Dealer**" has the meaning given to that expression by Section 9 of the Corporations Law.

"**Dealers Licence**" has the meaning given to that expression by Section 9 of the Corporations Law.

"**Debentures**" means debentures, debenture stock, bonds, notes and any other documents evidencing or acknowledging indebtedness (including bills of exchange, promissory notes and certificates of deposit), whether constituting a charge on property or not and rights or options to purchase any of them.

"**Deed**" or "**this Deed**" means this trust deed as originally executed and as it may from time to time be amended in accordance with its provisions, including the Schedules hereto.

"**Deferred Annuity**" has the meaning assigned to that expression in Regulation 5.01.

"**Defined Benefit**" means a Benefit to which a person is or may become entitled which is by the terms of the Benefit Specification applicable to that person calculated wholly or partially by reference to either or both of:

- (a) the Member's or Participant's salary at any date or arranged over a period of service; or
- (b) a specified amount.

"**Dependant**" means in relation to a person who is a Participant or Member:

- (a) the person's Spouse;
- (b) any Child of the person;

⁴ Deed of Variation dated 28 March 2006

- (c) any person with whom the Participant or Member has or had an interdependency relationship within the meaning given to it in the Operational Standards; or
- (d) any person who in the opinion of the Trustee is or was at the relevant time wholly or partially financially dependent upon the Participant or Member for maintenance and support.

"Derivative" means any financial instrument or arrangement other than a Futures Contract, Put Option or Call Option that relates to an Authorised Investment or Commodity and includes (without limitation) any interest exchange or hedge, forward rate agreement, swap, cap, floor or collar.

"Disclosure Document" means any document issued by the Trustee offering participation or membership of a Division in accordance with the requirements of the Operational Standards.

"Disqualified Person" means a body corporate which is in respect of a Division a disqualified person for the purposes of Part 15 of the Act.

"Distribution Date" means as the case may require, the last Business Day of an Income Entitlement Period or a Financial Year.

"Division" means any Division constituted pursuant to Part 2.

"Division I" means the superannuation trust fund regulated pursuant to this Deed.

"Division I Participant" means an Employer or one or more Eligible Persons who has been accepted to participate in Division I.

"Division II" means the pooled superannuation trust regulated pursuant to this Deed.

"Division II Participant" means any person who is an Eligible Investor who has made application and been accepted to participate in Division II.

"Drawdown" means the amount payable in respect of a Participant or Member pursuant to a Drawdown Request.

"Drawdown Request" means the request by a person to drawdown a part of the person's interest in the Assets of a Division.

"Eligible Investor" means an entity whose assets are of the kind which the Regulations provide can invest in a Pooled Superannuation Trust including assets of:

- (a) a Regulated Superannuation Fund;
- (b) an Approved Deposit Fund;

- (c) another Pooled Superannuation Trust;
- (d) a Life Insurance Company that are assets of a tax-advantaged insurance fund (within the meaning of section 116GC of the Tax Act);
- (e) a Registered Organisation solely for the tax-advantaged business (within the meaning of Division 8 of Part II of the Tax Act) of the organisation;
- (f) an exempt entity within the meaning of sub-paragraph (a), (c) or (d) of the definition of exempt entity in section 102M of the Tax Act.

"Eligible Investor Statement" means in respect of an Eligible Investor a statement which

- (a) confirms that the Applicant or Participant is an Eligible Investor;
- (b) is accompanied by the notices, certificates and documents prescribed by the Trustee; and
- (c) is made, executed and delivered in the manner prescribed by the Trustee.

"Eligible Investor Statement Request" or **"Request"** means the request for an Eligible Investor Statement delivered by the Trustee pursuant to Rule 3.1 of Division II.

"Eligible Person" means a person who is permitted to become and remain a Participant of the Plan under the Operational Standards and shall include a Spouse (within the meaning of paragraph (b) of the definition of "Spouse") of a Member, Participant, Eligible Person or any other person.

"Eligible Rollover Fund" has the meaning assigned to that expression in Section 242 of the Act.

"Eligible Termination Payment" means a payment which constitutes the whole or part of an eligible termination payment within the meaning assigned to that expression by Section 27A(1) of the Tax Act.

"Employee" means a person who is:

- (a) in the employment of an Employer whether on a full time, part time or casual basis, and in the case of an Employer which is a Corporation shall include a director, manager or secretary of the Corporation; or
- (b) a person who is an Employee of the Employer for the purposes of the Superannuation Guarantee (Administration) Act 1992.

"Employer" has the meaning assigned to that expression in Section 10 of the Act.

"Equities" means shares (as defined in the Corporations Law) and convertible notes (as defined in Division 3A of Part III of the Tax Act) and options or rights to purchase any such shares (whether issued or not) or convertible notes.

"Exempt Dealer" has the meaning given to that expression in Section 9 of the Corporations Law.

"Expenses of the Division" means the costs referred to in paragraphs (i) to (xxix) of Clause 5.1(c).

"Expense Reserve Account" means the account established in respect of each Division pursuant to Clause 5.1.

"Extraordinary Resolution" means a resolution passed at a meeting of Participants or meeting of Participants duly convened and held in accordance with the provisions of this Deed by a majority consisting of not less than three-fourths of the persons voting thereat upon a show of hands and if a poll is demanded then by a majority consisting of not less than three-fourths of the votes given on such poll.

"Family Law Fees" means any reasonable fees, charges and expenses charged by the Trustee pursuant to the Operational Standards in connection with Clause 4.10 on a basis determined by the Trustee⁵.

"Financial Year" means in respect of each Division each successive period of twelve (12) Months commencing on the first day of July and ending on the thirtieth day of June except that the first Financial Year will be the period commencing on the commencement of the Division in accordance with Clause 2.3 and ending on the thirtieth day of June next ensuing and the last Financial Year will be the broken period (if that be the case) ending on the date of termination of the Division and commencing on the first day of July preceding the date of termination.

"First Contribution" has the meaning assigned to that expression by Clause 2.4.

"Fund" means:

- (a) for the purposes of Part 6 a Division or Sub-Plan in respect of which the Trustee has determined pursuant to Clause 6.2 to settle a particular investment strategy or strategies; and
- (b) for the purposes of Part 10 a Division or Sub-Plan.

"Futures Contract" has the meaning given to that expression by Section 9 of the Corporations Law.

"Futures Exchange" means the exchange conducted by the Future Exchange Limited or any market or exchange elsewhere in an Approved Country for the

⁵ Deed of Variation dated 18 November 2003

trading of Futures Contracts and which is established and operated in accordance with the rules and regulations of the Approved Country.

"Gainfully Employed Person" means a person engaged in a business, trade, profession, vocation, calling, occupation or employment.

"Group of Standard Employer-Sponsored Members" means at least that number of Members as the Regulations provide constitute a group by reason of the fact that they have the same Employer or an Employer who is an Associated Employer of the Employer of other Members of the group.

"Income Entitlement" means the amount calculated in respect of a Participant pursuant to Clause 7.6.

"Income Entitlement Period" means a Financial Year or such other period of time commencing on the day following the last day of the preceding Income Entitlement Period as the Trustee determines.

"Insurance Investment" means any investment offered by a Life Insurance Company, whether the same involves a deposit, a loan, payment of premiums, acquisition of a right or interest in or arising out of insurance or life policies, or in a statutory fund or any similar investment.

"Insured Benefit" means the proceeds of any Benefit arranged in respect of a Participant or Member at the request of the Participant or Member by the Trustee pursuant to Clause 11.10(a)(i).

"Insurer" means a Life Insurance Company which has issued to the Trustee a policy of life or disability insurance covering a Participant or Member or group of Participants or Members.

"Interest Entitlement" means the amount to be calculated in respect of a Member pursuant to Rule 5.3.1(a) of Division I.

"Interim Interest Entitlement" means the amount calculated in respect of a Member pursuant to Rule 5.3.1(b) of Division I.

"Investment" means any Authorised Investment purchased or to be purchased by the Trustee on account of a Division.

"Investment Charge" means the charge calculated pursuant to Clause 13.4.

"Investment Fund" means any collective investment structure, unit trust or similar entity which is managed and controlled in any Approved Country.

"Investment Manager" means any investment manager appointed by the Trustee pursuant to Clause 11.7.

"Investment Option" means an investment strategy settled by the Trustee in respect of a Fund pursuant to Clause 6.3.

"Investment Pool" means the pool of Authorised Investments which the Trustee determines to invest the assets of an Investment Option pursuant to Clause 6.5.

"Land" includes, without limitation, tenements and hereditaments wheresoever situated and whether corporeal or incorporeal and every estate and interest therein, whether vested or contingent freehold or leasehold, whether at law or in equity, in severably or otherwise.

"Legal Personal Representative" means in respect of a Participant or Member of Division 1 the executor or administrator of the estate of the deceased Participant or Member, the trustee of the estate of a Participant or Member under a legal disability or a person who holds a general power of attorney granted by a Participant or Member.

"Liabilities of a Division" means:

- (a) any amounts borrowed for the purpose of the Division and remaining owing together with interest thereon;
- (b) unpaid administrative costs and expenses of the Division including the fees of the Trustee determined in respect of that Division pursuant to Clause 13.1;
- (c) accrued charges owing in respect of or in relation to any of the Investments of the Division;
- (d) deposits or margin calls required to be paid under any Futures Contract and any Put Option or Call Option;
- (e) any provisions for Tax which in the opinion of the Trustee should be taken into account; and
- (f) such other liabilities or other expenditure which in the opinion of the Trustee should be taken into account and which have not otherwise been taken into account in determining the amount of the Liabilities of the Division in any of the preceding paragraphs of this definition.

"Life Insurance Company" has the meaning given to that expression by Section 10 of the Act.

"Market Linked Pension" means a Pension that complies with Rules 6.6, 6.7, 6.8 and 6.9, and regulations 1.06(8) and 1.07C of the Superannuation Industry (Supervision) Regulations 1994 (Cth).

"Member" means an Employee who has been nominated by a Division I Participant, and made application and been accepted for membership of Division I.

"Member's Nominated Accounts" means the accounts established on the direction of a Division I Participant in respect of a Member pursuant to Rule 5.1(a) of Division I.

"Month" means a calendar month except in the event of termination of a Division whereupon "Month" means the broken period ending on the date of termination of that Division and commencing on the first day of the Month in which the termination occurs.

"Net Value of the Assets of a Division" means the value of the Assets of the Division less the Liabilities of the Division.

"Non-Lapsing Nomination" means a notice given by a Member to the Trustee under Clause 3.15 which:

- (a) is in a form and manner approved by the Trustee, as determined by the Trustee from time to time;
- (b) is clear that the Member does not intend for the nomination to expire after any fixed period of time;
- (c) nominates one or more of the Member's Dependants or legal personal representative to receive the Member's Benefit on the Member's death;
- (d) can be revoked by the Member at any time in a form and manner approved by the Trustee; and
- (e) was given to the Trustee after 1 December 2017.

and for which the Trustee has provided its consent under Clause 3.15(b).

"Operational Standards" means the standards in:

- (a) the Act;
- (b) the Regulations;
- (c) the Income Tax Assessment Act 1936;
- (d) the Superannuation (Resolution of Complaints) Act 1993;
- (e) the Family Law Act 1975 (Cth) and the Family Law (Superannuation) Regulations 2001 (Cth)⁶;
- (f) such other circulars, rulings and prudential and reporting standards published from time to time by the Commissioner or the Federal Commissioner of Taxation or announced or proposed by the Federal

Treasurer of the Commonwealth of Australia applicable to the operation of a Division; and

- (g) any other present or future law of the Commonwealth of Australia or any State or Territory which the Trustee determines to be an Operational Standard for the purposes of this Deed.

"Option Nomination" means the nomination made by an Applicant pursuant to Clause 6.9(b) or any variation thereof made pursuant to Clause 6.13.

"Ordinary Resolution" means a resolution passed at a meeting of Participants duly convened and held in accordance with the provisions of this Deed by, unless the Deed specifically provides for a poll, a majority of the persons voting thereat upon a show of hands and if a poll is demanded, then by a majority of votes given on such poll.

"Participant" means any Eligible Person or Eligible Investor who has made application to the Trustee pursuant to Clause 3.2 to be admitted to participation in a Division and been admitted to participate in that Division but does not include a Member.

"Participants Account" means the account established in respect of each Participant pursuant to Clause 5.2.

"Participation Charge" means the charge calculated pursuant to Clause 13.7.

"Pension" means a Benefit payable by instalments.

"Pensioner Division I Participant" means a Division I Participant in receipt of a Pension which commenced prior to 1 March 2001 and in relation to which a Reversionary exists⁷.

"Pensioner Member" means a Member in receipt of a Pension which commenced prior to 1 March 2001 and in relation to which a Reversionary exists⁸.

"person" includes a corporation, firm or body of persons.

"Plan" means and is the name given to the group of Divisions constituted pursuant to Part 2 of this Deed.

"Policy Committee" means a committee established in respect of a Group of Standard Employer-Sponsored Members of a Division or a Sub-Plan in accordance with Clause 10.1.

⁶ Deed of Variation dated 18 November 2003

⁷ Deed of Variation dated 20 August 2001

⁸ Deed of Variation dated 20 August 2001

"Pooled Superannuation Trust" has the meaning assigned to that expression in Section 10 of the Act.

"Prescribed Period" means in respect of any matter or thing required to be done by this Deed the period in which that matter or thing is required to be done in the circumstances under the Operational Standards.

"Proper Authority" has the meaning given to that expression in Section 9 of the Corporations Law.

"Public Securities" means any stock, bonds, notes or other securities issued by, or any securities, deposits or loans secured or guaranteed by:

- (a) the Government of the Commonwealth;
- (b) the Government of any State or Territory of the Commonwealth;
- (c) any statutory body constituted by or under any act of the Parliament of the Commonwealth or any legislation of a State or Territory of the Commonwealth; or
- (d) any government of an Approved Country.

"Put Option" means a put option contract whether or not regularly quoted and traded on a Securities Exchange under which a taker has the right, in accordance with that contract or, where applicable, with the articles, rules, by-laws or regulations of a relevant Securities Exchange to require a writer to purchase a fixed quantity of an Authorised Investment from him upon lodgment of an exercise notice in accordance with that contract or with such articles, rules, by-laws or regulations, being a contract which specifies a price and date (or last date) for delivery in the future.

"Register of Members" means the Register of Members maintained by the Trustee pursuant to Clause 8.2.

"Register of Participants" means the Register of Participants maintained by the Trustee pursuant to Clause 8.1.

"Registered Organisation" has the meaning given to that expression by Section 10 of the Act.

"Registers" means the Register of Participants and Register of Members.

"Regulated Superannuation Fund" has the meaning assigned to that expression in Section 19 of the Act.

"Regulation" or **"the Regulations"** means, unless the contrary intention appears, the regulations issued from time to time pursuant to the Act as amended from time to time.

"Related Body Corporate" has the meaning assigned to that term by Section 9 of the Corporations Law.

"Reserve Account" means the reserve account kept for a Division I Participant pursuant to the Rule 5.2 of Division I.

"Retire" means:

- (a) in relation to a Member:
 - (i) who has attained age 55:
 - (A) the Member ceases Service; and
 - (B) the Trustee is reasonably satisfied that the Member intends never to again become gainfully employed either on a full-time or part-time basis;
 - (ii) who has attained age 65;
- (b) in relation to a Participant who is an Eligible Person:
 - (i) who has attained age 55:
 - (A) an arrangement under which the Participant was gainfully employed has come to an end; and
 - (B) the Trustee is reasonably satisfied that the Member intends never to again become gainfully employed, either on a full-time or part-time basis;
 - (ii) who has attained age 60, an arrangement under which the Participant was gainfully employed has come to an end; or
- (c) as defined in the Operational Standards for the payment of a Benefit.

"Retirement Savings Account" has the meaning assigned to that expression in Section 8 of the Retirement Savings Account Act 1997⁹.

"Reversionary" means, in relation to a Pension payable to a Pensioner Member or Pensioner Division 1 Participant, a person nominated by the Member or Division 1 Participant under Clause 3.12 of the Deed as it stood prior to 1 March 2001 and who would be entitled to receive the Pension on the death of the Pensioner Member or Pensioner Division 1 Participant¹⁰;

"Reversionary Dependant" means:

- (a) in relation to a Pensioner Member or Pensioner Division 1 Participant, a person in receipt of a Pension after the death of the Pensioner Member or

⁹ Deed of Variation dated 13 October 1998

¹⁰ Deed of Variation dated 20 August 2001

Pensioner Division 1 Participant by virtue of being a Reversionary in relation to a Pension payable to a Pensioner Member or Pensioner Division 1 Participant; or

- (b) in relation to any other Member or Division 1 Participant, a person specified in a Binding Death Benefit Notice and in receipt of a Pension in accordance with Rules 7.5(c) and 7.7(b)(ii) or Rules 8.5(c) and 8.7(b)(ii)¹¹.

"Reversionary Pension" means a Pension payable to a Reversionary Dependant¹².

"Roll Over Payment" means any payment made by or received by the Trustee at the request of a Member, Participant, former Member or former Participant or in other circumstances which satisfy the Operational Standards to or from any Approved Benefit Arrangement and shall include an Eligible Termination Payment by an Employer in consequence of the termination of the employment of a Member and either a capital gains exempt amount or an Eligible Termination Payment in relation to a Member or Participant under Division 17B of the Tax Act¹³.

"Rules" or **"Rule"** means the rules set out in the Schedules to this Deed or any of them and any amendment thereof for the time being in force and without limiting the generality of the foregoing:

- (a) the Rules applicable to Division I are set out in the First Schedule;
- (b) the Rules applicable to Division II are set out in the Second Schedule.

"Securities Exchange" means:

- (a) a securities exchange specified in Regulation 3.6.03 of the Corporations Regulations;
- (b) The Amsterdam Stock Exchange, The Frankfurt Stock Exchange, The Hong Kong Stock Exchange, The Kuala Lumpur Stock Exchange, The Singapore Stock Exchange, The Tokyo Stock Exchange and The Zurich Stock Exchange; and
- (c) any other securities exchange, whether situated in Australia or not, determined by the Trustee.

"Service" means in respect of a Member service as an Employee of an Employer and includes service as a full time or part time salaried director of an Employer and such other categories of service as a Division I Participant may from time to time specify in writing to the Trustee in respect of a Member.

¹¹ Deeds of Variation dated 5 February 2001 and 20 August 2001

¹² Deed of Variation dated 5 February 2001

¹³ Deed of Variation dated 13 October 1998

The following periods may, at the Division I Participant's discretion with the approval in writing of the Trustee, be included in an Employee's Service:

- (a) any period during which the Employee is employed by any other person directly or indirectly allied or associated with an Employer;
- (b) any period of employment during which the Employee is employed (whether in military employment or otherwise) in connection with or in contemplation of hostilities or compulsory national service;
- (c) any period of absence from duty with an Employer which by operation of any statute is deemed to be employment with that Employer;
- (d) any period of absence from duty with an Employer not exceeding six (6) Months (or such longer period as the Trustee upon the advice of the Employer may determine in any particular case) where such absence is due to illness or injury; and
- (e) the whole or any part of a period of absence from duty with an Employer which that Employer determines and confirms to the Trustee in writing shall be regarded as employment of the Employee by the Employer for the purposes hereof,

"Service" means in respect of a Gainfully Employed Person such periods of gainful employment as may be permitted under the Operational Standards for the purpose of determining Benefits.

"Significant Adverse Effect" has the meaning assigned to that expression in respect of an event in Section 106(2) of the Act.

"Sponsor" has the meaning assigned to that expression by Clause 2.10(a).

"Spouse" means:

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

PROVIDED THAT where there is more than one such person the Trustee shall determine which one or more of them shall be deemed to be the Spouse, and, if more than one person is so deemed to be the Spouse, the Trustee shall determine

the proportions in which a Benefit payable to the Spouse is to be divided between them; or

- (b) in relation to the definition of "Eligible Person", a person in respect of whom Contributions by another Eligible Person, Participant or Member are permitted under the Operational Standards by virtue of that person being legally married to the other Eligible Person, Participant or Member or that person otherwise being presumed under these Operational Standards to be a Spouse of the other Eligible Person, Participant or Member.

"Standard Employer - Sponsored Member" has the meaning assigned to that expression in Section 16(5) of the Act.

"Sub-Plan" has the meaning assigned to that expression in Clause 3.13(a).

"Superannuation Fund" has the meaning given to that expression in Section 10 of the Act.

"Tax" includes income tax (including without limitation any tax on the disposal of Investments), any surcharge (including provisional or advance payments required under the Operational Standards) capital gains tax, withholding tax, stamp duty, financial institutions duty, registration and other duties, bank accounts debits tax and other taxes, surcharges, levies, imposts, deductions and charges whatsoever (including in respect of any duty imposed on receipts or liabilities of financial institutions, any amounts paid in respect of them to another financial institution) together with interest on them and penalties with respect to them (if any) and charges, fees or other amounts made on or in respect of them.

"Tax Act" or **"the Tax Act"** means the Income Tax Assessment Act 1936.

"Temporary Disablement" has the meaning given to that term or to a corresponding term in any policy of insurance taken out by the Trustee to provide income continuance benefits for a Member or a group of Members during their absence from Service due to stress or injury, and, where the Trustee has taken out different policies of insurance for different Members or groups of members, in relation to a member means the definition in the policy of insurance applicable to that Member.

"Termination Date" means as the circumstances require:

- (a) the date on which a Participant has requested pursuant to a Termination Request that the Participant's participation in a Division be terminated; or
- (b) the date on which the Trustee proposes pursuant to a Termination Notice that a Participant's participation in a Division be terminated.

"Termination Notice" means the written notice given by the Trustee to a Participant pursuant to Clause 14.3(c) or Clause 14.3(d) notifying the Participant of the termination of the Participant's participation in a Division.

"Termination Request" means the written request given by a Participant to the Trustee pursuant to Clause 14.3(a) requesting the termination of the Participant's participation in a Division.

"Total and Permanent Disablement" means in relation to a Participant or Member:

- (a) where the Benefit payable on Total and Permanent Disablement is insured, the definition of "Total and Permanent Disablement" or a corresponding term in the policy of insurance and, where the Trustee has taken out different policies of insurance for different Participants or Members or group of Participants or Members, means the definition in the policy of insurance applicable to that Participant or Member; or
- (b) otherwise ill-health, whether physical or mental, such that the Trustee is satisfied that the Participant or Member is unlikely because of the ill-health ever again to engage in gainful employment to which the Participant or Member is reasonably qualified by education, training or experience.

"Trustee" means the Trustee for the time being of the Divisions or any of them and includes, where applicable, any delegate or nominee of the Trustee appointed under the provisions of this Deed.

"Trustee Securities" means investments in which trustees are for the time being authorised by the law of any State or Territory of the Commonwealth to invest trust funds provided that the investment is authorised by the law of the State or Territory where the investment takes place.

"Value" means in respect of assets or Investments their value as determined by the Trustee having regard to the nature and characteristics of the assets or Investment as may apply at the date of determination and unless otherwise determined by the Trustee the basis of the determination shall generally include the methods of valuation set out below:

- (a) in respect of any Equities listed on a Securities Exchange which is a securities exchange specified in Regulation 3.6.03 of the Corporations Regulations, the value is the last sale price recorded in the official list thereof during the period of one (1) Month ended on the last Business Day prior to the day upon which such value is to be ascertained or if no sale is so recorded or the Trustee otherwise thinks fit, the value determined by an Approved Valuer;
- (b) in respect of any Equities listed on a Securities Exchange which is not specified in Regulation 3.6.03 of the Corporations Regulations, the value is the value determined by the Trustee, after receipt of a valuation of an Approved Valuer, as a fair and reasonable valuation;

- (c) in respect of any loan securities not listed on a Securities Exchange for a term of one (1) year or less, the value is the face value together with interest accrued thereon but unpaid or if the Trustee otherwise thinks fit the value determined by an Approved Valuer;
- (d) in respect of Land and improvements thereon, the value is the cost price including acquisition costs thereof during the period of three (3) years from the date of such acquisition and thereafter the value is the value thereof as shown in a valuation by an Approved Valuer on "a continuing business basis" made not more than three (3) years previously and at such other times as the Trustee may require;
- (e) in respect of any investment of shares in, deposits with or loans to any Building Society, the value thereof is the face value together with dividends or interest accrued but unpaid thereon;
- (f) in respect of bills of exchange and promissory notes, the value thereof is their likely realisable value in the relevant bill or promissory note market on the date of valuation;
- (g) in respect of a Futures Contract, the value thereof is the net profit or loss (after allowing for deposits, margin calls, costs and other disbursements in respect of the acquisition or disposal of the Futures Contract as estimated by the Trustee) which would have been realised in respect of that Futures Contract by executing on the day of valuation a transaction at the official closing quotation of the Securities Exchange on which Futures Contracts of the specification of the Futures Contract are traded, being valued so as to eliminate the interests held under the Futures Contract from the investment of the relevant Division in accordance with the business rules of the relevant Securities Exchange, or if the Trustee otherwise thinks fit, the value determined by an Approved Valuer;
- (h) in respect of any units in an Investment Fund which is an unlisted Investment Fund, the price at which the manager of that Investment Fund is for the time being required to repurchase that unit (or a unit of the same class in that trust) under the trust deed relating to that Investment Fund less any fee, cost, charge or expense properly deductible from the price payable on repurchase;
- (i) in any other case, the value is the value from time to time determined by an Approved Valuer at intervals of not more than three (3) years or as otherwise determined by the Trustee.

"Value of the Assets of a Division" means in respect of the Division the total Value on a particular day of the Assets of the Division

1.2 Interpretation

Unless the context indicates otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing gender include the other genders;
- (c) headings in this Deed are for convenience only and do not affect the interpretation of this Deed;
- (d) references to statutes regulations ordinances or by-laws will be deemed to extend to all statutes regulations ordinances or by-laws amending consolidating or replacing the same;
- (e) references to a person will be construed as references to an individual, firm, body corporate, association, government or governmental authority;
- (f) references to authorities and bodies, whether statutory or otherwise, will be deemed to include references to the delegates of those authorities and bodies whether appointed by statute or otherwise.

1.3 Compliance with Operational Standards¹⁴

- (a) The Trustee may comply with any requirement or provision of an Operational Standard notwithstanding that:
 - (i) compliance with the requirement or provision conflicts with an express provision of this Deed; and
 - (ii) the requirement or provision is not required under the Operational Standards or otherwise to be included in this Deed.
- (b) The Trustee is not taken to have committed any breach of trust by virtue of any act or thing done to comply with any requirement or provision of the Operational Standards.
- (c) Where the Trustee must comply with a requirement or provision of the Operational Standards within a Prescribed Period, the Trustee does not commit a breach of trust merely by failing to comply with the Operational Standard within the Prescribed Period.
- (d) Notwithstanding any other provision in this Deed, the Trustee in the exercise of its powers under this Deed is not subject to the direction of any other person except where the Operational Standards permit the direction to be given to the Trustee by that person, and where any provision of this Deed would permit any person to give a direction to the Trustee other than as permitted by the Operational Standards:
 - (i) the Trustee must disregard any direction given by that person; and

- (ii) the Trustee may alone exercise the power, authority or discretion which is by the terms of this Deed subject to the direction of that other person.
- (e) Notwithstanding any other provision in this Deed, where any discretion under this Deed may be exercised by a person other than the Trustee and the Operational Standards do not permit the exercise of that discretion without the Trustee's consent:
- (i) the person on whom the discretion is conferred may not exercise that discretion in any case unless the Trustee consents to the exercise of the discretion in the manner in which the person proposes to exercise the discretion;
 - (ii) the provision conferring the discretion is deemed to require the consent of the Trustee to the exercise of the discretion; and
 - (iii) the person on whom the discretion is conferred may exercise the discretion with the Trustee's consent.
- (f) Notwithstanding any other provision of this Deed, the Trustee may do any act or thing in the administration or investment of the Fund which is permitted by the Commissioner in writing, notwithstanding that:
- (i) the act or thing breaches a provision of this Deed;
 - (ii) the act or thing would not be permitted under the Operational Standards except for the consent of the Commissioner,
- and the Trustee does not commit a breach of trust or a breach of any other obligation imposed on the Trustee by virtue of doing that act or thing.

1.4 Severance

- (a) If any provision of this Deed or the Rules is void or voidable or unenforceable or illegal, but would not be void or voidable or unenforceable or illegal as aforesaid if it were read-down and it is capable of being read-down, it shall be read-down accordingly.
- (b) If, notwithstanding Clause 1.4(a), a provision of this Deed is void or voidable or unenforceable or illegal:
 - (i) if the provision would not be void or voidable or unenforceable or illegal as aforesaid if a word or words (as the case may be) were omitted, that word or those words are hereby severed; and

¹⁴ Deed of Variation dated 18 November 2003

(ii) in any other case, the whole provision is hereby severed,
and the remainder of this Deed have full force and effect.

2 CONSTITUTION OF THE DIVISIONS

2.1 The Plan

The Plan will initially be constituted by two (2) separate and distinct trust funds each of which are to be separately invested and accounted for as provided in this Deed and identified as follows:

Division I - AustChoice Superannuation Plan

Division II- AustChoice Pooled Superannuation Trust

The specific rights of the Participants and Members of a Division as well as the specific powers and duties of the Trustee relating to the Division and the specific limitations or restrictions applicable to the Division are governed, in addition to the provisions set out elsewhere in this Deed, by the provisions relating to the Division set out in the Rules of the Division.

2.2 Name

The name of the Plan is "The AustChoice Superannuation Plan" or such other name as determined from time to time by the Trustee.

2.3 Commencement

The terms and conditions of this Deed will commence on the date of execution of this Deed but each division constituted pursuant to this Deed will commence in accordance with Clause 2.4.

2.4 Constitution of a Division

Upon the lodgement with or vesting in the Trustee of a Contribution in relation to a Division in accordance with the terms and conditions of this Deed and the Rules relating to that Division ("the First Contribution") there will be constituted another trust fund to be held in the name of the Trustee on behalf of the Division for the duration of the Division and in accordance with the terms and conditions of this Deed.

2.5 Appointment of Trustee

The Trustee is appointed trustee of each Division upon its constitution and retains and holds the Assets of the Divisions and every part thereof upon trust for the

benefit of Participants and Members in accordance with their respective interests from time to time.

2.6 Beneficial interest

Each Participant and Member is entitled as provided in this Deed to a beneficial interest in the Division to which the Participant or Member has been admitted but such interest does not:

- (a) entitle the Participant or Member other than as provided in this Deed or permitted by law:
 - (i) to interfere with the rights or powers of the Trustee in its dealings with that Division or any part thereof;
 - (ii) to exercise any rights powers or privileges in respect of any Authorised Investments of that Division; or
 - (iii) to require the transfer to the Participant or Member of any of the Assets of that Division or any other Division;
- (b) confer other than as provided in this Deed any interest in any particular part or Asset of that Division.

2.7 Further Divisions

Subject to the provisions of Clause 18, the Trustee may at any time and from time to time constitute another Division or Divisions by executing a deed supplemental to this Deed which provides for:

- (a) a statement of the Rules of the Division;
- (b) a means of identification of each such Division;
- (c) a declaration that upon the payment to and acceptance by the Trustee of a Contribution to such Division in accordance with the terms and conditions of that Division, there shall be constituted a trust fund to be held under and in accordance with the terms and conditions of this Deed and the Rules.

2.8 Assets to be kept separate

The Trustee must keep the Assets of one Division separate from another Division. The investment of the Assets of one Division in another Division is not a breach of this Clause.

2.9 Assets and Liabilities of Division

- (a) The Assets of a Division are not available to meet any Liabilities of a Division other than the Division of which those Assets form a part.
- (b) The Liabilities of a Division are not to be aggregated with the Liabilities of any other Division or off-set against the Assets of any Division other than the Division of which those Liabilities form part.

2.10 Badged Divisions

- (a) The Trustee may enter into arrangements with third parties ("Sponsors") for the offer by the Sponsor of participation in a Division ("the Badged Division").
- (b) The Disclosure Document in respect of a Badged Division may, with the approval of the Trustee, carry the name of the Sponsor or name chosen by the Sponsor and approved by the Trustee for the Badged Division other than the name given to the relevant Division by this Deed.
- (c) The provisions of this Deed apply to a Badged Division in the same manner as they apply to any other Division established under this Deed, unless the Rules relating to that Division expressly provide otherwise.

2.11 Participants and Members bound by Deed

The terms and conditions of this Deed are binding on the Trustee and each Participant and Member and all persons claiming through them respectively as if each such Participant and Member had severally been a party to this Deed.

3 PARTICIPATION AND MEMBERSHIP

3.1 Disclosure Document

The Trustee may offer beneficial interests in the Plan or a Division only by way of a Disclosure Document which contains such information, documents, statements and reports in relation to the Plan or to the Division in which beneficial interests are offered as the Operational Standards require to be given to prospective Participants in the Division, and must update the terms of any Disclosure Document as required under the Operational Standards or as the Trustee considers necessary so that the information, documents, statements and reports do not at any time contain any material statements that are false or misleading and that there are no material omissions from the Disclosure Document.

3.2 Application for participation

A person who is eligible under the Rules of a Division to participate in that Division may apply for participation in that Division by:

- (a) completing and signing an Application, including the Benefit Specification (if any), in the form prescribed by the Trustee from time to time and attached to a Disclosure Document;
- (b) lodging the Application at the registered office of the Trustee or at any other places at which the Trustee accepts Applications.

3.3 Acceptance of Application for participation

- (a) The Trustee may accept an Application for participation if:
 - (i) the Trustee is satisfied that the Applicant is eligible to join the Division for which the Application is made;
 - (ii) the Applicant has correctly completed the form of Application and supplied all documentation required by the Trustee;
 - (iii) the Trustee is satisfied that the Application is made pursuant to a Disclosure Document which contains such information, documents, statements and reports in relation to the Division as the Operational Standards require to be given to a prospective Participant, and which is current at the time of the Application.
- (b) The Trustee may reject an Application for participation without giving any reason.
- (c) The Trustee must either accept or reject an Application for participation within 2 months of receipt of the Application.
- (d) The Trustee may accept Applications for participation only in accordance with the terms of the Disclosure Document pursuant to which the Application was made.

3.4 Notice of Acceptance of Participation

Upon acceptance of an Application for participation in a Division, the Trustee must forthwith:

- (a) give the Applicant a participation number and enter the name of the Applicant as a Participant and the participation number upon the Register of Participants;

- (b) establish a Participants Account in respect of the Participant which Account shall be numbered with the Participant's participation number;
- (c) establish an Investment Register in respect of the Participant which Participant's Investment Register shall be numbered with the Participant's participation number; and
- (d) within the Prescribed Period notify the Participant in writing of the Participant's admission to the Division advising;
 - (i) the date of acceptance;
 - (ii) the Participant's participation number;
 - (iii) such details of the operation, management and performance of the Division as the Operational Standards require in the circumstances; and
 - (iv) such other details as the Trustee considers appropriate.

3.5 Application for Membership

- (a) An Employee of a Division I Participant who has been nominated by the Division I Participant for membership of Division I and who is otherwise eligible to become a Member under the Rules of Division I may apply for membership of the Plan by completing and signing an Application in the form prescribed from time to time by the Trustee and delivering the Application to the Division I Participant.
- (b) Division I Participant must deliver an Application for membership to the Trustee when received by that Participant.

3.6 Acceptance of Application for membership

- (a) The Trustee may accept an Application for membership if:
 - (i) the Applicant has correctly completed the form of Application and supplied all documentation required by the Trustee;
 - (ii) the Trustee is satisfied that the Applicant is an Eligible Person.
- (b) The Trustee may reject an Application for membership without giving any reason.
- (c) The Trustee must either accept or reject an Application for membership within 2 Months of receipt of the Application.

3.7 Notice of Acceptance of Membership

Upon acceptance of an Employee's Application the Trustee must forthwith:

- (a) confirm to the relevant Division I Participant in writing that the Member has been admitted to the Division;
- (b) give to the Member in writing:
 - (i) notice of the Member's admission to Division I detailing the date of acceptance;
 - (ii) a summary of the Benefits to which the Member will be entitled from Division I, the method of determining those Benefits pursuant to this Deed and the Rules of Division I and the Benefit Specification of the relevant Division I Participant, and any conditions relating to those Benefits;
 - (iii) such other statements, reports and notices as the Operational Standards require to be given to a member of a Standard Employer-Sponsored Superannuation Fund before or as soon as practicable after the member joins such a fund; and
 - (iv) such other details as the Trustee considers appropriate or are otherwise required by the Operational Standards,

except where the Trustee is satisfied that the Member has been advised of the matter in question prior to becoming a Member;
- (c) enter the name of the Employee as a Member upon the Register of Members.

3.8 Provision of information

- (a) A Participant or Member must:
 - (i) promptly give any information requested by the Trustee in connection with the Plan;
 - (ii) submit to any medical examinations or give any other information as required by the Trustee for the purposes of Clause 11.10;
 - (iii) without being requested by the Trustee promptly notify the Trustee in writing of any occurrence which may affect the Participant's or Member's participation in or membership of the Division or eligibility to contribute to the Division.
- (b) If a Participant or Member fails to comply with Clause 3.8(a) the Trustee may refuse to accept contributions for that Participant or Member or

withhold any Benefit payable to that Participant or Member until the Participant or Member complies.

3.9 Transfers from Approved Benefit Arrangements

(a) Takeover or Transfer of Benefits

Where a Member or Participant is or was a member of or is or was the beneficiary under any other Approved Benefit Arrangement, the Trustee may by resolution take over or acquire by transfer from the trustee of the other Approved Benefit Arrangement the whole or any part of the assets of such Approved Benefit Arrangement or the interest of any person who is a participant or former participant of that Approved Benefit Arrangement with the intent of preserving the rights, entitlements and interests of the member of such Approved Benefit Arrangement at the time of transfer.

(b) Rights and Entitlements of a Member or Participant in Transferred Benefits

The Trustee shall hold any such amounts transferred in accordance with paragraph (a) above as part of the Plan and reflect such equivalent rights, entitlements and interests in the particular Member's Nominated Account or Participant's Participants Account as existed in the other Approved Benefit Arrangement and, if the Trustee so determines, the Member or Participant shall be deemed to have become a Member or Participant of the Plan on the date the Member or Participant became a member of the Approved Benefit Arrangement from which the Benefit was transferred¹⁵.

3.10 Cooling off period

- (a) A Participant other than a Division I Participant who is an Employer or a Member may, where the Participant or Member is entitled to do so under the Operational Standards, within 14 days after the Trustee issues a notification of acceptance of the Participant's or Member's Application, by written notice to the Trustee request the Trustee to redeem the Participant's or Member's interest in the Division.
- (b) On receipt of a written notice from a Participant or Member given in accordance with Clause 3.10(a), the Trustee must repay to the Participant or Member an amount calculated and repaid in accordance with the Operational Standards.

¹⁵ Deed of Variation dated 13 October 1998

3.11 Binding Death Benefit Notice

An Applicant may upon admission, and a Member (other than a Pensioner Member) or a Division 1 Participant (other than a Pensioner Division 1 Participant) may at any time and from time to time (each a "Relevant Person"), in accordance with Clause 3.12 below and in a manner approved by the Trustee give to the Trustee a notice which in the opinion of the Trustee meets the requirements of the Operational Standards and which requires the Trustee to provide any Benefits in respect of the Relevant Person on or after death of the Relevant Person to the person or persons specified in the notice, being either the legal personal representative or a dependant or dependants of the Relevant Person¹⁶.

3.12 Form of Notice

Subject to the Operational Standards, a notice under Clause 3.11 above:

- (a) shall set out the names and addresses of any persons to whom the Applicant, Member or Division I Participant requires Benefits become payable upon the death of the Applicant, Member or Division I Participant;
- (b) shall set out the proportions in which the Applicant, Member or Division I Participant requires those Benefits to be paid between the persons names and described in the notice; and
- (c) may be confirmed, revoked or amended from time to time in a manner approved by the Trustee¹⁷.

3.13 Sub-Plans

- (a) The Trustee may in respect of any Division which is a Regulated Superannuation Fund determine to make a Sub-Plan for the Division ("Sub-Plan").
- (b) In determining whether to make a Sub-Plan, the Trustee must have regard to all relevant matters, including whether there is a common factor in a segment of the Division (for example, where there is a group of Members of the Division who have the same Employer).

3.14 Commission and brokerage

- (a) The Trustee may make a payment of commission or brokerage to a person in consideration of the person applying or agreeing to apply for participation in a Division or procuring or agreeing to procure Applications for

¹⁶ Deeds of Variation dated 5 February 2001 and 20 August 2001

¹⁷ Deed of Variation dated 5 February 2001

participation if the amount of the proposed payment or the proposed rate of payment is disclosed in a Disclosure Document.

- (b) The Trustee must not make a payment of commission or brokerage to a person in respect of the acceptance of any person for participation in a Division unless the person:
- (i) is the holder of a Dealers Licence granted under Part 7.3 of the Corporations Law; or
 - (ii) is the holder of a Proper Authority; or
 - (iii) is an Exempt Dealer;
 - (iv) is:
 - (A) the holder of an investment advisers licence granted under Part 7.3 of the Corporations Law or a corresponding law; or
 - (B) an accountant or a solicitor, a firm of accountants or solicitors, a partner in or an employee of a firm of accountants or solicitors, a company providing accountancy or legal services or a director or employee of a company of that kind, whose principal business is not the giving of advice about securities,

and the person has told the Trustee in writing that the total amount of the commission will be rebated to the Applicant;
 - (v) is a registered insurance broker within the meaning of the Insurance (Agents and Brokers) Act 1984 or a Life Insurance Company.

3.15 Non-Lapsing Nomination

- (a) A Member may give the Trustee a notice which is intended by the Member to be a Non-Lapsing Nomination.
- (b) If a Member gives a notice to the Trustee under Clause 3.15(a) or Clause 3.15(d) and the Trustee is satisfied that the notice is an exercise of discretion by the Member, the Trustee may consent to the exercise of that discretion (which includes the giving of the notice) on any grounds that Trustee considers appropriate.
- (c) A Non-Lapsing Nomination remains current until:
 - (i) it is revoked by the Member in accordance with Clause 3.15(d); or

- (ii) the Member gives the Trustee a subsequent Non-Lapsing Nomination.

To avoid doubt, a Member's Non-Lapsing Nomination revokes any previous Nomination made by the Member.

- (d) Subject to Clause 3.15(b) a Member may, at any time, by notice in writing to the Trustee, amend or revoke an existing Non-Lapsing Nomination.

4 PAYMENTS AND BENEFITS

4.1 Contributions

Each Participant, Member or other person eligible to contribute to a Division under the Operational Standards must contribute from time to time to a Division in the manner prescribed by the Rules of that Division.

4.2 Minimum Contributions

The minimum first Contribution to be made by or in respect of a Participant and the minimum of each additional Contribution must be of an amount at least equal to the minimum amount nominated in the current Disclosure Document or such other amount as may be nominated from time to time.

4.3 Contributions to Trustee

All Contributions paid to a Division must be either paid to the Trustee and held by the Trustee as part of that Division (or paid where the Operational Standards require the same to the Custodian and held by the Custodian as part of that Division). Any Contribution may, subject to the Operational Standards, be paid by Cash or assignment or transfer of ownership of any benefits or assets (including insurance policies) which are Authorised Investments provided that Contributions paid other than by Cash must be accompanied by such evidence of title and other matters (including a valuation of the benefits or assets by an Approved Valuer) as the Trustee (or where relevant, the Custodian) may require together with duly executed and stamped transfers or conveyances where appropriate. Where any Contribution is paid by assignment or transfer of ownership of any benefits or assets the Participant, Member or person paying the same is responsible for all stamp duty, brokerage fees, commission and other costs, charges and expenses in respect of such assignment or transfer. The restrictions in Clause 6.8 apply to any such assignment or transfer.

4.3A Contribution Split

Notwithstanding any other provision of the Trust Deed which may in any way limit, restrict or qualify to the contrary, the Trustee may, if requested by a Member, cause

a Contribution Split to be made in respect of that Member in a manner permitted by the Operational Standards.¹⁸

4.4 Rules applying to payment of Benefits and Drawdowns

- (a) Subject to the terms of this Deed, Benefits and Drawdowns of any kind payable under this Deed to any Participant or Member are to be determined and paid according to the Rules of the Division to which the Participant or Member has been admitted.
- (b) Notwithstanding anything in this Deed any Benefit or Drawdown or part thereof which is subject to a Cashing Restriction can only be paid, unless the Operational Standards otherwise permit the same, on satisfaction of the relevant Condition of Release.
- (c) Notwithstanding Clause 4.4(b), the Trustee may pay an amount comprising any part of the accrued Benefit of a Participant or Member ("Person") to or for the benefit of the Person's Dependants, where:
 - (i) the Person has requested payment of the amount;
 - (ii) the Person has produced evidence satisfactory to the Trustee that refusal to pay the amount which would cause financial hardship to the Person or the Person's Dependants, or payment of the amount is otherwise justified; and
 - (iii) the Commissioner has made a determination in writing that the Person is in financial hardship and has approved payment of the amount, or the payment is otherwise authorised under the Operational Standards.
- (d) Where any Benefit or part thereof is payable in respect of a Participant or Member and:
 - (i) the Trustee determines that it is necessary to realise any of the Investments of the Division to pay the same and for whatever reason the said Investments are not realised; or
 - (ii) the Participant or Member has requested the Trustee to appropriate specific Investments out of the relevant Division and to transfer Investments to the Participant or Member in satisfaction of the Participant's or Member's entitlement; or
 - (iii) the Participant has requested the Trustee to appropriate specific Investments out of Division I and to transfer such Investments to a

¹⁸ Deed of Variation dated 28 March 2006

Member admitted in respect of the Participant in satisfaction of the Member's entitlement,

then the Trustee may, having regard to the Participant's or Member's Option Nomination, and subject to any restrictions in the Operational Standards,

(iv) in the case of paragraphs (i) and (ii), with the consent of the Participant or Member; and

(v) in the case of paragraph (iii), with the consent of the Member

transfer such Investments where appropriate to the Participant or Member or as directed by the Participant or Member to such other Approved Benefit Arrangement provided always that an appropriation of specific Investments pursuant to this Clause can only be made where the Investments are of a similar nature and condition to the Investments made by the Trustee on behalf of the Participant or the Member¹⁹.

(e) In the event that the Investments of the Division to which a Participant or Member has been admitted comprise insufficient Cash which can be withdrawn to meet the Drawdown requested by the Participant or Member then the Trustee must, having regard to the current Conditions of the Participant's or Member's Option Nomination and the provisions of Part 6, realise some or all of the non-Cash Investments of the Division and pay the Drawdown to the Participant or Member. Unless the Drawdown Request otherwise provides, the non-Cash Investments to be realised must be realised as close as is practical pro rata to the proportions in which various classes of Investments are held on behalf of the Participant or Member.

4.5 Payment by Trustee complete discharge

The payment or assignment of any Benefit or Drawdown is a complete discharge to the Trustee for the amount of moneys paid or applied as against any person claiming an interest in the Benefit or Drawdown.

4.6 Proof of qualification for Benefits

Any person appearing, purporting or claiming to be qualified or entitled to any Benefit or Drawdown must on request produce to the Trustee or its nominee such evidence, do such acts and execute such documents as and when the Trustee may reasonably require.

¹⁹ Deed of Variation dated 13 October 1998

4.7 Payment in good faith valid

Payment or assignment of a Benefit or Drawdown in good faith to a person believed by the Trustee to be entitled to receive it is deemed to be payment or assignment to a person entitled to receive it and is a valid discharge to the Trustee of its obligations in respect of the payment or assignment of that Benefit or Drawdown.

4.8 Determination of questions of fact

When determining questions of fact the Trustee may act upon such proofs or presumptions as it may deem satisfactory whether strictly legal proofs or presumptions or not.

4.9 Deduction of Tax From Benefits and Drawdowns Payable

- (a) The Trustee may deduct or require to be deducted from any Benefit or Drawdown payable to or to be applied in respect of a Participant or Member any amount on account of income or other Tax payable for any reason which is referable to the Participant or Member.
- (b) Amounts deducted under Clause 4.9(a) must be:
 - (i) paid to the relevant authority or person entitled thereto; or
 - (ii) reimbursed to the Trustee for any corresponding amount paid from its own funds,

and to the extent not required for the purpose of sub-paragraphs (i) and (ii) hereof, paid to the Participant or Member.
- (c) The Participant or Member is entitled only to receive the net Benefit or Drawdown after the deduction of Tax payable.
- (d) Nothing in this Clause 4.9 shall prejudice any other rights which the Trustee has to deduct income or other tax in respect of a Participant or Member.

4.10 Benefit splitting and flagging arrangements²⁰

- (a) Definitions

Words which are defined in the Family Law Act 1975 (Cth) and used in this Clause 4.10, or any other provisions which relate to this Clause 4.10, have the same meaning as in that Act.

- (b) Application

²⁰ Deed of Variation dated 18 November 2003

This Clause 4.10 will apply in respect of a Member and their Spouse if they are or have been legally married to each other, or are within the jurisdiction of the Family Court of Australia in respect of property settlements, or the making of superannuation agreements, and:

- (i) a superannuation agreement (which provides for a payment flag or a payment split) or a flag lifting agreement has been entered into by the Member or their Spouse and such agreement has taken effect; or
- (ii) a splitting order or a flagging order has been made by a court of competent jurisdiction in respect of the Member and their Spouse.

(c) Trustee may require Member and Spouse to provide details

A Member and/or their Spouse must provide information, declarations, proofs and documents as the Trustee may require under the Operational Standards. If the requirements of this Clause 4.10(c) have not been complied with to the satisfaction of the Trustee, the Trustee may determine that this Clause 4.10 does not apply in respect of the Member and their Spouse.

(d) Dealing with Spouse's entitlement

- (i) The Trustee will deal with a Spouse's entitlement in respect of the Member's interest in the Plan under the superannuation agreement, flag lifting agreement or court order (the Spouse's Benefit) in accordance with this Clause 4.10(d). This Clause 4.10(d) does not apply while a Member's interest in the Plan is subject to a payment flag or flagging order. The Spouse's Benefit is net of any Family Law Fees charged under Clause 4.10(h).
- (ii) At the written request of the Spouse (in a form prescribed and acceptable to the Trustee) and subject to the Operational Standards, the Trustee may:
 - (A) in the case of a Spouse for whom an account is established under this Trust Deed or who is a Pensioner Division I Participant – credit the Spouse's Benefit to one or more of those accounts;
 - (B) in the case of a Spouse for whom an account has not been established under this Trust Deed, credit the Spouse's Benefit to an account or accounts to be established for the Spouse in accordance with the terms of this Trust Deed;

- (C) transfer or rollover the Spouse's Benefit to another Regulated Superannuation Fund;
 - (D) agree to deal with the Spouse's Benefit by applying one or more of the options specified in this Clause 4.10(d)(ii).
- (iii) In the absence of any valid request from the Spouse under Clause 4.10(d)(ii), the Trustee will transfer the Spouse's Benefit to the Eligible Rollover Fund after deduction of all relevant costs and expenses payable by the Spouse.
- (e) Calculation of interests in the Plan
- The Trustee may adjust the Member's interest in the Plan, and calculate the Spouse's Benefit in the Plan, in accordance with any relevant superannuation agreement, flag lifting agreement, court order or Operational Standards.
- (f) Provision of information
- The Trustee may:
- (i) provide to persons who are eligible under the Operational Standards information about the superannuation interests of a Member; and
 - (ii) charge reasonable expenses for the provision of such information in accordance with the Operational Standards.
- (g) Commutation power
- Despite any other provision of this Deed:
- (i) the Trustee may offer commutation options to a Member, or any other beneficiary of the Plan, to whom a pension is payable on terms and conditions determined by the Trustee; and
 - (ii) the Trustee may at any time commute a pension payable in respect of a Member, or any other beneficiary of the Plan, in whole or in part in circumstances where such commutation is expressly or impliedly required under the Operational Standards.
- (h) Family Law Fees
- (i) The Trustee may charge Family Law Fees in respect of any matter arising under this Clause 4.10 and allocate the costs and expenses incurred between the Member and the Spouse as the Trustee determines.

- (ii) The Trustee may deduct the allocation of the Family Law Fees relating to the Member, as determined by the Trustee, from any of the accounts maintained by the Trustee in respect of the Member.

5 ESTABLISHMENT OF ACCOUNTS

5.1 Expense Reserve Accounts

(a) Credits to Expense Reserve Account

The Trustee will keep an Expense Reserve Account in respect of each Division. Where any of the Assets of a Division ("the Relevant Division") are invested in Division II, the Trustee will record the following credits to the extent that they may apply to those Assets to the Expense Reserve Account established in respect of Division II in all other cases record the following credits to the Expense Reserve Account established in respect of the Relevant Division ("the Relevant Expense Reserve Account"):

- (i) the Contribution Charges levied in respect of the Participants or Members of the Relevant Division ("the Relevant Participants");
- (ii) the Investment Charges levied in respect of the Relevant Participants;
- (iii) the Administration Charges levied in respect of the Relevant Participants;
- (iv) the Participation Charges levied in respect of the Relevant Participants;
- (v) any commissions or other emoluments received by the Trustee on its own account and not on account of any other person in respect of the investments of the Assets of the Relevant Division or otherwise in respect of the Relevant Division generally;
- (vi) the amount of any Tax or charge debited in respect of the Relevant Participants pursuant to Clause 5.2(r);
- (vii) all interest dividends and other income earned from the investment of the amount standing to the credit of the Expense Reserve Account from time to time;
- (viii) any other amount permitted under this Deed to be credited to the Expense Reserve Account or as determined by the Trustee.

(b) Debit to Expense Reserve Account of Trustee's remuneration

The Trustee will record as and when incurred as a debit against the Expense Reserve Account of a Division the Trustee's fees calculated and paid to the Trustee in respect of the Relevant Division pursuant to Clause 13.1.

(c) Other debits to Expense Reserve Account

The Trustee may pay for such of the costs, charges and expenses described in this Clause 5.1(c) as the Trustee determines may have been reasonably and properly incurred in or about the administration of a Division out of its own moneys and seek reimbursement pursuant to Clause 13.2. Where the Trustee does not pay for any of those costs, charges and expenses out of its own moneys the Trustee can record such costs, charges and expenses as and when incurred in respect of the Division as debits against the Expense Reserve Account maintained in respect of the Division subject to the proviso that the Trustee cannot record the costs, charges and expenses as debits where the effect of the debit would be to create a negative balance in the Expense Reserve Account. In this case the Trustee must pay for such costs, charges and expenses out of its own moneys and seek reimbursement pursuant to Clause 13.2. The costs, charges and expenses referred to in this Clause 5.1(c) are as follows:

- (i) the costs of establishing the Plan including the costs of acquiring the text and format of this Deed, and of the preparation, stamping and approval of this Deed;
- (ii) the costs of preparing, printing and issuing offers to participate in the Plan including the costs of preparation, approval and registration of any Disclosure Document and including but without limiting the generality of the foregoing legal, valuation, listing, printing and graphic design fees payable in respect of any Disclosure Document and further to the costs of preparing printing and issuing brochures advertising the Plan;
- (iii) the costs of maintaining and auditing the Accounts and the Registers in accordance with this Deed and the Operational Standards generally;
- (iv) the costs of establishing and maintaining the Register of Members and Register of Participants;
- (v) disbursements in connection with the acquisition, sale, collection, distribution of or other dealing with any Investment of the Division including legal fees, stamp duties, brokerage and commission, survey and valuation fees, registration fees and consultants fees;

- (vi) the costs of acquiring establishing and developing computer hardware and software systems required for the administration of the Division;
- (vii) fees and disbursements payable to any managing agents or collection agents not exceeding the prevailing commercial rates chargeable by managing agents or collection agents for services performed by them in relation to the Division;
- (viii) the Auditor's reasonable fees and expenses in connection with the auditing of the Accounts of the Division, the preparation of taxation returns in relation to the Division and all other functions of the Auditor performed in respect of the Division pursuant to this Deed;
- (ix) fees paid to Actuaries, Approved Valuers, solicitors, barristers, accountants, surveyors, contractors and other qualified persons as provided in this Deed including valuation fees paid in respect of investments proposed to be purchased whether purchased or not;
- (x) advertising expenses relating to the sale of Investments;
- (xi) Bank, Building Society and financial institution charges on Bank, Building Society and financial institution accounts operated solely for the use of the Plan by the Trustee;
- (xii) stamp duties on cheques payment orders Bank and Building Society account debits taxes and other similar imposts;
- (xiii) stamp duties, financial institutions duties and similar imposts;
- (xiv) any amounts paid in respect of taxes, any surcharge, advance instalments of surcharge and charges assessed, charged or imposed by or under any Federal or State law upon the taxable income of the Division (including capital gains realised or unrealised in respect of the Division);
- (xv) costs of preparing, printing and issuing of the information required to be given pursuant to Clause 9.3(g), confirmations, accounts, other statements cheques and payment orders required to be circulated amongst the Participants and Members;
- (xvi) costs of postage of all cheques payment orders accounts notices and other documents posted to all or any Participants, Members or other persons in accordance with the provisions of this Deed;
- (xvii) disbursements incurred in convening or holding any meetings of Participants and implementing any resolution passed at such meetings including an allowance to the Trustee for the reasonable

costs of the time expended by its employees and agents in relation to the preparation for the holding of such meetings;

- (xviii) disbursements and costs incurred by or on behalf of the Trustee or in connection with the retirement of the Trustee under this Deed and the appointment of another in substitution thereof and anything ancillary or incidental to such retirement or appointment including disbursements incurred in convening or holding any meeting of Participants convened to remove or approve the appointment of a new trustee of the Division;
- (xix) except where the court otherwise directs, disbursements and costs by or on behalf of the Trustee in or in connection with the initiation, carriage and settlement of any court proceedings (including any negotiations and demands relating thereto) against the Trustee arising howsoever from any breach or default by the other under this Deed;
- (xx) all costs and expenses incurred in modifying or altering the provisions of this Deed including any costs and expenses reasonably and properly incurred by the Trustee obtaining the approval and execution of any supplemental deed or obtaining any approvals which may be required by law or otherwise for the supplemental deed and any costs and expenses reasonably incurred by the Trustee in convening any separate meetings of Participants to obtain their approval for the amendments modifications or additions;
- (xxi) all rates, taxes, charges, surcharges, advance instalments of surcharge, assessments and impositions whatsoever (whether parliamentary municipal or otherwise and whether assessed charged or imposed by or under Federal or State law or by Federal State or Local Authorities and whether on a capital or revenue value or any other basis and even though of a novel character) which may be or are assessed charged or imposed in respect of the Division or any part thereof;
- (xxii) costs of the preparation and lodgment of returns pursuant to the Tax Act or the Act or any Statute or regulation forming part of the laws of the Commonwealth of Australia or any State or Territory thereof;
- (xxiii) any fees incurred in respect of obtaining any determinations or valuations required by an Actuary or Approved Valuer under this Deed;

- (xxiv) the Trustee's remuneration calculated in respect of the Division pursuant to Clause 13.1;
- (xxv) any commission or brokerage paid;
- (xxvi) any fees and expenses payable to any Investment Manager appointed in respect of the Division;
- (xxvii) any fees or expenses payable to any Administrator appointed in respect of the Division;
- (xxviii) any fees and expenses paid to any Custodian or sub-Custodian of the Division;
- (xxix) any other disbursement reasonably and properly incurred by the Trustee for or on behalf of the Relevant Division or in the administration of the Division and similar in character to those described in this Clause 5.1.

5.2 Participants Account

The Trustee may keep a Participants Account in respect of each Participant and shall record the following credits to that account:

- (a) any amounts received pursuant to Clause 3.9;
- (b) any Contributions paid by or in respect of the Participant or any Member nominated by the Participant;
- (c) any reimbursement received from the Participant in respect of any expense paid by the Trustee in respect of the Division to which the Participant has been admitted ("the Relevant Division");
- (d) the distribution of any surplus in the Expense Reserve Account maintained in respect of the Relevant Division determined pursuant to Clause 5.3(a);
- (e) any Income Entitlement determined in respect of the Participant or any Member nominated by the Participant;
- (f) the proceeds of any Insured Benefit arranged in respect of the Participant or any Member nominated by the Participant;
- (g) any other moneys received by the Trustee in respect of the Participant or any Member nominated by the Participant,

and subject to the provisos in respect of payment of Benefits in the Rules will record the following debits against that account;

- (h) any Benefits paid or payable in respect of the Participant or any Member nominated by the Participant;
- (i) any Drawdown Amounts paid or payable in respect of the Participant or any Member nominated by the Participant;
- (j) any Regular Pension Payment paid or payable in respect of the Participant or any Member nominated by the Participant;
- (k) any Contribution Charge levied in respect of the Participant and any Member nominated by the Participant;
- (l) any Administration Charge levied in respect of the Participant or any Member nominated by the Participant;
- (m) any Investment Charge levied in respect of the Participant or any Member nominated by the Participant;
- (n) any Participation Charge levied in respect of the Participant or any Member nominated by the Participant;
- (o) the cost of the Insured Benefit arranged in respect of the Participant or any Member nominated by the Participant;
- (p) any disbursements in connection with the acquisition, sale, collection, distribution of or dealing with any Investment made on the Participant's or Member's behalf;
- (q) the amount of any Tax, whether assessed charged or imposed by or under any Federal or State law, which the Trustee determines may be or is assessed upon the taxable income of the Relevant Division and is attributable to the Participant or any Member nominated by the Participant including:
 - (i) capital gains realised or unrealised from the investments made in respect of the Participant or any Member nominated by the Participant or otherwise from time to time; and
 - (ii) any amount deemed to be included in the assessable income of Division II in respect of the Division II Participant pursuant to section 275(2) of the Tax Act;
- (r) where the terms of the Participant's Benefit Specification or the Operational Standards require the production of an actuarial certificate, report or valuation to be performed in respect of the participation of the Participant or any Member nominated by the Participant, the cost of any such actuarial certificate, report or valuation;

- (s) any levies paid under The Superannuation (Financial Assistance Funding) Levy Act which are in the opinion of the Trustee attributable to the Participant or any Member nominated by the Participant;
- (t) the costs of the kind described in Clause 10.8 and incurred in respect of any policy Committee established in respect of the Participant or any Member nominated by the Participant;
- (u) any other payment made in respect of the Participant or any Member nominated by the Participant pursuant to the provisions of this Deed.

5.3 Distribution of Expense Reserve Accounts

- (a) The Trustee shall on each Distribution Date determine the portion of the amount standing to the credit of the Expense Reserve Account maintained in respect of each Division ("the Relevant Division") after the deduction of the Expenses of the Relevant Division available to be credited to the Participants Account maintained in respect of each Participant of the Relevant Division or the Member's Nominated Accounts maintained in respect of each Member of the Relevant Division ("the Relevant Account").
- (b) The Trustee will determine the amount to be credited to the Relevant Account pursuant to Clause 5.3(a) having regard to:
 - (i) the amount standing to the credit of the Relevant Account on the later of the date of entry of the Participant or Member or the immediately preceding Distribution Date of the Relevant Account;
 - (ii) the credits and debits from time to time to the Relevant Account since the date referred to in paragraph (i) hereof;
 - (iii) the nature of the Investments made by the Trustee on behalf of the Participant or Member;
 - (iv) the extent to which the Participant's or Member's participation of the Relevant Division has specifically affected the liability of the Relevant Division to Tax;
 - (v) such further details as determined by the Trustee.

5.4 Further Accounts

In addition to the Participants' Accounts to be maintained in respect of a Participant the Trustee may keep any further accounts prescribed in the Rules.

6 INVESTMENT

6.1 Investment policy

The Trustee must formulate an investment policy for the Plan which identifies:

- (a) the investment strategies which the Trustee will adopt for the Plan; and
- (b) amongst other things the extent to which Participants will be permitted to:
 - (i) make Option Nominations;
 - (ii) elect to give their Employees who are admitted as Members the right in lieu of the Participant to make Option Nominations.

6.2 Identification of investment strategies required

Having settled the investment policy of the Plan the Trustee must from time to time identify the Divisions and Sub-Plans in respect of which a particular investment strategy or strategies are required (each such Division or Sub-Plan being hereinafter in this Part 6 referred to as a "Fund").

6.3 Settlement of investment strategies

- (a) The Trustee may determine to offer a choice of investment strategies to the Participants of a Fund or alternatively to select the investment strategies of a Fund.
- (b) In the event that the Trustee determines to offer a choice of investment strategies to the Participants of a Fund then the Trustee must settle a minimum of two investment strategies for each Fund. Each investment strategy must meet the minimum standards set out in Clause 6.8 and be distinct from the other in respect of its risk and return profile and identifiable from the other by such means as the Trustee otherwise determines. Each investment strategy will be known as an "Investment Option".
- (c) In the event that the Trustee determines not to offer a choice of investment strategies to the Participants of a Fund then:
 - (i) the provisions of Clauses 6.4 to 6.8 and 6.12 to 6.13 shall apply in respect of the investment strategies selected by the Trustee as if they were Option Nominations;
 - (ii) Clause 6.13(b) shall be deemed to read:
 - "(b) notify the Participant or Member of the purpose and effect of the alteration;" and

- (iii) Clause 6.13(c) shall be deemed to be deleted.

6.4 Identification of asset allocation of each Investment Option

The Trustee must settle the intended asset allocation of each Investment Option having regard to its particular risk and return profile.

6.5 Identification of underlying Investments of each Investment Option

The Trustee must settle the Authorised Investment or Authorised Investments to be made in respect of each Investment Option. In the event that the Trustee has settled a pool of Authorised Investments in respect of an Investment Option each such pool of Authorised Investments settled in respect of an Investment Option will be known as an "Investment Pool".

6.6 Identification of manner in which Investment Pool will be valued

The Trustee must at the time an Investment Pool is settled determine the manner in which the Trustee proposes to value the Investment Pool and its underlying Investments including the accounting of the income and capital gains and losses realised and unrealised in respect of the Investment Pool.

6.7 Recording of Investment Options

The Trustee must record in writing the settled Investment Options of each Fund. The information recorded must detail sufficient particulars in respect of each Investment Option so that a person reading the information would have all the information the person would reasonably need for the purpose of:

- (a) understanding the objectives and purpose of each Investment Option;
- (b) making an informed judgement about the effect of and any risk involved in each of the Investment Options; and
- (c) making an informed comparison of the objectives, effect of and risk involved in each of the Investment Options.

The information recorded must also set out:

- (i) the details of any Investment Pool settled in respect of the Investment Option;
- (ii) understanding the manner in which the Trustee proposes to value each Investment Pool including the accounting of the income and capital gains and losses realised and unrealised in respect of the Investment Pool; and

- (iii) the information required by the Operational Standards in the circumstances.

6.8 Absolute matters to have regard to in settling Investment Options

In settling the Investment Options of each Fund the Trustee must ensure that the following standards are met:

- (a) The Trustee must only invest in Authorised Investments.
- (b) The Trustee must only invest in Land where a valuation made by an Approved Valuer not more than three (3) Months prior to the date of investment supports the price proposed to be paid.
- (c) The Trustee must not invest money of the Fund unless the Trustee and the other party to the relevant transaction are dealing with each other on an arm's length basis in respect of the transaction or where the transaction is not at arms length the terms of the transaction are as permitted by the Operational Standards.
- (d) The Trustee must not lend Assets of the Fund or give any other financial assistance using the resources of the Fund to a Participant or Member or a relative of a Participant or Member except as permitted under the Operational Standards.
- (e) The Trustee must not invest in any Authorised Investment where the nature, terms and conditions or identity of the vendor of the Investment would contravene the Operational Standards.
- (f) The Trustee must not borrow money on behalf of a Division money or maintain an existing borrowing of money except as permitted by the Operational Standards.

6.9 Publication in Disclosure Document

- (a) Each Disclosure Document issued in respect of a Fund must detail the information recorded to meet the requirements of Clause 6.7.
- (b) Subject to Clause 6.3(c), each Disclosure Document issued to Applicants for participation must also:
 - (i) give an Applicant a choice of two or more of the settled Investment Options from which an Investment Option or combination of Options may be chosen ("Option Nomination");
 - (ii) where an Investment Pool has been settled in respect of an Investment Option set out the details of the Investment Pool; and

- (iii) clearly set out the range of directions that can be given and the circumstances in which directions given can be altered.

6.10 Trustee to make Investments

The Trustee must, subject to all proper enquiries and legal steps deemed by it necessary, implement and give effect to:

- (a) any investment strategies settled by it for the Fund; and
- (b) any Option Nomination given to it in respect of the Fund.

In giving effect to an Option Nomination the Trustee may have regard to any preference indicated by an Applicant or Participant or Member with respect to the nature or identity of the Investments to be made in respect of the Option Nomination.

For the purposes of giving effect to any investment strategy settled by the Trustee or to any Option Nomination the Trustee shall have all the powers contained in Clause 11.5 including the power to purchase, sell, vary or replace any Investment.

6.11 Investments in Division II to mirror Option Nomination

The Trustee must ensure that where the Assets of a Fund are invested in Division II the Assets of Division II which represent the Assets of the Fund will be:

- (a) invested to mirror the Investment Options given in respect of the Fund; and
- (b) recorded and accounted for so as to enable the Trustee to properly identify the earnings and expenses of those Investments.

6.12 Variation of Investment Options

The Trustee must from time to time consider whether the terms of an Investment Option or Investment Pool are appropriate or require amendment. Where the Trustee determines that amendment is necessary, the Trustee must resettle the terms of the Investment Option. At this time and at any other time that the Trustee elects the Trustee may:

- (a) change the Investment Option's objective;
- (b) change the Investment Option's asset allocation;
- (c) where the Trustee has settled an Investment Pool in respect of the Investment Option change the Authorised Investments to be made in respect of the Investment Option.

6.13 Publication of Variation of Investment Option

Where any alteration to an Investment Option made by the Trustee pursuant to Clause 6.12 is materially significant the Trustee must:

- (a) amend the current Disclosure Document to reflect the amendment;
- (b) notify the Participants who have nominated investment in the Investment Option pursuant to their Option Nomination of the purpose and effect of the alteration; and
- (c) give those Participants the option of amending their Option Nomination.

6.14 Record of Investments

- (a) The Trustee must record in respect of each Investment Pool such details in respect of the Investments made and held in respect of the Investment Pool as will enable the Trustee to identify the Investments held in respect of the Investment Pool including:
 - (i) a description of each Investment;
 - (ii) the date of acquisition of each Investment by the Trustee;
 - (iii) the cost of each Investment;
 - (iv) the date of maturity of each Investment (if any);
 - (v) the redemption price of each Investment (if any);
 - (vi) such information as is necessary to enable any capital gains tax liability which may arise upon disposal of the Investments to be calculated.
- (b) The Trustee must record in respect of each Participant or Member:
 - (i) the Participant's or Member's Option Nomination; and
 - (ii) such details in respect of the Investments held in respect of the Participant or Member as will enable the Trustee to identify the Investments held in respect of the Participant or Member including:
 - (A) a description of each Investment;
 - (B) the date of acquisition of each Investment by the Trustee;
 - (C) the cost of each Investment;
 - (D) the date of maturity of each Investment (if any);

- (E) the redemption price of each Investment (if any);
- (F) such information as is necessary to enable any capital gains tax liability which may arise upon disposal of the Investment to be calculated.

6.15 Special arrangements in respect of Division I Participants

Where a Division I Participant has been admitted to Division I for the purpose of providing retirement and other ancillary benefits for its Employees or a group of Eligible Persons and the Participant has elected in its Benefit Specification that its Employees who are admitted as Members or the Eligible Persons will be entitled to make Option Nominations.

The references to "Participant" in the following Clauses shall accordingly be deemed to be a reference to "Member":

- (a) Clause 6.13;
- (b) Clause 6.14; and
- (c) Clause 6.15; and

with the intention that wherever these terms are used in any other Clause in this Deed they will be interpreted in accordance with their definition in this Deed.

6.16 Calls

Calls on partly paid shares or units held on behalf of a Participant or Member must be paid out of the funds held on behalf of the Participant or Member and must be debited to the Participant's Participants Account or Member's Nominated Accounts as the case may be and as the Trustee determines is appropriate. The Trustee must so far as possible have regard to the need to meet such calls in giving an approval to a Participant's or Member's Option Nomination.

6.17 To deal at Value

The Trustee will in all acquisitions and sales, subject to this Part 6, deal with such Investments, in the case of acquisitions at no more than Value and in the case of sales, at not less than Value.

6.18 Retention of Cash

The Trustee may place or leave on deposit Cash for such time as the Trustee considers desirable and may retain Cash received by it pending a decision as to its investment.

7 VALUATION AND INVESTMENT INCOME

7.1 Trustee to value

The Trustee must value the Investments of each Investment Pool on the last Business Day of each half yearly period and at such other times as in the opinion of the Trustee it is necessary or desirable to do so.

7.2 Valuation to be in accordance with Deed

The Investments of each Investment Pool must be valued in accordance with the procedure for valuation set out in the definition of "Value" in Clause 1.1 and generally in accordance with the manner settled for valuing the Investment Pool.

7.3 Change to valuation principles

Where the Trustee is of the opinion that the application of the principles of valuation set out in Clause 7.2 are inappropriate and fail to properly reflect the realisable value of an Investment that Investment is to be valued in accordance with another principle determined by the Trustee.

7.4 Postponement of valuation

Without in any way limiting the foregoing, if the Trustee determines that due to circumstances prevailing in any market or effecting any Investment it is not practicable to value any Investment at any particular time or that any valuation obtained would not properly reflect the realisable value of the Investment, then the Trustee may postpone the valuation or revaluation of any Investment so effected for the purposes of Clause 7.1

7.5 Valuation of Investments denominated in foreign currency

Where an Investment required to be taken into account is denominated in a foreign currency, the value of the same is to be calculated by converting its value into Australian dollars by such conversion method as the Trustee and the Auditor agree.

7.6 Income Entitlement

(a) On each Distribution Date, the Trustee must determine the Income Entitlement of each Participant or Member in respect of the relevant Income Entitlement Period.

(b) The Income Entitlement of a Participant or Member must be:

Y - E

Where:

"Y" = the total of all interest, dividends, rent and other income and other gains received or receivable during the Income Entitlement Period in respect of the Authorised Investments made in respect of the Participant or Member ("the Participant's Investments") including realised gains and losses and unrealised gains and losses on the Participant's Investments (calculated having regard to the valuations made pursuant to Clause 7.1); and

"E" = the amount of any of the Expenses of the Division to which the Participant or Member has been admitted incurred during the Income Entitlement Period which in the opinion of the Trustee should be deducted and/or any other charges not credited to the Expense Reserve Account maintained in respect of the relevant Division including without limiting the generality of the foregoing:

- (i) all costs and expenses incurred in repairing and maintaining the Participant's Investments;
- (ii) if the Trustee so determines, depreciation of the Participant's Investments at rates to be determined by the Trustee;
- (iii) any amount considered necessary to provide for the amortisation of the cost of any Participant's Investment which is leasehold property;
- (iv) all costs, charges, expenses, duties outgoings and disbursements properly incurred in connection with the Participant's Investments or the administration thereof for the particular distribution period and chargeable against income; and
- (v) such other contingencies as in the opinion of the Trustee are necessary to be brought to account in order that the income for the particular distribution period may fairly represent the results of the Participant's Investments for that period.

Provided that where the money standing to the credit from time to time of a Participant's Participant Account or a Member's Nominated Accounts is invested in an Investment Pool, then the Income Entitlement of the Participant or Member will be calculated by the Trustee in accordance with the valuation procedure settled in respect of the Investment Pool.

7.7 Income or capital

If any question shall arise as to whether any money or property constitutes income or not or whether any expenditure is chargeable against income or not, such question shall be determined by the Auditor having regard to the terms of this Deed,

to current accounting practice and any other matters the Auditor considers relevant and every such determination expressed in writing shall be final.

7.8 Crediting or debiting of Income Entitlement

The Income Entitlement determined in respect of a Participant or Member must as soon as practicable after its determination be credited directly to that Participant's Participants Account or Member's Nominated Accounts, or otherwise firstly to the Participant's Participants Account and then credited to each Member's Nominated Accounts.

8 REGISTERS

8.1 Register of Participants

- (a) The Trustee will keep and maintain a Register of Participants.
- (b) The Trustee will enter in the Register of Participants:
 - (i) The name and registered office of each Division I Participant or Division II Participant which is a Corporation, or the name and business address of any Division I Participant or Division II Participant who is a natural person;
 - (ii) The Division to which the Participant has been admitted;
 - (iii) The date on which the name of every person was entered in the Register as a Participant;
 - (iv) The date on which any person ceased to be a Participant;
 - (v) Such further information as the Trustee thinks fit;

Provided that for such purposes as aforesaid the Trustee shall have power to correct any manifest error in the Register.

- (c) Any change of name or address of any Participant shall be forthwith notified to the Trustee in writing or in a manner acceptable to the Trustee who must upon proof thereof to the satisfaction of the Trustee alter the Register of Participants accordingly.
- (d) The Trustee must cause the Register of Participants to be audited by the Auditor at intervals of not more than twelve (12) Months.

8.2 Register of Members

- (a) The Trustee will keep and maintain in respect of each Division I Participant whose Employees have been admitted to a Division I a register of Members ("Register of Members").
- (b) The Trustee will enter in each Register of Members maintained by the Trustee:
 - (i) the name, current residential address and date of birth of each Member;
 - (ii) The date on which the name of the Member was entered in the Register as a Member;
 - (iii) The balance standing from time to time to the credit of the Member's Nominated Accounts;
 - (iv) The date on which the Member's beneficial interest in the relevant Division was paid out;
 - (v) The date on which the Member ceased to be employed by way of retirement or death or otherwise;
 - (vi) Such further information as the Trustee thinks fit.
- (c) Any change of name or address of any Member and such other details as the Trustee may from time to time request shall be forthwith notified by the Participant in respect of whom the Register of Members has been established by the Trustee to the Trustee who must upon proof thereof to the satisfaction of the Trustee alter the Register of Members accordingly.
- (d) The Trustee must cause the Register of Members to be audited by the Auditor at intervals of not more than twelve (12) Months.

8.3 No notice of trust

No notice of any trust express, implied or constructive shall be entered upon a Register except where by law required.

8.4 Inspection and copy of Register - Participants

The Trustee must:

- (a) permit any Participant to inspect free of charge the details on the Register of Participants entered for that Participant at the office at which the Register is kept at any time when that office is required by the Corporations Law to be open and accessible to the public; and

- (b) within fourteen (14) days of receiving a written request from a Participant and upon payment of any reasonable time prescribed by the Trustee, give to that Participant a copy of the details on the Register of Participants entered for that Participant.

8.5 Inspection and copy of Register - other persons

A person other than a Participant is not entitled to inspect the Register of Participants.

9 THE TRUSTEE

9.1 Trustee must be a Constitutional Corporation

Each Division must be administered by a sole Trustee which is:

- (a) a Constitutional Corporation; and
- (b) an Approved Trustee in respect of the Division.

9.2 Trustee must not be a Disqualified Person

The Trustee can not act if it is a Disqualified Person.

9.3 Covenants by Trustee

The Trustee covenants with the intent that the benefit of such covenants shall enure to the Participants and Members jointly and to each of them severally that:

- (a) To act honestly

The Trustee will act honestly in all matters concerning a Division.

- (b) To exercise due care, skill and diligence

The Trustee will exercise, in all matters affecting a Division, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with the property of another for whom the person felt morally bound to provide.

- (c) Functions and powers to be exercised in the best interests of Participants and Members

The Trustee will perform its functions and exercise its duties and powers under this Deed in the best interests of all the Participants and Members and not in the interests of the Trustee if those interests are not the same as those of the Participants and Members generally.

- (d) To keep money and assets separate

The Trustee will keep the money and assets of a Division separate from any money and assets, respectively that are held by the Trustee personally.

- (e) Not to prevent Trustee from performing functions and powers

The Trustee will not 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 in respect of a Division.

- (f) To formulate prudential management strategy for any reserves

The Trustee will, if there are any reserves of a Division, formulate and give effect to a strategy for the prudential management of any such reserve, consistent with a Division's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due.

- (g) To provide prescribed information

The Trustee will give to each:

- (i) prospective Participant and Member;
- (ii) new Participant and Member;
- (iii) Participant and Member;
- (iv) terminating Participant and Member; and
- (v) interested person,

within the Prescribed Period the information required by the Operational Standards to be given to that person.

- (h) To provide requested information to Commissioner

The Trustee will:

- (i) produce to the Commissioner when required by the Commissioner any books relating to a Division;
- (ii) provide to the Commissioner such written information about matters relating to the affairs of a Division when the Commissioner requires that information.

- (i) To notify Commissioner of a Significant Adverse Event

The Trustee will on becoming aware of the occurrence of an event having a Significant Adverse Effect on the financial position of a Division give within the Prescribed Period written notice of the event to the Commissioner setting out particulars of the event.

- (j) Not to admit Applicant unless Application received

The Trustee will not admit an Applicant to participation of a Division except pursuant to an Application made to the Trustee by the Applicant.

- (k) To ensure costs are reasonable and proper

The Trustee will ensure that the costs, charges and expenses of a Division in respect of which a payment is made are reasonable and properly incurred.

- (l) To keep separate accounts of commission or brokerage paid

The Trustee will keep a separate account of any amounts that are applied directly or indirectly in payment of commission or brokerage to a person in consideration of that person's admission to a Division or procuring or agreeing to procure Applications, whether absolute or conditional, for admission to membership of a Division provided that:

- (i) such commission or brokerage shall only be paid in accordance with the terms of this Deed;
- (ii) the amount of or rate at which the payment is made is as disclosed in the Disclosure Document in respect of which the Application is made; and
- (iii) the person to whom payment is made receives a commission or brokerage only in respect of the Applications which that person has procured.

- (m) To formulate prudential management strategy for any reserves

If a Reserve Account is kept for any Division I Participant, the Trustee will formulate and give effect to a strategy for the prudential management of that Reserve Account, consistent with the investment strategy adopted for the Division, or the investment strategy or strategies applicable to the Members employed by that Participant, and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due.

9.4 Removal of Trustee

The Trustee will, subject to the Operational Standards, be removed from office:

- (a) if the Trustee is suspended or removed by the Commissioner because:
 - (i) the Trustee is a Disqualified Person;
 - (ii) it appears to the Commissioner that conduct that has been, is being or is proposed to be, engaged in by the Trustee may result in the financial position of a Division or of any other superannuation entity becoming unsatisfactory; or
 - (iii) the Commissioner revokes the status of the Trustee as an Approved Trustee in respect of a Division;
- (b) if the Participants resolve by Extraordinary Resolution at a duly convened meeting of Participants that the Trustee should be removed;
- (c) if the Trustee resigns from office by notice in writing to the Participants of a Division.

9.5 Right of Appointment of New Trustee

- (a) If the Commissioner suspends the Trustee, the Commissioner will appoint a Constitutional Corporation as acting Trustee during the period of suspension.
- (b) If the Commissioner removes the Trustee, the Trustee must by deed retire from office and appoint in its stead the Constitutional Corporation approved by an Ordinary Resolution of the Participants for the purpose and by the Commissioner to be an Approved Trustee for the purpose.
- (c) If the Participants by Extraordinary Resolution resolve that the Trustee should be removed from office the Trustee must by deed retire from office and appoint in its stead the Constitutional Corporation approved by an Ordinary Resolution of the Participants for the purpose and by the Commissioner to be an Approved Trustee for the purpose.
- (d) If the Trustee resigns from office by notice in writing to the Participants the Trustee shall on the expiration of the notice period by deed retire from office and appoint in its stead a Constitutional Corporation nominated by it and approved by the Commissioner to be an Approved Trustee for the purpose.

9.6 Vesting Plan in New Trustee

The Trustee must on its removal or retirement as trustee of a Division transfer or cause the Assets of the Division to be transferred to the new trustee as is appointed pursuant to Clause 9.5 and deliver to the new trustee all books, documents records and other property whatsoever relating to the Division. The costs and expenses incidental to this are an expense of the Division.

9.7 Covenants by New Trustee

Every new Trustee appointed pursuant to Clause 9.5 must execute forthwith upon its appointment a deed whereby the new Trustee undertakes to be bound by all the covenants and obligations on the part of the Trustee in this Deed from the date of such appointment and from that date the retiring Trustee will be absolved and released from all covenants and obligations under this Deed, save in respect to any antecedent breach hereof, and the Trustee will have and may exercise all the powers and the rights and will be subject to all the covenants and obligations of the Trustee hereunder in all respects as fully as though such new Trustee had been originally named as a party to this Deed.

9.8 Delay in appointment not fatal

A delay in the appointment of a Trustee will not invalidate that appointment.

9.9 Validity of acts and determinations

Any act or determination of a Trustee is valid notwithstanding any defect in the Trustee's appointment.

9.10 Change of name of Plan

The Trustee, upon its retirement or removal as Trustee of a Division may require the new trustee to take any steps which are necessary to change the name of the relevant Division to a name which does not include the current name of the Trustee and is not substantially or deceptively similar to that name or any former name of the Trustee.

10 POLICY COMMITTEE

10.1 Establishment of Policy Committees

The Trustee must:

- (a) in the circumstances where the Operational Standards require the same, take all reasonable steps to ensure that at least one Policy Committee is established for each Group of Standard Employer-Sponsored Members of

a Division or Sub-Plan ("the Fund") as is required by the Operational Standards; or

- (b) in the circumstances where the Operational Standards do not require a Policy Committee to be established or continue to be maintained for a Group of Standard Employer-Sponsored Members of a Sub-Plan and the Members of the Sub-Plan are not permitted to make Option Nominations and give Investment Authorities, determine whether it is appropriate to establish a Policy Committee for each Sub-Plan and if the Trustee so determines it appropriate take all reasonable steps to ensure a Policy Committee or Committees are established.

10.2 Composition of Policy Committee

The composition of each Policy Committee and the manner in which its members are appointed, retired and removed must be determined by the Trustee having regard to the particular circumstances and the Operational Standards generally.

10.3 Permitted functions of the Policy Committee

The functions that each Policy Committee may undertake include the following:

- (a) providing an avenue:
 - (i) for each Group of Standard Employer-Sponsored Members of the Fund to enquire about the investment strategy and performance of the Fund;
 - (ii) for the Trustee to obtain the views of each Group of Standard Employer-Sponsored Members of the Fund concerning that strategy and performance;
- (b) providing an avenue for each Group of Standard Employer-Sponsored Members of a Fund to enquire about the Fund's operational performance;
- (c) providing an avenue for the Trustee to obtain the views of each Group of Standard Employer-Sponsored Members of a Fund concerning the Fund's operational performance;
- (d) providing an avenue for the Trustee to obtain the views of each Group of Standard Employer-Sponsored Members of a Fund on their information needs;
- (e) assisting the Trustee in dealing with complaints or enquiries about the operation or management of a Fund in which there are Groups of Standard Employer-Sponsored Members.

10.4 Trustee's functions not limited

Clause 10.3 is not to be taken as limiting by implications the functions and responsibilities of the Trustee.

10.5 Meetings and facilities

The Trustee must:

- (a) ensure, so far as practicable, that a Policy Committee meets at least once in any financial year;
- (b) provide facilities that are reasonably necessary to enable a Policy Committee to meet and to function effectively.

10.6 Conduct of meetings

A Policy Committee may establish such rules as it determines in relation to the holding and conduct of its meetings. A Policy Committee meeting may be held wholly or in part by means of a telephone conference connection.

10.7 Trustee to ensure a representative present

The Trustee must arrange for a representative of the Trustee to attend each meeting of a Policy Committee where the Policy Committee requests the Trustee to do so.

10.8 Expenses of Policy Committee

The Trustee may debit the Participants Account maintained in respect of the Participant or the Member's Nominated Accounts in respect of whom the Policy Committee has been established:

- (a) the costs of providing facilities for the Policy Committee to meet;
- (b) the costs incurred by the Trustee in attending a meeting of the Policy Committee; and
- (c) the costs incurred by the Trustee in providing information to the Policy Committee.

10.9 Dissolution of Policy Committee

A Policy Committee may dissolve itself. If it does this the Trustee is taken to have complied with the Trustee's duties to establish a Policy Committee under this Part 10 and under the Operational Standards. Where however a Policy Committee dissolves itself and at least five Employer-Sponsored Members in respect of whom the Policy Committee functioned, requests the Trustee in writing to form a

replacement Policy Committee, the Trustee must take all reasonable steps to do so. The earlier provisions of this Part 10 apply to any such replacement Policy Committee.

11 MANAGEMENT, POWERS AND RESPONSIBILITY

11.1 Trustee to manage each Division

Subject to the provisions of this Deed, the Trustee must manage each Division for the benefit of the Participants and Members with full and complete powers of management.

11.2 Trustee to use best endeavours to protect Investments

The Trustee, itself or by its agent or delegate, must manage and supervise all the Investments made in respect of a Division. The Trustee must use its best endeavours to ensure that all those Investments are kept secure, that all valid notices from and requirements of the relevant authorities in relation thereto are observed and complied with and that they are dealt with in the best interests of the Participants and Members of that Division.

11.3 Trustee to have powers of absolute owner

Subject to the provisions of this Deed the Trustee has all the powers over and in respect of the property and Assets of each Division which it could exercise if it were the absolute and beneficial owner thereof.

11.4 Trustee powers

Without in any way affecting the generality of Clause 11.3, the Trustee may take such action and do such things as it determines necessary to administer the Divisions and to comply with the Operational Standards including:

- (a) making an irrevocable election to become a Regulated Superannuation Fund where appropriate;
- (b) purchasing and selling for Cash or upon terms any Investment and investment of the proceeds of any sale of Investment;
- (c) leasing and accepting surrenders of leases (or agreeing so to do) with power to compromise with lessees and others;
- (d) executing and paying for repairs and improvements;
- (e) instituting, prosecuting, compromising and defending legal proceedings to secure compliance with the terms of this Deed and any Disclosure

Document issued in respect of this Deed or to recover any loss suffered by Participants or Members in respect of their investment under this Deed;

- (f) maintaining reserves in respect of a Division;
- (g) attending and voting by authorised representatives at meetings;
- (h) paying all outgoings reasonably and properly incurred in connection with a Division or this Deed;
- (i) subject to Clause 6.8(d), lending money whether with or without security or interest and on such terms as it determines;
- (j) developing, improving, subdividing, building, rebuilding, altering, extending, replacing, repairing, managing, operating, leasing and otherwise dealing with any Investment and purchasing such plant, equipment and fittings as are necessary having regard to the purposes for which an Investment is from time to time being used or intended to be used;
- (k) entering into performing and enforcing agreements;
- (l) drawing, endorsing, discounting, selling, purchasing and otherwise dealing with bills of exchange either alone or jointly and in particular commercial bills;
- (m) entering into agreements with joint or co-owners of assets an interest in which constitutes an Authorised Investment for the time being held on behalf of a Division for such purposes as the Trustee may consider conducive to the interests of a Division and the relevant Participants or Members;
- (n) setting aside out of the capital and income of each Division such moneys as shall be required to meet the obligations of the Trustee under this Deed;
- (o) paying Benefits;
- (p) borrowing:
 - (i) for any of the purposes;
 - (ii) to the extent; and
 - (iii) for the term,

permitted under the Operational Standards, and giving security for any such borrowing or in any of the Assets of a Division;
- (q) opening Bank accounts, Building Society accounts and operating on those accounts;

- (r) settling, compromising or submitting to arbitration any claims, matters or things relating to this Deed;
- (s) electing to be bound by any legislation, including the Act;
- (t) retaining the services of professional or other advisers in relation to the management and administration of a Division and paying out of the fund all expenses of and incidental to the management and administration of the Plan including the payment of fees to the advisers;
- (u) paying any levies imposed under the Superannuation (Financial Assistance Funding) Levy Act 1993;
- (v) where a Division has a liability to pay a pension or annuity to any person, segregating such of the Assets of the Division as it determines from time to time as being held in respect of the aggregate liability of the Division for all such pensions and annuities;
- (w) doing such other things as may appear to the Trustee to be incidental to any or all of the above powers.

The powers, authorities and discretions conferred on the Trustee by this Deed are in addition to any powers, authorities and discretions conferred by any statute upon the Trustee, and nothing in this Deed limits any such powers, authorities and discretions.

11.5 Delegation of Trustee powers

- (a) The Trustee may delegate any functions, authorities, discretions or powers exercisable by the Trustee (including a power which the Trustee has a duty to exercise) to any person upon such terms and conditions as it determines.
- (b) The Trustee may:
 - (i) revoke any delegation;
 - (ii) exercise any delegated function, authority, discretion or power itself concurrently with or to the permanent or temporary exclusion of a delegate.
- (c) The Trustee will remain liable for any act or omission of any such delegate as if such act or omission were the Trustee's own act or omission.
- (d) The Trustee is responsible for payment of the fees and expenses of any delegate appointed under Clause 11.5(a).

11.6 Appointment of Experts

- (a) Without limiting the generality of Clause 11.5(a), the Trustee may in carrying out and performing its duties and obligations appoint and engage any solicitors, barristers, accountants, surveyors, contractors, real estate agents, computer consultants, land brokers, stock and share brokers or other qualified persons necessary usual or desirable for the purpose of exercising its powers and performing its obligations.
- (b) The Trustee may pay from the Assets of the Division fees, charges and other moneys payable to any person appointed or engaged under Clause 11.6(a) and all disbursements, expenses, duties and outgoings in relation to the appointment or engagement, except for charges and disbursements for those activities in respect of which, if they had been performed by the Trustee personally, the Trustee would have had no right of reimbursement, indemnity or recovery from the Division.

11.7 Arrangements with Investment Managers

- (a) The Trustee may appoint a body corporate as an Investment Manager of a Division. The body corporate may be appointed to act as the only Investment Manager of the Division or to act as one of a number of Investment Managers of the Division.
- (b) A body corporate can not be appointed as an Investment Manager to manage the underlying Investments of an Investment Option of a Division if the body corporate is a Disqualified Person.
- (c) An Investment Manager must be appointed in writing.
- (d) The terms and conditions of the appointment of an Investment Manager must:
 - (i) identify the matters to which the Investment Manager will be required to attend;
 - (ii) contain adequate provision to enable the Trustee to require the Investment Manager from time to time:
 - (A) to provide appropriate information as to the making of, and return on, the investments under management; and
 - (B) to provide such information as is necessary to enable the Trustee to assess the capability of the Investment Manager to manage the investments under management;
 - (iii) provide that the appointment is subject to the following terms and conditions:

- (A) the only investments which can be made on behalf of the Division are those which are Authorised Investments;
 - (B) any investment shall be subject to the restrictions, mutatis mutandis, set out in Part 6;
 - (C) the Investment Manager must assume such of those rights and obligations contained and imposed on the Trustee pursuant to Part 6 as are delegated to the Investment Manager by the Trustee;
 - (D) no Investment can be made by the Investment Manager unless the Trustee or the Custodian is registered as the holder, or the Investment Manager holds as the nominee of the Trustee, of all Cash and assets deposited, lodged or placed with the Investment Manager and of any investments made from the proceeds of such Cash or assets;
 - (E) the Investment Manager's discretion is subject always to the terms and conditions of its appointment;
- (iv) not purport to except the Investment Manager from liability for negligence, or negligence, to limit that liability;
 - (v) confirm the fee which the Investment Manager is to receive in respect of the provision of its services;
 - (vi) confirm the term of the appointment.
- (e) Subject always to the covenants by of the Trustee set out in Clause 9.3, nothing in this Deed prohibits the Trustee from accepting the advice of an Investment Manager to invest the Assets of the Division in Investments of which the Investment Manager is the manager or the trustee.
 - (f) The fees of any Investment Manager must be fixed by the Trustee and are payable out of the Assets of the Division in respect of which the Investment Manager has been appointed.

11.8 Arrangements with Administrators

- (a) The Trustee may appoint an entity to administer a Division.
- (b) The Administrator of a Division must be appointed in writing.
- (c) The terms and conditions of the appointment of the Administrator must:

- (i) identify the matters to which the Administrator will be required to attend;
 - (ii) confirm the fee which the Administrator is to receive in respect of the provision of its services;
 - (iii) confirm the term of appointment.
- (d) The fees of any Administrator must be fixed by the Trustee and are payable out of the Assets of the Division in respect of which the Administrator has been appointed.
- (e) An Employer of a Member must provide to the Administrator such information as is required by the Administrator for it to properly discharge its functions.

11.9 Arrangements with Custodian

- (a) The Trustee may appoint a body corporate as the Custodian of a Division to receive, hold and retain registration of the Investments of the Division in the name of the Trustee or, with the approval of the Trustee, in the name of the Custodian as nominee for the Trustee and which is a body corporate which:
- (i) is independent of the Trustee;
 - (ii) carries on in any jurisdiction in which it is to be appointed so to act as its principal business the business of banking or the provision of trustee services;
 - (iii) agrees irrevocably to submit to the non-exclusive jurisdiction of the courts of competent jurisdiction in the State of New South Wales in respect of all matters relating to its appointment; and
 - (iv) is eligible for appointment under the Operational Standards.
- (b) The Custodian of the Trustee must be appointed in writing.
- (c) A body corporate appointed as a Custodian may be appointed to perform the following actions in the name of the Trustee or at the direction of the Trustee in its own name or in a name nominated by the Custodian and approved by the Trustee as nominee for the Trustee:
- (i) purchase or sell in a country in which the Custodian is resident at the direction of the Trustee, Authorised Investments and execute all transfers and assurances necessary for such purpose;

- (ii) receive and hold on behalf of the Trustee, any Authorised Investments and any document of title thereto in safe custody in the country of purchase;
 - (iii) procure registration of such Authorised Investments in registrable form;
 - (iv) procure safe custody of such Authorised Investments in bearer form by a recognised clearing system nominated by the Custodian;
 - (v) receive hold and disburse moneys in the name of the Trustee at the direction of the Trustee; and
 - (vi) to perform all actions incidental to any of the foregoing powers.
- (d) The Trustee may by the terms of any appointment of a Custodian insert such provisions for the protection and convenience of those dealing with any such Custodian as it thinks fit provided that notwithstanding any such appointment the Trustee shall remain liable for any act or omission of any Custodian as if any such act or omission was an act or omission of the Trustee.
- (e) The Trustee is responsible for the payment of the fees and expenses of such Custodian but is entitled to be reimbursed in respect of any such fees and expenses out of the Expense Reserve Account as an expense of the Division.

11.10 Insurance

- (a) The Trustee may:
- (i) effect any policy or policies of insurance it considers necessary or desirable to provide for all or any part of the Benefits payable from a Division, on such terms and conditions and for such periods as the Trustee determines ("the Insured Benefit");
 - (ii) accept an assignment of a policy of insurance on such terms as the Trustee determines;
 - (iii) discontinue or surrender a policy of insurance at any time,
- and must insure and keep insured or cause to be insured and kept insured in the name of the Trustee on a replacement or reinstatement basis or for such amounts as may from time to time be determined by the Trustee with such insurance company (which may not be an insurance company related to the Trustee) as may be determined by the Trustee, the Investments which are of a nature or kind capable of being insured against fire and such

other risk (including loss of rents for not less than 1 year) as the Trustee deems prudent.

- (b) The Trustee may effect or acquire a policy of insurance which relates to more than one Participant or Member.
- (c) For the purposes of effecting, increasing or otherwise varying any policy of insurance the Trustee may from time to time request a Participant or Member or any Applicant to:
 - (i) be medically examined;
 - (ii) submit other evidence of health, habits or pastimes;
 - (iii) provide proof of age to the satisfaction of the Insurer;
 - (iv) take such other steps as may be required by the Trustee or the Insurer for the purposes of insurance.
- (d) If any Participant or Member:
 - (i) fails to undergo a medical examination reasonably required by the Trustee or the Insurer;
 - (ii) fails to supply information to the Insurer or the Trustee; or
 - (iii) fails to undertake any other step which is reasonably required by the Trustee or the Insurer for the purposes of insurance,

with the result that the policy is or might be avoided or the policy proceeds or any part of the policy proceeds do not or might not become payable, the Trustee may adjust the benefits to be provided for or in respect of the Participant or Member to reflect that result.
- (e) Where the Insurer refuses to underwrite a Participant's or Member's Insured Benefit for the amount the Trustee requests or refuses to do so on terms acceptable to the Trustee as to premiums or otherwise, the Trustee may modify the level of Benefits payable in respect of that Member to reflect the extent to which the level of insurance requested is not available unless the Participant, the Member or the Member's Employer, agrees to pay any additional premiums required to insure the amount the Trustee requested.
- (f) Where the Insurer, having underwritten a Participant's or Member's Insured Benefit for the amount the Trustee requests, refuses to pay any part of the Insured Benefit on the Participant or Member becoming entitled to a Benefit under this Deed for which the insurance was taken out, the Trustee may reduce the amount of the Benefit payable to or in respect of the Participant or Member to reflect the amount the insurance company refuses to pay.

- (g) The Trustee may modify the Benefits payable from a Division in respect of a Participant or Member on the Participant's or Member's death or Total and Permanent Disablement if any part of that Participant or Member's Insured Benefit is not effected at first class rates of premium, to the extent necessary to reflect the higher premium rate.
- (h) The Trustee must notify a Participant or Member and the Division I Participant in respect of whom the Member has been admitted of any adjustment, reduction or modification of the Participant's or Member's Insured Benefit under this Clause 11.10.

11.11 Transfer of taxation liability

- (a) Should the Trustee act in respect of a Division which is a Regulated Superannuation Fund, the Trustee may, in respect of any Financial Year give notice to the Trustee of Division II or to the trustee of any other Pooled Superannuation Trust, or a Life Insurance Company or Registered Organisation of its intention to give a notice to the Commissioner of Taxation under section 275(1) of the Tax Act stating that section 275 applies to the Trustee and stating the amount to be included in the assessable income of Division II or of any other Pooled Superannuation Trust, the Life Insurance Company or Registered Organisation in respect of the Financial Year concerned, and where the Trustee of Division II or the trustee of any other Pooled Superannuation Trust, the Life Insurance Company or the Registered Organisation as the case may be, gives its consent to the same, give a notice in writing to the Commissioner of Taxation to that effect.
- (b) Where a Division II Participant, other than the Trustee, gives notice to the Trustee of Division II of its intention to give a notice to the Commissioner of Taxation under section 275(1) of the Tax Act stating that section 275 applies to the Participant and stating the amount to be included in the assessable income of Division II for a particular Financial Year pursuant to the notice to be given to the Commissioner of Taxation, the Trustee of Division II may consent to the giving of the notice to the Commissioner of Taxation and the amount stated in the notice shall if the Trustee so consents be included in the assessable income of Division II for that Financial Year.

12 TRUSTEE'S INDEMNITIES

12.1 Effect and limitation of Indemnities

- (a) The indemnities given to the Trustee in this Part 12:

- (i) are without prejudice to any indemnity allowed by law or elsewhere in this Deed given to the Trustee;
 - (ii) must be read and construed and take effect subject to the covenants in this Deed on the parts of the Trustee and in particular in Clause 9.3; and
 - (iii) must each be read and construed and take effect subject to the provisions of Clause 12.5.
- (b) The indemnities given to the Trustee in this Part 12 only take effect subject to the limitations in Clause 12.6.

12.2 Indemnity

The Trustee shall be indemnified by a Division in respect of which it acts against all liabilities incurred by it in the execution or attempted execution of the trusts, authorities and powers and discretions contained in this Deed in respect of that Division.

12.3 Examples of indemnity

Without limiting the purpose of Clause 12.2 and only for the purpose of confirming the same:

- (a) Trustee's indemnity for legal fees

The Trustee will be indemnified out of a Division from and against any expense and liability that may be incurred in prosecuting, defending, settling, mediating or intervening in any action or suit in respect of the provisions of this Deed in respect of the Division.

- (b) No liability for performance of or failure to perform legally restrained acts

The Trustee will not incur any liability to anyone in respect of doing or performing or failing to do or perform any act or thing which, by reason of any provision of any present or future law of the Commonwealth of Australia or any State or Territory thereof or any ordinance rule regulation or by-law made pursuant thereto or of any decree order or judgment of any court of competent jurisdiction the Trustee is required to do or perform or is hindered prevented or forbidden from doing or performing.

- (c) No liability for reliance in good faith on information provided

The Trustee will not incur any liability to anyone in consequence of the Trustee relying in good faith on information provided to the Trustee by any Participant or Member or any other person on behalf of a Participant or Member which proves to be incorrect.

(d) No liability for Taxes paid

The Trustee is not liable to account to Participants or Members or their Dependants or the Legal Personal Representative of a Participant or Member for any payments made by the Trustee in good faith to any duly empowered fiscal authority for Taxes made upon or in respect of a Division or with respect to any transaction hereunder, notwithstanding that any such payment ought or need not have been made.

(e) Trustee's advisers

The Trustee may act upon the opinion, advice of or information obtained from barristers or solicitors being persons independent of the Trustee and instructed by the Trustee and upon any statement of or information obtained from any bankers, accountants or other persons appointed by the Trustee being persons independent of the Trustee and believed by the Trustee in good faith to be expert in relation to the matters upon which they are consulted and the Trustee is not liable for anything done or suffered by it in good faith in reliance upon any such opinion advice statement or information.

(f) Trustee not responsible for adviser's mistake

The Trustee is not responsible for any misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of any Auditor, Actuary, Approved Valuer, Investment Manager, Custodian, Administrator, attorney, banker, receiver, receiver and manager, barrister, solicitor, agent or other person acting hereunder as agent or adviser of the Trustee.

(g) Trustee may rely on documents etc

The Trustee is not liable for any action taken or thing suffered by the Trustee in reliance upon any notice, resolution, direction, consent, certificate, receipt, affidavit, statement, application or other paper or document reasonably believed by the Trustee to be genuine and to have been possessed produced passed signed or endorsed by the proper parties where liability but for this indemnity would attach by reason solely that such paper or document was not, in fact, genuine or so possessed produced passed signed or endorsed.

(h) Trustee's liability limited to Assets held by it

In no event will the Trustee be bound to make any payment to Participants or Members or their Dependants or the Legal Personal Representatives of Participants or Members except out of the Division to which those Participants or Members have been admitted or be liable to Participants or Members or their Legal Personal Representatives to any greater extent

than the Assets of the Division in respect of the Participant or Member vested in or received by the Trustee in accordance with this Deed.

(i) Trustee indemnified for investments with liabilities

Should the Trustee purchase or otherwise acquire any Authorised Investment in regard to which there is a liability, the Trustee has a right of indemnity out of a Division in respect of that liability.

(j) No liability for failure of Corporation

In the event of the liquidation or dissolution of any Corporation whereupon, or if for any other reason, it becomes impossible or impractical to carry out the provisions of this Deed in respect of such Corporation or otherwise, the Trustee shall not be under any liability therefor or thereby incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done by it in good faith hereunder.

(k) No liability for duties and charges

The Trustee is not required to effect any transaction or deal with any part of the Investments on behalf of or for the benefit or at the request of any Participant or Member unless such Participant or Member shall first have paid in Cash or otherwise provided to the Trustee's satisfaction for all duties, Taxes, governmental charges, brokerage, transfer fees, registration fees and other charges (whether similar to the foregoing or not and including, without limitation, all financial institutions duties, debits taxes, land taxes and income and capital gains taxes) and whether in respect of the relative part of the Investments or otherwise (herein called collectively "duties and charges") which may have become or may be payable in respect of or prior to or upon the occasion of such transaction or dealing provided always that the Trustee shall be entitled if it so thinks fit to pay and discharge all or any of such duties and charges on behalf of the Participant or Member and to retain the amount so paid out of any moneys or property to which such Participant or Member may be or become entitled hereunder.

12.4 Trustee's indemnity to be from Division

In the event that the Trustee has incurred a liability as Trustee and the Trustee is entitled under the terms of this Deed or otherwise as allowed by law to be indemnified in respect of such liability out of a Division, the Trustee may claim such indemnity from the relevant Division but the Trustee is not entitled to be indemnified in respect of that liability by any Participant or Member unless by a separate agreement with that Participant or Member.

12.5 Trustee's duties, remedies etc not limited

Nothing in this Deed limits the Trustee's covenants stated in Clause 9.3 or restricts or prevents any determination as to whether there has been a breach of trust or affects the exclusive operation of the provisions of any statute prescribing the circumstances under which the Trustee may obtain relief from a breach of trust.

12.6 Indemnities limited

Nothing in this Deed and in particular this Part 12 exempts the Trustee from liability for or indemnifies the Trustee against:

- (a) a breach of trust in respect of a Division where the Trustee:
 - (i) failed to act honestly in a matter concerning the Division; or
 - (ii) intentionally or recklessly failed to exercise in relation to a matter affecting the Division, the degree of care and diligence that the Trustee was required to exercise; or
- (b) a monetary penalty under a Civil Penalty Order.

References in this Part 12 to the Trustee include directors of the Trustee acting in that capacity.

13 REMUNERATION AND EXPENSES**13.1 Remuneration of Trustee**

The Trustee may pay itself out of the Assets of each Division in respect of which it acts as Trustee and debit against the Expense Reserve Account maintained in respect of that Division by way of remuneration for its services a fee, calculated as at the close of business on the last day of each Month and payable within fourteen (14) days of that date, of an amount up to but not exceeding the total of the following Charges imposed pursuant to this Part 13 in respect of the Division during the same Month:

- (a) the Investment Charge;
- (b) the Administration Charge;
- (c) the Contribution Charge; and
- (d) the Participation Charge.

The Trustee may receive a different fee calculated in accordance with this Clause 13.1 in respect of each Division.

13.2 Reimbursement of Expenses

To the extent that there is a credit balance in the Expense Reserve Account maintained in respect of a Division in respect of which the Trustee acts the Trustee shall be entitled to seek reimbursement from time to time out of that Expense Reserve Account for any Expenses of the Division which the Trustee has paid for out of its own moneys subject to the proviso that the Trustee cannot seek reimbursement of any Expense if the effect would be to create a negative balance in the Expense Reserve Account of that Division. If there is insufficient cash in its hands to pay any such reimbursement, the Trustee is entitled to sell or realise out of the relevant Division such Investments as it considers necessary to enable the Trustee to meet payment of the Expenses and to apply the proceeds of sale or realisation in meeting such Expenses and making payment as aforesaid.

13.3 Commission and brokerage

The Trustee may debit from each Participant's Participants Account or Member's Nominated Accounts and credit to the Expense Reserve Account maintained in respect of the Division to which the Participant or Member has been admitted, any commission or brokerage payable in respect of an application or agreement to procure applications for participation in a Division or in respect of the trading by the Participant or Member of the shares held in the Plan by that Member or Participant.

13.4 Investment Charge

The Trustee may from time to time levy a Participant with such fee as the Trustee may determine from time to time and thereafter credit the amount of the fee to the Expense Reserve Account maintained in respect of the Division to which the Participant or Member has been admitted.

13.5 Administration Charge

The Trustee may debit from each Participant's Participants Account or Member's Nominated Accounts on the last Business Day of each Month and credit to the Expense Reserve Account maintained in respect of the Division to which the Participant or Member has been admitted thereafter a percentage of the balance standing to the credit or dollar amount ²¹of the Participant's ²²Account or Member's Nominated Accounts established in respect of that Participant or Member as determined by the Trustee from time to time.

²¹ Deed of Variation dated 20 October 2006

²² Deed of Variation dated 20 October 2006

13.6 Contribution Charge

Upon the payment of any Contribution to a Division or upon a transfer to the Division of moneys in respect of a Participant or Member of that Division, the Trustee must credit the Contributions or transfer received to the relevant Participants Account or Member's Nominated Accounts and the Trustee shall be entitled to deduct from that account and credit to the relevant Expense Reserve Account as a Contribution Charge a percentage of the amount of each such Contribution or transfer or dollar amount²³ as determined by the Trustee from time to time.

13.7 Participation Charge

The Trustee may, on the last Business Day of each Month, debit from:

- (a) each Division I Participant's Participants Account a Participation Charge of an amount as determined by the Trustee for each of the Employees of the Division I Participant who have been admitted to membership of Division I; and
- (b) each Division I Participant's Participants Account or Member's Nominated Accounts, other than a Division I Participant or Member in respect of whose participation a charge has been imposed pursuant to paragraph (a) hereof, a Participation Charge of an amount as determined by the Trustee from time to time,

and credit the Participation Charge to the relevant Expense Reserve Account.

14 TRANSFERS AND TERMINATIONS

14.1 Transfers to Approved Benefit Arrangements

- (a) Transfers to Approved Benefit Arrangements

Where a Member or Participant joins or is eligible to join any Approved Benefit Arrangement and requests the transfer of the whole or part of his or her entitlement in the Plan, or if the Trustee wishes to transfer the whole or part of the entitlement held on behalf of a Member or Participant to an Approved Benefit Arrangement where the Member or Participant is not at the time of the transfer a participant in that Approved Benefit Arrangement, and the Operational Standards enables such a transfer to take place, then the Trustee may transfer the whole or any part of the amount in the Plan representing the Member's or Participant's Benefit to the trustee of the Approved Benefit Arrangement PROVIDED THAT a transfer may only be made pursuant to this sub-clause where the Trustee is satisfied that:

²³ Deed of Variation dated 20 October 2006

- (i) the transfer is permitted under, and is made in accordance with, the Operational Standards; and
 - (ii) the rights of the Member, Participant or the Beneficiaries of the Member or Participant to receive the Benefits arising from the amount transferred are fully secured.
- (b) Effect and Method of Transfer Out
- (i) The receipt of the transferred amount by the proper officer of the Approved Benefit Arrangement shall be a complete discharge to the Trustee of all liabilities in respect of the transferred amount and the Trustee shall have no responsibility to see to the application of the transferred amount; and
 - (ii) Upon the completion of a payment or transfer in respect of a Member, Participant or Beneficiary under this Clause all the rights and interest of that Member, Participant or Beneficiary under this Deed (and all the rights and interest of any person otherwise entitled to claim in respect of the Member, Participant or Beneficiary or on the occurrence of any event or circumstances affecting the Member, Participant or Beneficiary) in respect of the transferred amount shall be entirely extinguished.

(c) Rollover

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

- (i) make a request to the Trustee in writing nominating the Approved Benefit Arrangement to which the Roll Over Payment is to be made and the amount to be applied as the Roll Over Payment or the percentage of the Member's Nominated Accounts or Participant's Participants Account to be applied as the Roll Over Payment; and
- (ii) complete and execute a notification of the Roll Over Payment or such other documentation as shall be required by the Tax Act to enable the Roll Over Payment to be effected to the Approved Benefit Arrangement in accordance with the Operational Standards.

(d) Eligible Rollover Funds

The Trustee may in accordance with the Operational Standards and, where required by the Operational Standards the Trustee shall, transfer a Member's or Participant's Benefit to an Eligible Rollover Fund and shall

provide any information to the trustee of the Eligible Rollover Fund at such time and in such manner as required by the Operational Standards.

(e) Preserved Payment Transfers

Where a Member, Participant, former Member or former Participant has preserved Benefits in the Plan which form part of the amount transferred or rolled over to an Approved Benefit Arrangement, the Trustee shall ensure that the governing rules of the Approved Benefit Arrangement provide that if the Member or Participant wishes to leave the Approved Benefit Arrangement the amount of the preserved Benefit must be preserved and vested in accordance with the Operational Standards²⁴.

14.2 Transfer between Divisions

- (a) Where a Participant who is an Eligible Person or Member is eligible for participation in another Division, the Participant or Member may, in the case of a Member with the consent of the Division I Participant, in such form as the Trustee from time to time prescribes request the Trustee to transfer participation or membership from the Division to which the Participant or Member is currently admitted to the other Division the Participant or Member is eligible to join.
- (b) Where the Trustee agrees to a request by a Participant or Member under Clause 14.2(a), the Trustee must as soon as practicable:
- (i) confirm with the Participant or Member the terms and conditions of the transfer;
 - (ii) amend the Registers and accounts of the Divisions to record the transfer.

14.3 Termination of Participation

- (a) A Participant may in such form as the Trustee may from time to time prescribe request the Trustee to terminate the Participant's participation in the Division to which the Participant has been admitted on a date which shall be not less than thirty (30) days from the date of such request.
- (b) If at any time the balance standing to the credit of a Participant's Participants Account is less than the minimum Participant Account balance nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time the Trustee may treat the Participant as having given the Trustee a Termination Request.

²⁴ Deed of Variation dated 13 October 1998

- (c) Subject to Clause 14.3(d) the Trustee may, in its absolute discretion, by notice in writing to any Participant terminate the participation of the Participant in a Division, such termination to take effect not less than fifteen (15) days from the date of such notice.
- (d) The Trustee must within fourteen (14) days of the occurrence of a Statutory Terminating Event in respect of a Division II Participant by notice in writing to the Division II Participant propose the termination of the participation of the Participant in Division II, such termination to take effect within thirty (30) days from the date of such notice (such notice to be hereinafter called "the Notice of Proposed Termination").

14.4 Procedure on Termination of Participant who is an Employer

The Trustee must within fifteen (15) days of the Termination Date in respect of a Division I Participant who is an Employer:

- (a) notify the Division I Participant ("the Retiring Participant") of all arrears, if any, of Contributions due pursuant to the Rules of Division I up to the Termination Date, and demand that the Retiring Participant forthwith pay any such arrears;
- (b) calculate and pay any Benefits which have become payable on or before the Termination Date in respect of those Members who were Employees of the Retiring Participant ("the Relevant Members");
- (c) calculate and certify to the Retiring Participant the value of the Benefit;
- (d) notify the Relevant Members of the termination of participation of the Retiring Participant;
- (e) make such arrangements as it thinks proper with the Retiring Participant or Relevant Members or the trustee of an Approved Benefit Arrangement to ensure the amount of the Members' Proportional Interest in the Assets of Division I is maintained until such time as Benefits otherwise payable in lieu of the Members' Proportional Interest in the Assets of Division I would have been paid to the Member²⁵;
- (f) if after providing Benefits to the Members determined pursuant to paragraph (b) hereof and the Members' Proportional Interest in the Assets of Division I pursuant to paragraph (c) hereof a surplus remains in the Retiring Participant's Participants Account, the amount of such surplus shall be paid, subject to the Operational Standards permitting the same, to the Retiring Participant or distributed in such other manner as the Retiring

²⁵ Deed of Variation dated 13 October 1998 – see paragraph 5, which refers to clause 14.4(f). The reference should be to clause 14.4(e)

Participant prescribes. Where the Operational Standards do not permit the payment of any surplus to the Retiring Participant as proposed the Trustee must take such action to distribute any such surplus as it determines is in the best interests of the Members in the circumstances and does not breach the Operational Standards.

14.5 Procedure on Termination of Division I Participants who are Eligible Persons and of other Participants

The Trustee must within fifteen (15) days after the Termination Date in respect of a Division I Participant who is an Eligible Person and other Participants who are Eligible Persons:

- (a) calculate the balance in the Participant's Participants Account;
- (b) transfer the balance in the Participant's Participants Account to an Approved Benefit Arrangement as directed by the Participant²⁶.

14.6 Procedure on Termination of a Division II Participant

The Trustee shall within fifteen (15) days after the Termination Date applicable to a Division II Participant calculate the balance in the Participant's Participants Account and pay the balance to the Division II Participant.

14.7 Termination of Membership

A Member ceases to be a Member upon the:

- (a) payment of the full amount of the Member's Benefit;
- (b) transfer of the whole of the value of the Member's accrued Benefit pursuant to Clause 14.1; or
- (c) the Trustee dealing with the Member's Benefit pursuant to Rule 6 of Division I.

14.8 Transfer of Assets

Where on the termination of a Participant's or Member's participation:

- (a) the Trustee determines that it is not reasonably practicable to realise any Assets of the Division acquired for the purpose of implementing an investment strategy nominated by the Participant or Member within a reasonable time after the Termination Date; or

²⁶ Deed of Variation dated 13 October 1998

- (b) the Participant or Member requests the Trustee to transfer Assets of the Division to which the Participant or Member is admitted in satisfaction of the Participant's or Member's entitlement on termination,

the Trustee may transfer any of the Assets of that Division to the Participant or Member in part or full satisfaction of the Participant's or Member's entitlement on termination.

14.9 Costs on transfer of Assets

The value of any Assets of a Division transferred pursuant to Clause 14.8 shall be calculated at market value and the costs of any brokerage stamp duty transfer fees and other charges incurred in transferring such assets shall be borne by the Participant or Member. In directing the transfer of any Assets of a Division, the Trustee may make or receive Cash payments or otherwise adjust the value of the amount transferred and may settle any question arising in relation to the transfer in any manner which appears to it to be just.

14.10 Information on termination

The Trustee shall give to:

- (a) any Participant or Member whose participation terminates; and
- (b) any Member whose participation terminates on the termination of the Division I Participant's participation,

such information as the Operational Standards require to be given to that Participant or Member, within the Prescribed Period.

14.11 Cashing Restriction

Where the termination of a Participant or Member is to be effected pursuant to this Clause and there is an amount in question in respect of the Participant or Member which is subject to a Cashing Restriction then the amount can only be dealt with as prescribed by Clause 4.4.(b).

15 APPOINTMENT OF AUDITOR, ACTUARY AND VALUERS

15.1 Appointment

The Trustee may from time to time:

- (a) appoint an Approved Auditor or Auditors of each Division to perform the functions of the Auditor required by this Deed;

- (b) appoint an Actuary to perform the functions of the Actuary required by this Deed;
- (c) appoint a person or firm who is experienced in relation to the valuation of assets or investments of the kind required to be valued and in the case of Land, such person must be a member of the Australian Institute of Valuers (or if such Institute has ceased to exist of some other institute or body serving substantially the same objects).

15.2 Remuneration

The remuneration of any Auditor, Actuary or Approved Valuer must be fixed by the Trustee and shall be payable out of the Assets of the Division in respect of which the Auditor, Actuary or Approved Valuer has been appointed.

15.3 Retirement

Each of any Auditor, Actuary or Approved Valuer appointed may retire upon the expiration of three (3) Month's notice to the Trustee or such shorter period as the Trustee may agree to.

15.4 Removal

Any person appointed pursuant to this Clause may at any time be removed from office in respect of the Divisions or any of them:

- (a) by the Trustee; or
- (b) by an Extraordinary Resolution of the Participants of the Divisions or the relevant Division.

15.5 Replacement

Any vacancy in the office of Auditor, Actuary or Approved Valuer must be filled by the Trustee appointing an Auditor, Actuary or Approved Valuer who has the qualifications described in Clause 15.1.

16 ACCOUNTS AND AUDIT

16.1 Records to be kept

The Trustee must keep or cause to be kept such accounting records as:

- (a) correctly record and explain the transactions and financial position of each Division and Sub-Plan;

- (b) enable the preparation from time to time of true and fair accounts of each Division and Sub-Plan as required by the Operational Standards;
- (c) enable the returns of each Division to be prepared in accordance with the Operational Standards; and
- (d) enable the accounts, statements and returns of each Division to be conveniently and properly audited in accordance with the Operational Standards.

16.2 Accounting records

The accounting records must be:

- (a) kept at the registered office of the Trustee or at such other place as the Trustee may from time to time determine;
- (b) retained for at least the Prescribed Period after the end of the Financial Year to which the transactions relate;
- (c) kept in Australia; and
- (d) kept in writing in the English language or in a form in which they are readily accessible and readily convertible into writing in the English language.

16.3 Inspection of accounting records

The accounting records of the Trustee are open to the inspection of the Auditor at all reasonable times. The Auditor is entitled to require from the Trustee and to be given such information accounts and explanations as may be necessary for the performance of the duty of the Auditor.

16.4 Accounts

- (a) At the end of each Financial Year, the Trustee must, within the Prescribed Period:
 - (i) prepare or cause to be prepared the Accounts relating to each Division; and
 - (ii) where the Trustee determines it appropriate may or the Operational Standards require it prepare or cause to be prepared the Accounts relating to a Sub-Plan.
- (b) The Accounts of a Division or Sub-Plan must be prepared in accordance with the requirements of:
 - (i) the Operational Standards; and

- (ii) to the extent determined by the Trustee, the Australian Accounting Standards.

16.5 Preparation of accounting records

At the time of preparation of the Accounts the accounting records prepared in accordance with this Part 16 must be audited by the Auditor.

16.6 Auditor to report on certain matters

The Trustee must use its best endeavours to ensure that the Auditor executes any audit certificate relating to the Accounts in the form prescribed in the Operational Standards within the Prescribed Period.

16.7 Provision of information to Participants

The Trustee will send or cause to be sent by post within the Prescribed Period to each Participant entered on the Register of Participants on the last Business Day of the Financial Year such information in relation to the Accounts as the Operational Standards may require at that time.

16.8 Provision of information to Members

The Trustee will send or cause to be sent by post within the Prescribed Period to each Member entered on the Register of Members on the last Business Day of the Financial Year and at such other times as the Operational Standards may require such information in relation to the Accounts of Division I as the Operational Standards may require at that time.

17 MEETINGS

17.1 Trustee may convene meetings

The Trustee may convene a meeting of Participants of the Divisions or a meeting of the Participants of any particular Division at any time.

17.2 Participants may requisition meeting

The Trustee must:

- (a) on the requisition of not less than fifty (50) or one-tenth in number, whichever is the less of the Participants forthwith convene a meeting of the Participants;

- (b) on the requisition of not less than fifty (50) or one-tenth in number, whichever is the less of the Participants of a Division forthwith convene a meeting of the Participants of that Division.

The requisition must state the objects of the meeting and the terms of any resolution proposed to be submitted to the meeting. The requisition must be signed by the requisitionists and deposited at the registered office of the Trustee and may consist of several documents in like form each signed by one or more requisitionists. The Trustee must make available all information in its possession in connection with the same. If the Trustee does not within twenty-one (21) days from the date of the requisition being so deposited duly proceed to convene a meeting of the Participants or the Participants of the particular Division, the requisitionists or a majority of them in number may themselves convene the meeting but any meeting so convened shall not be held after three (3) Months from the date of such deposit. Any meeting convened under this Clause by the requisitionists shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by the Trustee except that the requisitionists shall give the like notice to the Trustee. The omission to give such notice to or the non-receipt of such notice by the Trustee invalidates the meeting but the Trustee may waive such omission or non-receipt.

17.3 Notice of meeting

- (a) At least ten (10) Business Days' notice of a meeting specifying the place day and hour of the meeting is to be given to Participants.
- (b) The Trustee will ensure that any notice of meeting contains adequate notice of:
 - (i) any matters to be considered at the meeting of which it is aware;
 - (ii) any resolutions to be put to the meeting of which it is aware; and
 - (iii) a summary of information relating to those matters and resolutions that is relevant to the decision of a Participant on how to vote at the meeting.
- (c) The accidental omission to give such notice to or the non-receipt of such notice by any Participant shall not invalidate the meeting. The accidental omission to give such notice to or the non-receipt of such notice by the Trustee invalidates the meeting but the Trustee may waive such omission or non-receipt.

17.4 Right of audience

The Auditor and the representatives of the Trustee are entitled to attend any meeting of Participants or of Participants of a particular Division with or without their

respective solicitors and/or counsel and all such persons shall have the right of audience thereat.

17.5 Chairman

At a meeting convened by the Trustee some person nominated by it (whether a Participant or not) shall preside as chairman. If no such person is present or is present but unwilling to act within fifteen (15) minutes after the time appointed for holding the meeting the Participants present shall choose one of their number to preside as chairman.

17.6 Quorum

No business shall be transacted at any such meeting unless a quorum is present when the meeting proceeds to business. The quorum shall be fifty (50) or at least ten per centum (10%) of the number of Participants whichever is the lesser number or in the case of a meeting of Participants of a particular Division fifty (50) or at least ten per centum (10%) of the number of Participants of that particular Division whichever is the lesser number. If within fifteen (15) minutes from the time appointed for any meeting a quorum is not present the meeting shall:

- (a) if called for the purpose of passing an Ordinary Resolution stand adjourned to the same day in the next week at the same time and the same place;
- (b) if called for the purpose of passing an Extraordinary Resolution stand adjourned for such period as the chairman shall direct,

provided notice of the proposed Ordinary or Extraordinary Resolution as the case may be and of the fact that those present in person or by proxy will constitute a quorum at an adjourned meeting and the place day and hour of such adjourned meeting have been given to the Participants by the Trustee.

At an adjourned meeting convened pursuant to paragraphs (a) and (b) hereof, the Participants present in person or by proxy shall form a quorum and shall have power to pass the resolutions to be proposed thereat.

17.7 Method of voting

- (a) Every question submitted to a meeting of Participants or meeting of Participants of a particular Division shall be decided in the first instance by a show of hands provided that a poll shall be taken in any case where it is required by this Deed or by law that the question be decided by a majority which is measured by a percentage of the votes cast by those present or where a poll be properly demanded as provided in Clause 17.8.
- (b) On a show of hands every Participant who is present in person or by proxy shall have one vote and on a poll every Participant shall have one vote for

each One Dollar (\$1.00) or part thereof standing to the credit of the Participant's Participants Account at the close of business forty-eight (48) hours prior to the meeting.

17.8 Poll

At any meeting of Participants unless a poll is demanded by the chairman or at least ten (10) Participants holding or representing by proxy at least ten percent (10%) of the total voting rights of all Participants of the Plan or in the case of any meeting of Participants of a particular Division unless a poll is demanded by the Chairman or at least ten (10) Participants of that Division holding or representing by proxy at least ten percent (10%) of the total voting rights of Participants of that Division, a declaration by the chairman that a resolution has been carried or carried by any particular majority or lost or not carried by any particular majority shall be conclusive evidence of the fact. A poll may be demanded either before or immediately after any question is put to a show of hands.

17.9 Manner of poll

If at any meeting a poll is demanded as provided in Clause 17.8 it shall be taken in such manner and either at once or after an adjournment as the chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. Any poll demanded at any meeting of Participants or at any meeting of Participants of a particular Division on the election of the chairman or any question of adjournment shall be taken at the meeting without adjournment. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

17.10 Effect of resolution

A resolution (whether Ordinary or Extraordinary) passed at a meeting of Participants or Participants of a particular Division duly convened and held in accordance with this Part 17 shall be binding upon all the Participants or the Participants of that particular Division whether present or not present at such meeting and each of the Participants and the Trustee are bound to give effect thereto accordingly.

17.11 Corporations

A corporation being a Participant may vote by any representative authorised in writing to act as its representative for such purpose or by proxy who shall be entitled to speak demand a poll vote and in all other respects exercise the rights of a Participant and shall be reckoned as a Participant for all purposes.

17.12 Objection to qualification of voter

Subject to Clause 17.13 no objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting and his decision shall be final and conclusive.

17.13 Proxies

Votes may be given by proxy in accordance with the following conditions:

- (a) On a show of hands and on a poll votes may be given either personally or by proxy and a proxy shall have the same right of audience as a Participant.
- (b) The instrument appointing a proxy shall be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing or if the appointor is a corporation either under its common seal or under the hand of an officer or attorney duly authorised.
- (c) Any person may act as a proxy whether or not the person is a Participant.
- (d) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority or a legible facsimile transmission copy of the instrument appointing a proxy where that instrument is signed under the hand of the Participant must be deposited at the registered office of the Trustee or at such other place as is specified for that purpose in the notice of meeting not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote. In default the instrument shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of twelve (12) Months from the date named in it as the date of its execution.
- (e) An instrument appointing a proxy may be in the following form or in any form which the Trustee shall approve:

The AustChoice Superannuation Plan

"I,

of

being a registered Participant of Division ... of the Plan hereby
appoint

of

or, in his/her absence the chairman of the meeting to vote for me and on my behalf at the meeting of the Participants/Participants of Division ... of the Plan to be held on the day of 19 and at any adjournment thereof.

Dated this day of 19 .

The Common Seal of
 was hereunto affixed in
 accordance with its Articles
 of Association in the
 presence of:

I direct my proxy to vote for/against the proposed resolution. (In the absence of direction the proxy may vote as he/she thinks fit or abstain from voting.)"

- (f) A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death insanity or revocation shall have been received by the Trustee before the commencement of the meeting or adjourned meeting at which the proxy is used.

17.14 Adjournment of meeting

The chairman may with the consent of any meeting of Participants adjourn the same from time to time and from place to place.

17.15 Minutes

Minutes of all resolutions passed and proceedings at every meeting of Participants shall be made and duly entered in a book to be provided for that purpose by the Trustee and any such minutes as aforesaid if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting (if any) of Participants shall be conclusive evidence of the matters therein stated and until the contrary is proved

every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat and proceedings to have been duly passed and had.

18 VARIATION OF DEED AND RULES

18.1 Power to amend

Subject to any restrictions on amendment of trust deeds in the Operational Standards and in Clause 18.4, the Trustee may so long as it is reasonably satisfied that the alteration, modification, addition or deletion will not adversely affect the interests or entitlements of the Participants and Members of any Division by deed supplemental to this Deed alter, modify, add to or delete any of the provisions of this Deed, including this Clause.

18.2 Date of effect

An amendment may take effect from a date before or after it is made.

18.3 Notification of amendment

The Trustee must give to Participants and Members, within the Prescribed Period, the information required by the Operational Standards concerning the changes effected by the amendment. The failure to so notify the Participants and Members does not invalidate the amendment in any way.

18.4 Restriction on amendment

- (a) An amendment must not impose any increase in liability on any Employer or other Participant or Member to contribute to the Plan without the consent of the Employer, Participant or Member.
- (b) An amendment must not permit an individual to be eligible for appointment as Trustee of a division which is a Regulated Superannuation Fund unless the provisions of this Deed regulating the operation of that Division is amended to provide, and will continue to provide after the amendment is made, that the Division has as its sole or primary purpose the provision of old-age pensions.

18.5 Purpose of restriction

The purpose of Clause 18.4 is to comply with restrictions on amendments of trust deeds imposed on Regulated Superannuation Funds. If those restrictions are amended, then the restriction in Clause 18.4 shall be construed and applied in a corresponding manner.

18.6 Amendment because of legislation

The Trustee shall (without limiting the provisions of Clause 18) take all reasonable steps necessary to cause this Deed to be amended from time to time to satisfy the requirement of any statute, ordinance, rule, regulation or by-law or with the requirement of any statutory authority but if the Trustee is of the opinion that as a result of such requirements the Assets of a Division or any part thereof are to be invested or deposited otherwise than freely in accordance with the discretions given to the Trustee hereunder or if as a result of any such law it appears to the Trustee to be in the interests of the Participants or Member so to do, then the Trustee may resolve that the Division is to terminate and thereupon the Division shall terminate and be wound up.

19 TERMINATION OF THE DIVISIONS

19.1 Period of trusts

The perpetuity period applicable to the trusts in this Deed is the period of eighty (80) years. The Divisions shall unless sooner determined under the provisions of this Deed terminate and be wound up on the expiration of that period.

19.2 Termination

The Divisions (and each Division) shall terminate prior to the expiration of the perpetuity period in the following circumstances:

- (a) If any legislation is enacted having the effect in the opinion of the Trustee:
 - (i) of materially diminishing the amount of income of the Divisions (or a Division) available for distribution to the Participants and Members;
 - (ii) that the Assets of the Divisions or Division are to be invested or held otherwise than in accordance with the directions given to the Trustee in that Deed; or
 - (iii) that it is in the best interests of the Participants and Members of the Divisions (or the Relevant Division) to terminate the Divisions (or the Relevant Division),

and the Trustee determines that the Divisions (or Division) shall be wound up on a date determined by the Trustee.

- (b) If the office of the Trustee of the Divisions (or a Division) becomes vacant and a new Trustee is not duly appointed within one (1) Month of the vacancy occurring.

- (c) If the Trustee determines that the Divisions (or a Division) are to be terminated.

19.3 Procedure on termination of a Division

Upon the termination of a Division the Trustee shall hold the Assets of the Division upon trust for the Participants and or Members as the case may be and the Division shall be wound up.

19.4 Closure Date

On the termination of the Divisions (or any Division (“Relevant Divisions”)) in accordance with Clause 19.1 or 19.2, the Trustee shall:

- (a) give notice in writing to all Participants and Members (or Participants and Members of the Relevant Division (“Relevant Participants”)) that the Divisions (or the Relevant Division) shall commence to be wound up on a specified date (“Closure Date”).
- (b) where Division I is to wind up, call for any arrears of Contributions;
- (c) not accept further Contributions to any Divisions (or the Relevant Division) except Contributions made in response to a call referred to in Clause 19.4(b);
- (d) subject to Clause 19.7, realise the Assets of the Divisions (or the Relevant Division) so far as reasonably practicable within one hundred and eighty (180) days of the Closure Date;
- (e) pay any outstanding expenses of the Divisions (or the Relevant Division) and make provision for outstanding liabilities of the Divisions (or the Relevant Division) whether actual or contingent, including any costs, charges, expenses and liabilities incurred or anticipated arising out of or in connection with the termination of the Divisions (or the Relevant Division);
- (f) calculate the Value of the Assets of the Division (or the Relevant Division) after deducting provision for outstanding liabilities and allocate the amount so calculated to Participants Accounts and or Member's Nominated Accounts as the case may be, taking into account the balance in each Participants Account and or Member's Nominated Accounts as the case may be and any other factors the Trustee considers relevant;
- (g) calculate the balance in each Participants Account and Member's Nominated Accounts.

19.5 Distribution of Assets

The Trustee must on completion of the matters referred to in Clause 19.4 pay the balance in each Participants Account or Member's Nominated Accounts in the same manner as if each Participant's participation and Member's membership had terminated pursuant to Part 14.

19.6 Receipt for distribution

A Participant is entitled to payment on termination of a Division only on delivery to the Trustee of such form of receipt and discharge as may be required by the Trustee.

19.7 Postponement

The Trustee may postpone the sale calling in and conversion of any part of the Assets of the Divisions for such time as it thinks is desirable so to do in the interests of the Participants and Members and is not responsible for any loss attributable to such postponement.

20 RESOLUTION OF DISPUTES

20.1 Trustee's decision is binding

Subject to Clause 20.2 if any doubt or dispute arises as to the interpretation of any provision of this Deed or as to the rights or obligations of a Participant or Member or any other person hereunder (except to the extent otherwise expressly provided in this Deed or by the Operational Standards) the decision of the Trustee shall be final and binding.

20.2 Resolution of disputes

The Trustee must (unless the Operational Standards do not require the same) ensure that there are arrangements in force:

- (a) under which:
 - (i) a Participant or Member or any other person with a beneficial interest in a Division which is a Regulated Superannuation Fund may inquire into, or complain about, the operation or management of the Division in relation to that Participant or Member or that other person;
 - (ii) inquiries or complaints will be considered and properly dealt with within 90 days after they were made; or

- (b) which otherwise comply with the Operational Standards in relation to the conciliation, arbitration and review of enquiries made by Participants or Members.

21 MISCELLANEOUS

21.1 Retention of documents

The Trustee must:

- (a) keep, and retain so long as they are relevant and in any event for at least 10 years, copies of:
 - (i) all reports that were given in the same form (apart from differences relating to the names and addresses of the persons to whom the notices were given) to all Participants and Members;
 - (ii) all Applications; and
 - (iii) such other material as is required by the Operational Standards; and
- (b) make those copies available for inspection by a member of the staff of the Insurance and Superannuation Commission or its successor in law if requested to do so by a member of the staff.

21.2 Inspection of Deed

A copy of this Deed must at all times during usual business hours be made available by the Trustee at its registered office for inspection by Participants and Members who are entitled to receive from the Trustee a copy of this Deed.

21.3 Proper law

The rights liabilities and obligations inter se of the Trustee and the Participants and Members shall be governed by the law of the State of Victoria and any proceedings to enforce such rights liabilities or obligations may be taken in the courts of that State.

21.4 Notice

- (a) Any notice required to be given to Participants or Members under this Deed is deemed to have been duly given if it is in writing and:
 - (i) delivered or sent by ordinary post, courier or airmail in a properly pre-paid or franked envelope addressed to the Participant or

Member at the address appearing in the Register of Participants or Register of Members; or

- (ii) sent by facsimile transmission to the facsimile number of the Participant or Member notified to the Trustee by the Participant or Member.
- (b) Any notice sent by post is deemed to have been served on the third day following the day when it was posted and in proving such service it is sufficient to prove that the letter containing the notice was properly addressed and posted by pre-paid or franked ordinary post or airmail, and a statement signed by the Trustee that it was so posted and when shall be conclusive of those facts.
- (c) A document sent by way of facsimile transmission is deemed to be received on production of a transmission report by the machine from which the facsimile was sent, which indicates that the facsimile was sent in its entirety to the facsimile number of the Participant or Member notified to the Trustee, and if produced before 5:00pm on the day of receipt is deemed to have been received on that day but otherwise on the next day. A statement signed by the Trustee that a notice was sent by facsimile transmission and a transmission report was produced by the machine by which it was sent which indicated that the facsimile was sent in its entirety shall be conclusive evidence of those facts.
- (d) Sending notices where address unknown

Where the Operational Standards require that a report, statement or notice be sent to a Participant or Member and:

- (i) a copy of a report, statement or notice previously sent to the Participant or Member was posted with correct pre-paid or franked postage to the Participant or Member at the Participant's or Member's last known address and was returned undelivered to the Trustee; and
- (ii) the Trustee has not been informed of another address of the place of residence or business of the Participant or Member,

the Trustee is deemed to have complied with the requirements to send a copy of the report, statement or notice to the Participant or Member.

21.5 Limitation of liability

- (a) A Participant or Member will not by virtue of having been admitted to a Division or having paid Contributions to a Division have any liability to make

any further payment, other than Contributions, to the Division or payments to the Trustee in respect thereof.

- (b) No Participant or Member is not by reason alone of being a Participant or Member or by reason alone of the relationship created under this Deed with the Trustee will be under any obligation personally to indemnify the Trustee or any creditor of the Trustee in respect of any of the liabilities (actual, contingent or otherwise and whether due to any deficiency or not) of the Trustee in relation to, arising from or in connection with a Division. The only rights, if any, of indemnity of the Trustee and their respective creditors will be limited to having recourse to Assets of the Division.

FIRST SCHEDULE

RULES OF DIVISION I - AUSTCHOICE SUPERANNUATION FUND

1 DEFINITIONS AND PURPOSE OF DIVISION I

1.1 Definitions

For the purposes of this Division I:

“Normal Retirement Date” means the date on which a Member attains age 65 or such other date as the Division I Participant and the Member agree.

“Regular Pension Payment” has the meaning assigned to that expression in Rule 6.5(d)(iii).

“Regular Pension Payment Interval” has the meaning assigned to that expression in Rule 6.5(d)(iv).

“Regular Pension Request” has the meaning assigned to that expression in Rule 6.5(d).

“Vested Benefit Entitlement” means in respect of a person in respect of whom a Benefit is payable such amount as is vested in the person, at the date of calculation, having regard to the relevant Benefit Specification and being as a minimum that amount vested in the person pursuant to the Operational Standards.

1.2 Purpose of Division 1

Division I is maintained solely for one or more of the core or ancillary purposes identified in the Act as the purposes for which a Regulated Superannuation Fund must be solely maintained.

1.3 Eligibility and Application for Participation

Participation in Division I is restricted to:

- (a) Employers wishing to provide retirement and/or other approved ancillary benefits for their Employees from a Regulated Superannuation Fund; and
- (b) Eligible Persons wishing to obtain retirement and/or other approved ancillary benefits from a Regulated Superannuation Fund.

2 RULES RELATING TO THE ADMISSION OF PARTICIPANTS WHO ARE EMPLOYERS WISHING TO PROVIDE BENEFITS FOR THEIR EMPLOYEES

2.1 Form of Application

Every Applicant who is an Employer and wishes to be admitted to Division I for the purpose of providing retirement and other approved ancillary benefits for its Employees must lodge an Application with the Trustee to become a Division I Participant. At the time of lodgement of an Application an Applicant:

- (a) must complete the Benefit Specification;
- (b) unless:
 - (i) the Applicant has specified pursuant to Clause 6.15 that its Employees admitted as Members of the Division are able to make Option Nominations; or
 - (ii) the Trustee pursuant to Clause 6.3(a) has not given the Applicant a choice of investment strategies to choose from,

then the Applicant must complete an Option Nomination.

2.2 Preconditions to acceptance

The Trustee must not accept an Application for admission by an Employer as a Division I Participant unless the Applicant has:

- (a) completed the Application;
- (b) completed a Benefit Specification;
- (c) agreed in writing to be bound by and comply with the Deed and these Rules;
- (d) where the Applicant is required to make an Option Nomination the Applicant has done so; and
- (e) received from the Trustee in writing and in a clear and effective manner, such information, statements and reports in relation to the operation, management and performance of Division I as the Operational Standards require in the circumstances to be given to the Applicant.

2.3 Date of acceptance

An Applicant will become a Division I Participant upon the date of acceptance by the Trustee of the Applicant's Application or as otherwise determined by the Trustee.

2.4 Membership

- (a) Membership of Division I is restricted, subject to Rule 3, to the Employees of a Division I Participant or of any Associated Employer of that Participant.
- (b) Each Division I Participant may from time to time nominate to the Trustee any of its Employees or Employees of any Associated Employer for membership of Division I.
 - (i) Where an Employee nominated for membership by a Division I Participant has not delivered an Application to the Division I Participant, the Trustee may at the request of the Participant admit the Employee as a Member;
 - (ii) The Trustee may at the request of the Division I Participant impose special terms, conditions and restrictions on the membership of an Employee who has been admitted as a Member without completing an Application, including (but not limited to) restrictions on Contributions to be paid for the Member and restrictions on Benefits payable in respect of the Member.
- (c) The Trustee must not accept an Employee's Application unless:
 - (i) the Employee has been nominated for membership by its Division I Participant;
 - (ii) the Employee is eligible pursuant to the Operational Standards to be a member of a regulated Superannuation Fund;
 - (iii) the relevant Division I Participant has advised the Trustee in writing, having regard to the Division I Participant's Benefit Specification, the conditions to apply in determining the Employee's Benefits; and
 - (iv) where the Member is entitled to make an Option Nomination the Member has done so.
- (d) An Employee of a Division I Participant becomes a Member on the date of acceptance by the Trustee of the Member's Application or on any other date (which must not be a date before the date on which the Employee's Service with the Division I Participant commenced) specified by the Division I Participant and agreed to by the Trustee.
- (e) Where the Trustee admits an Employee of a Division I Participant as a Member without having received an Application, the date on which the Employee becomes a Member is the date determined by the Trustee and notified to the Division I Participant.

3 RULES RELATING TO THE ADMISSION OF ELIGIBLE PERSONS WISHING TO OBTAIN BENEFITS FOR THEMSELVES

3.1 Form of Application

Every Applicant who is an Eligible Person or group of Eligible Persons and wishes to be admitted to Division I for the purpose of obtaining retirement and other approved ancillary benefits for themselves must lodge an Application with the Trustee to become a Division I Participant. At the time of lodgment of an Application the Applicant:

- (a) must complete the Benefit Specification;
- (b) must, unless the Trustee pursuant to Clause 6.3(a) has not given the Applicant a choice of investment strategies to choose from, complete an Option Nomination;
- (c) must lodge any statement or notification required to accompany a Contribution which is an Eligible Termination Payment under the Operational Standards.

3.2 Pre-conditions to acceptance

The Trustee must not:

- (a) accept an application by an Eligible Person for admission as a Division I Participant unless the Applicant has:
 - (i) completed the Application;
 - (ii) completed a Benefit Specification;
 - (iii) in the case of an Applicant who wishes to receive its Benefit in pension form, completed the Regular Pension Request;
 - (iv) agreed in writing to be bound by and comply with the Deed and these Rules;
 - (v) where the Applicant is required to make an Option Nomination the Applicant has done so;
 - (vi) received from the Trustee in writing and in a clear and effective manner such information, statements and reports in relation to the operation, management and performance of Division I as the Operational Standards require in the circumstances to be given to a prospective participant; or

- (b) approve the terms of a Regular Pension Request unless its terms and conditions meet the requirements of the Operational Standards.

3.3 Date of acceptance

An Applicant will become a Division I Participant from the date of acceptance by the Trustee of the Applicant's Application or as otherwise determined by the Trustee.

4 CONTRIBUTIONS

4.1 Employer Contributions

- (a) Each Division I Participant who is an Employer and any Associated Employer must make Contributions for its Employees who are Members of such levels and upon such basis as will ensure the payment for or in respect of those Members of the Benefits prescribed in the Benefit Specification.
- (b) In addition to the Contributions payable by it pursuant to Rule 4.1(a) a Division I Participant may at any time, with the consent of the Trustee, make additional Contributions for the purpose of providing additional Benefits for any particular Member or Members.
- (c) A Division I Participant may at any time by notice in writing notify the Trustee that it will no longer make Contributions to Division I on account of a Member or Members.
- (d) Subject to Rule 4.6(b) a Division I Participant may at any time by notice in writing to the Trustee but subject to the Trustee's consent, alter the level or basis of Contributions payable under the Benefit Specification.

4.2 Member Contributions

- (a) Each Member must make Contributions of such amounts at such times as are specified in the Benefit Specification applicable to the Member.
- (b) In addition to the Contributions payable by it pursuant to Rule 4.2(a), a Member may with the approval of the Division I Participant and the Trustee and subject to such terms and conditions as they agree make additional Contributions for his or her benefit or for the benefit of their Spouse who is a Member or Participant of the Plan.
- (c) Unless the Member and its Employer otherwise agree or the law does not allow, whereupon the Member must pay its Contribution to the Employer, the Member's Contributions will be deducted from time to time by the Employer from the Member's remuneration. The Employer must pay the

Member's Contributions so deducted or paid to the Trustee in such manner and at such times as are specified in the Benefit Specification or as is otherwise agreed from time to time between the Member and the Member's Employer and acceptable to the Trustee but in any event within the Prescribed Period.

- (d) A Member is under no obligation to make contributions to Division I except as provided in Rule 4.2(a) or pursuant to any other agreement with the Trustee and may remain a Member notwithstanding that the Member does not make contributions.

4.3 Division I Participant Contributions

- (a) Each Eligible Person or group of Eligible Persons who is not otherwise required to contribute pursuant to Rule 4.1 or 4.2 must make Contributions to Division I in such manner as the Division I Participant determines and the Trustee accepts from time to time provided that where the Eligible Person has been admitted to Division I as part of a group of Eligible Persons Contributions must be of an amount which ensures the payment of the Benefits prescribed in respect of that group in the relevant Benefit Specification.
- (b) Where a person is admitted as a Participant of this Division pursuant to Clause 3.2 and Rule 3, Contributions under this Plan shall be paid by the Division I Participant and shall be such amount payable in such manner and at such times as shall be agreed between the Division I Participant and the Trustee PROVIDED THAT the Spouse of the said Division I Participant may with the consent of the Division I Participant and the Trustee pay Contributions to the Plan in respect of the said Division I Participant and the Division I Participant may pay Contributions into the Plan for the benefit of his or her Spouse who is a Member or a Participant of the Plan.

4.4 Other Discretionary Contributions

In the event that the Employer of any Member or Division I Participant is obliged to contribute to a Regulated Superannuation Fund in respect of a Member or Division I Participant or the Employer of any Member or Division I Participant wishes to make Contributions on behalf of the Members or Division I Participant, the Employer may, with the consent of:

- (a) the Division I Participant in respect of whom the Member has been admitted to membership and the Trustee in the case of a Member; and
- (b) the Division I Participant and the Trustee in the case of a Division I Participant,

contribute to Division I on account of the Member or Participant.

4.5 Restrictions on Contributions

The Trustee must not accept a Contribution by or for a Participant or Member where the Operational Standards prohibit the acceptance of that Contribution.

4.6 Reduction or suspension of Contributions

- (a) Where a Division I Participant gives notice of a reduction or suspension of Contributions to the Trustee, the Trustee must, in the event that the Benefit Specification of the Division I Participant prescribes that all or part of the Benefits payable are to be calculated as Defined Benefits, after considering the advice of the Actuary calculate the level of Benefits to which Members or Eligible Persons will be entitled on the basis of the reduced or suspended level of Contributions
- (b) Any adjustments in the level of Benefits must apply only to Benefits accruing after the date of reduction or suspension of the Contributions and must not, unless the Member or Eligible Person or the Commissioner consents to the same, reduce the amount of the Member's or Eligible Person's Vested Benefit Entitlement to that date.

5 SPECIAL PROVISIONS IN RELATION TO MEMBERS AND GROUPS OF ELIGIBLE PERSONS

5.1 Nominated Accounts

- (a) Establishment of Nominated Accounts

The Trustee may in addition to the accounts described in Part 5 keep Nominated Accounts for any Members entitled to Accumulation Benefits under the terms of the Benefit Specification applicable to them.

- (b) Distribution of Contributions between Nominated Accounts

The Division I Participant must confirm to the Trustee of the proportions, if any, in which any Contributions made by or in respect of a Member admitted in respect of the Division I Participant are to be credited to the Member's Nominated Accounts.

- (c) Member's Nominated Accounts

The Trustee must, having regard to the details provided by the Division I Participant pursuant to Rule 5.1(b), record to a Member's Nominated Accounts such of the following credits as the Trustee determines appropriate:

- (i) any of the Contributions made by the Division I Participant Member, or the Member's Employer;
- (ii) any Interest Entitlement or Interim Interest Entitlement determined pursuant to Rule 5.3;
- (iii) any part of the Division I Participant's Reserve Account as determined by the Trustee and approved in writing by the Division I Participant pursuant to Rule 5.2;
- (iv) any Insured Benefit that the Division I Participant has requested the Trustee to arrange;
- (v) any other amount that the Division I Participant directs in writing from time to time to be so credited,

and must record the following debits against that account:

- (vi) any Vested Benefit Entitlement determined in respect of the Member;
- (vii) any amounts which the Trustee, having regard to the Benefit Specification, determines should be debited to the Member's Nominated Accounts including any levies paid under the Superannuation (Financial Assistance Funding) Levy Act 1993 which are in the opinion of the Trustee attributable to the Member and any cost of the kind described in Clause 10.8 and incurred in respect of any Policy Committee established in respect of the Member;
- (viii) any amount transferred pursuant to Clause 14.5; and
- (ix) any Tax payable by the Member.

5.2 Reserve Account

- (a) The Trustee may, subject to the terms of the Division I Participant's Benefit Specification keep a Reserve Account for the Division I Participant for the purpose of stabilising rates of Interest Entitlement between Distribution Dates and for such other purposes as the Trustee determines in accordance with Clause 9.3(m).
- (b) Crediting of Reserve Account

The Trustee may credit to a Reserve Account:

- (i) the remainder of the Division I Participant's Income Entitlement for any Income Entitlement Period which is not credited to Member's Nominated Accounts at the end of the Distribution Period;
 - (ii) any balance remaining in a Member's Nominated Account after payment of the Member's Benefit;
 - (iii) any gains attributed to the Division I Participant's Participants Account on a revaluation of any of the Assets of the Division which the Trustee determines are to be reflected in an adjustment to the balance in the Reserve Account; or
 - (iv) any other amounts which may be credited to the Reserve account under this Deed or the Operational Standards.
- (c) The Trustee may debit to a Reserve Account:
- (i) amounts allotted to Member's Nominated Accounts of Members in the service of that Division I Participant by way of Interest Entitlement;
 - (ii) any other amount which the Trustee applies for a purpose permitted by the Operational Standards as a proper use of a reserve;
 - (iii) any losses attributed to the Division I Participant's Participants Account on a revaluation of any of the Assets of the Division which the Trustee determines are to be reflected in an adjustment to the balance in the Reserve Account.

5.3 Interest Entitlement

5.3.1 Calculation of Interest and Interim Interest Entitlements

The Trustee must:

- (a) on each Distribution Date determine the Interest Entitlement to be credited to the Member's Nominated Accounts maintained in respect of the Division I Participant or the Division I Participant Participants Account ("the Relevant Accounts"); and
- (b) on:
 - (i) receipt of a Termination Request in respect of the Division I Participant or Member;
 - (ii) receipt of a notification pursuant to Rule 7.3 or 8.3 that a Benefit is payable; and

- (iii) the giving of a Termination Notice to the Division I Participant or Member,

determine the Interim Interest Entitlement to be credited to the Relevant Accounts.

5.3.2 Factors to be regarded in calculation of Interest and Interim Interest Entitlement

In determining:

- (a) the amount of any Interest Entitlement, the Trustee must have regard to:
 - (i) the Income Entitlement most recently determined in respect of the Division I Participant;
 - (ii) the Investments made on the Division I Participant's behalf pursuant to the Division I Participant's Option Nomination and to the extent that the Division I Participant has advised the Trustee that certain Investments made on the Division I Participant's behalf apply in respect of any one or more of the Relevant Accounts, those Investments;
 - (iii) where any Member admitted in respect of the Division I Participant has made an Option Nomination in lieu of the Division I Participant, the Investments made on the Member's behalf;
 - (iv) the Expenses debited against the Division I Participant's Participants Account since the immediately preceding Distribution Date to the extent that they have not been reimbursed by the Division I Participant; and
 - (v) such other factors as determined by the Trustee, having regard to the Benefit Specification, and which are not otherwise inconsistent with the Operational Standards.
- (b) the amount of any Interim Interest Entitlement, the Trustee and the Division I Participant must have regard to:
 - (i) the factors taken into account in determining the Interest Entitlement most recently determined;
 - (ii) in respect of those Investments held or made on behalf of the Division I Participant or in respect of those Investments that the Division I Participant has advised the Trustee that apply in respect of any one or more of the Relevant Accounts, the likely returns in respect of those Authorised Investments since the immediately preceding Distribution Date;

- (iii) where any Member admitted in respect of the Division I Participant has made an Option Nomination in lieu of the Division I Participant, the Investments made on the Member's behalf;
- (iv) the Expenses debited against the Division I Participant's Participants Account since the immediately preceding Distribution Date to the extent that they have not been reimbursed by the Division I Participant; and
- (v) such other factors as agreed upon between the Trustee and the Division I Participant and not otherwise inconsistent with the Operational Standards.

provided always that in the event that the Division I Participant fails to respond to the Trustee's request that the Division I Participant participate in the calculation of any Interest Entitlement or Interim Interest Entitlement as required by the Operational Standards, the Trustee is entitled to forthwith determine such Interest Entitlement or Interim Interest Entitlement.

5.3.3 Crediting of Interest Entitlement

Following determination of the Interest Entitlement or the Interim Interest Entitlement, the Trustee must credit an amount to each of the Relevant Accounts kept in respect of the Division I Participant on account of the Interest and Interim Interest Entitlements determined having regard to:

- (a) the amount standing to the credit of each of the Relevant Accounts at the immediately preceding Distribution Date or the date of establishment of the Relevant Accounts, whichever is the later;
- (b) the credits and debits made from time to time to each of the Relevant Accounts since the date referred to in sub-paragraph (i) hereof; and
- (c) such further details as agreed upon between the Trustee and the Division I Participant.

5.4 Application of this Rule to groups of Eligible Persons

Where a Division I Participant is a group of Eligible Persons:

- (a) the references to "Division I Participant" in this Rule 5 shall accordingly be deemed to be a reference to the group of Eligible Persons;
- (b) a reference to "Member" shall accordingly be deemed to be a reference to an "Eligible Person" and a reference to "Members" shall accordingly be deemed to be a reference to "Eligible Persons";

- (c) a reference to "Member's Nominated Accounts" shall accordingly be deemed to be a reference to an "Eligible Person's Nominated Accounts".

6 TYPES OF BENEFIT PAYABLE

6.1 Lump Sum or Pension

The Benefit Specification of each Division I Participant must detail whether the Benefit a Member or an Eligible Person is to receive is in a lump sum or pension form or combination thereof.

6.2 Purchase of Annuity

A Benefit to be paid in pension form may be paid as a Pension from the Division or purchased by the Trustee in the form of an Annuity in the name of the Trustee or the Member or Eligible Person.

6.3 Commutation of Pension Benefit

A Member or Eligible Person entitled to or in receipt of a Pension Benefit may request, subject to any limits or conditions prescribed by the Operational Standards, the commutation of any amount of the capital value of the Pension to a lump sum payment. Following the commutation of any Pension Benefit the Trustee may and with the consent of the Division I Participant reduce the Regular Pension Payment paid or payable annually to the Member or Eligible Person.

6.4 Payment of lump sum Benefit in pension form

A Member or Eligible Person entitled to a lump sum Benefit other than on the death of the Member or Eligible Person may request that any part or all of the lump sum Benefit be paid as a Pension. In these circumstances the Trustee with the agreement of the Member or Eligible Person, as the case may be, must determine:

- (a) the level, terms and conditions pertaining to the payment of the Pension;
- (b) whether the Pension will be paid as a Pension from the Division or purchased by the Trustee in the form of an Annuity in the name of the Trustee or the Member or Eligible Person.

6.5 Pension Benefits

- (a) Where a Division I Participant has indicated in the Benefit Specification that a Benefit becoming payable in respect of a Member is to be paid in pension form then the Pension shall be payable in the manner prescribed by the Benefit Specification.

- (b) Where a Division I Participant has not indicated in the Benefit Specification that a Benefit becoming payable in respect of a Member is to be paid in pension form or that any Pension payable in respect of a Member is to be maintained out of the Member's Nominated Accounts then where the Member wishes to take a Benefit in pension form the Member will be deemed to have made a request for deferral of the Member's Benefit pursuant to Rule 7.4(a) and the provisions of Rule 7.4 shall apply.
- (c) Where a Division I Participant who is an Eligible Person or group of Eligible Persons has indicated in the Benefit Specification that a Benefit becoming payable in respect of the Eligible Person or any one of the Eligible Persons is to be paid in pension form then the Pension shall be payable in the manner prescribed by the Benefit Specification.
- (d) Where:
 - (i) Rule 6.5(a) or Rule 6.5(c) applies and the Benefit Specification does not prescribe the same; or
 - (ii) Rule 6.5(b) applies,
 then the person to whom the Pension is to be paid must:
 - (iii) nominate to the Trustee the dollar amount which the person wishes to draw on a regular basis ("the Regular Pension Payment");
 - (iv) specify the intervals at which the Regular Pension Payment is to be paid ("the Regular Pension Payment Interval"),
 such nomination and specification being defined in these Rules as the "Regular Pension Request".

6.6 Method of Payment and Security of Market Linked Pension

Where a Market Linked Pension is payable from the Plan, the following conditions will apply in relation to its payment:

- (a) the Pension must be paid at least annually to the Member or Eligible Person or to a Reversionary Dependant, throughout a period permitted by the Operational Standards;
- (b) the amount of the Pension in any year must be determined as specified by the Operational Standards for the payment of a Market Linked Pension;
- (c) the Pension does not and will not have a residual capital value;

- (d) if the Pension reverts, it will not have a reversionary component greater than 100% of the Benefit payable before the reversion;
- (e) the Pension cannot be transferred to any person other than if:
 - (i) on the death of the Member or Eligible Person to one or more of his or her Dependants or to the estate of the Member or Eligible Person; or
 - (ii) on the death of the Reversionary Dependant, to one or more of his or her Dependants or to the estate of the Reversionary Dependant; and
- (f) the capital value of the Pension and the income from the pension cannot be used as security for a borrowing.

6.7 Market Linked Pension Account residue

In the event of the death of a Member or Eligible Person in receipt of a Market Linked Pension while there is still an amount standing to the credit of the Member or Eligible Person, and where there is no Reversionary Dependant, the Trustee must, if the Pension is neither commuted nor transferred under rule 6.6, ensure that the amount standing to the credit of the Member or Eligible Person is dealt with in accordance with the Operational Standards.

6.8 Commutation of Market Linked Pension

- (a) The Trustee may commute the whole or any part of a Market Linked Pension that is payable from the Fund to the Member or Eligible Person or Reversionary Dependant where:
 - (i) the Operational Standards permits the commutation of that Market Linked Pension;

and either:

 - (ii) the Member or Eligible Person or Reversionary Dependant makes a written application to the Trustee for the commutation of that Pension; or
 - (iii) the Trustee chooses to commute that Pension on its own initiative.
- (b) A Market Linked Pension will only be commuted where:
 - (i) the amount of the commuted Benefit does not breach the Operational Standards. This amount includes the value of any remaining Pension payable to the Member or Eligible Person or Reversionary Dependant;

- (ii) the commuted amount cannot exceed the Benefit that was payable immediately before the commutation; and
- (iii) one of the following applies:
 - (A) the commutation is made within six months after the commencement day of the Pension and is not a commutation of a Pension funded from the commutation of another Pension;
 - (B) the commutation is paid on the death of the Member or Eligible Person to the benefit of a Reversionary Dependant or, if there is no Reversionary Dependant, to one or more Dependants of the Member or Eligible Person or to the estate of the Member or Eligible Person; or
 - (C) the commutation is paid on the death of a Reversionary Dependant to the benefit of another Reversionary Dependant or, if there is no other Reversionary Dependant, to one or more Dependants of the Reversionary Dependant or to the estate of the Reversionary Dependant; or
 - (D) the commutation is paid on the death of the Member or Eligible Person or a Reversionary Dependant as a lump sum to an individual where the Trustee has made reasonable enquiries but been unable to locate a person mentioned in rule 6.8(b)(iii)(B) or 6.8(b)(iii)(C); or
 - (E) the commutation is paid on the death of both the Member or Eligible Person and the Reversionary Dependant where prescribed by the Operational Standards; or
 - (F) the Eligible Termination Payment resulting from the commutation is transferred directly to the purchase of another Market Linked Pension, or other Pension; or
 - (G) the commutation is made to pay a Superannuation Contributions Surcharge; or
 - (H) the commutation is made to provide for an entitlement of a non-member spouse where that entitlement is created by a Payment Split; or
 - (I) the minimum amount specified in the Operational Standards that must be paid in the financial year during

which the Pension is being commuted has actually been paid; or

(J) the sole purpose of the commutation is to meet the rights of a Member to receive their Benefit under the Corporations Act 2001; or

(K) the Operational Standards otherwise permit that Market Linked Pension to be commuted.

(c) Where any amount remains in the Fund after the Trustee has paid the entitlements of all the Members or Eligible Persons and Reversionary Dependants, then that remaining amount must be dealt with as though it were a forfeited Benefit in accordance with the Operational Standards.

6.9 Application of Commuted Amount

(a) Subject to this rule 6.9 and any other applicable provisions of this Deed, the Trustee must pay the amount of the commutation in respect of the Market Linked Pension being commuted to:

(i) the Member or Eligible Person or Reversionary Dependant who applied for the commutation; or

(ii) one of the Dependants of either the Member or Eligible Person or Reversionary Dependant or to the estate of that Member or Eligible Person or Reversionary Dependant.

(b) As an alternative to rule 6.9(a) but subject to the Operational Standards, the Member or Eligible Person may request that the amount of that commutation be retained in the Fund and applied to the credit of the Member or Eligible Person.

7 BENEFITS FOR MEMBERS

7.1 Application of Rule 7

The provisions in this Rule 7 apply in respect of Benefits payable to and in respect of Members.

7.2 When Benefit payable

A Benefit is payable in respect of a Member when the Member:

(a) Retires;

- (b) attains an age in such circumstances that the Operational Standards permit a Benefit to be paid or commence to be paid and the Member has requested that the Benefit be paid;
- (c) attains an age in such circumstances that the Operational Standards require that the Member be paid or commence to be paid a Benefit;
- (d) dies;
- (e) suffers Total and Permanent Disablement;
- (f) suffers Temporary Disablement, where the terms of the Benefit Specification applicable to the Member entitle the Member to a Benefit on Temporary Disablement; or
- (g) otherwise ceases Service; or
- (h) satisfies any other circumstances where the Operational Standards permit a Benefit to be paid or commence to be paid to the Member.

7.3 Notification of Benefits payable

A Participant must notify the Trustee whenever a Benefit becomes payable to a Member in its Service.

7.4 Deferral of Benefit payable

- (a) A Member may apply to the Trustee in writing to defer payment of a Benefit which has become payable under Rule 7.2. The Trustee may agree to defer payment of the Benefit unless the Operational Standards require that the Benefit be paid.
- (b) Where payment of a Benefit in respect of a Member is deferred under Rule 7.4(a) and the Division I Participant in respect of whom the Member has been admitted to the Division does not consent to the same the Trustee must make such arrangements as it considers necessary in respect of the continued membership of the Member in Division I as a Division I Participant or otherwise.
- (c) Where payment of a Benefit is deferred under Rule 7.4(a) the Trustee may:
 - (i) accept Contributions for the Member where the Operational Standards permit the acceptance of the Contributions; or
 - (ii) notify the Member that no Contributions will be accepted by or on behalf of the Member.

- (d) The Trustee must pay or commence to pay the Benefit in full where the Operational Standards require that the Benefit be paid to the Member or the Member dies.

7.5 Amount of Benefit

- (a) The amount of a Member's Benefit is calculated in accordance with the Benefit Specification applicable to that Member subject to the following provisions of this Rule 7.5.
- (b) Notwithstanding any term of a Benefit Specification:
 - (i) The amount of an Accumulation Benefit must not be less than the person's vested Benefit Entitlement.
 - (ii) The amount of an Accumulation Benefit must not be greater than the aggregate of:
 - (A) the balance standing to the credit of the Member's Nominated Accounts; and
 - (B) the proceeds of any policy of insurance paid in respect of the Member.
 - (iii) the amount of a Defined Benefit must not cause a reduction of the Vested Benefit Entitlements of those other Employees of the Division I Participant who are Members as in the opinion of the Trustee and taking into account any certificate provided by the Actuary is inequitable.
 - (iv) under no circumstances shall the Trustee be at liberty to call upon the Investments of the Division held in respect of any other Member to make good any shortfall in Benefits payable in respect of the person.
- (c) Upon the death of the Member (other than a Pensioner Member) the Trustee must with, where the Operational Standards permit the same, the consent of the Division I Participant having regard to
 - (i) the terms of the Benefit Specification made in respect of the Member
 - (ii) such other matters as the Trustee in its absolute discretion determines as relevant; and
 - (iii) the Operational Standards generally determine whether any Benefit or Benefits payable to a person or persons in accordance

with Rule 7.7(b)(ii) will be paid as a lump sum or Pension or combination thereof.

Where the Trustee determines to pay any Benefit as a lump sum, the Benefit will be the proportion of the balance standing to the credit of the Member's Nominated Accounts, or where no Member's Nominated Accounts are maintained in respect of the Member, the proportion of the amount determined by reference to the Benefit Specification of the Member, that is specified in respect of the Benefit recipient in a Binding Death Benefit Notice or Non-Lapsing Nomination.

Where the Trustee determines to pay the whole or part of any Benefit as a reversionary Pension to a Reversionary Dependant, the Trustee must, with the consent of the Reversionary Dependant, determine the value of and the terms and conditions pertaining to the payment of the Reversionary Pension PROVIDED THAT the amount available to commence the Pension must be no greater than the proportion of the balance standing to the credit of the Member's Nominated Accounts, or where no Member's Nominated Accounts are maintained in respect of the Member, the proportion of the amount determined by reference to the Benefit Specification of the Member, that is specified in respect of the Benefit recipient in a Binding Death Benefit Notice²⁷ or Non-Lapsing Nomination.

- (d) The amount of a Benefit payable on Member's Temporary Disablement and the terms on which the Benefit is paid shall be in accordance with the terms of the insurance policy pursuant to which the Benefit is paid.
- (e) A Member in receipt of a Benefit on Temporary Disablement remains a Member and is not deemed to have ceased Service.
- (f) A Benefit must be paid from the balance in the Division I Participants Account of the Division I Participant which employs the Member.

7.6 To whom Benefit payable

Upon determination of the type of Benefit to be paid and the terms and conditions of the Benefit, the Trustee will pay an amount equal to the Member's Benefit in the manner set out in these Rules.

7.7 Payment of Benefit to Person Entitled

A Benefit will be applied in the following manner:

- (a) Upon the occurrence of an event described in Rule 7.2 other than Rule 7.2(d), subject to Rule 7.10, pay the Benefit to the Member;

- (b) Upon the Member's death or where the retirement of the Member is taken to have occurred for the purposes of the Operational Standards but the Member has died before receiving the whole of the Benefit, and the Trustee has determined that:
- (i) the Member is a Pensioner Member, subject to Rule 7.11, continue the Pension to the Reversionary;
 - (ii) a valid Binding Death Benefit Notice or Non-Lapsing Nomination exists in relation to the deceased Member, subject to Rule 7.7(b)(iii) below and Rule 7.11, pay the death benefit to the persons or persons specified in the notice as either a lump sum or Reversionary Pension; or
 - (iii) no valid Binding Death Benefit or Non-Lapsing Nomination notice exists in relation to the deceased Member, or the death benefit cannot for any reason (whether wholly or in part) be paid in accordance with Binding Death Benefit Notice or Non-Lapsing Nomination which exists in relation to the deceased Member, pay the death benefit as a lump sum to the Legal Personal Representative of the deceased Member²⁸.

7.8 Death of Reversionary Dependant to whom Reversionary Pension is Payable

Upon the death of a Reversionary Dependant in respect of whom a Reversionary Pension is being paid, the Trustee shall pay the balance of the amount standing to the credit of the Member's Nominated Accounts, or where no Member's Nominated Accounts are maintained in respect of the Member, the amount determined by reference to the Benefit Specification of the Member, to the Legal Personal Representative of the Reversionary Dependant²⁹.

7.9 Application of this Rule to groups of Eligible Persons

Where a Division I Participant is a group of Eligible Persons:

- (a) the references to "Division I Participant" in this Rule 7 shall accordingly be deemed to be a reference to the group of Eligible Persons;
- (b) a reference to "Member" shall accordingly be deemed to be a reference to an Eligible Persons;
- (c) a reference to a "Member's Nominated Accounts" shall accordingly be deemed to a reference to an "Eligible Person's Nominated Accounts".

²⁷ Deeds of Variation dated 5 February 2001 and 20 August 2001

²⁸ Deeds of Variation dated 30 June 1999, 5 February 2001 and 20 August 2001

²⁹ Deed of Variation dated 30 June 1999 and 5 February 2001

7.10 Payment on authorisation of Member

Where:

- (a) a Member is entitled to be paid a Benefit under Rule 7.7(a); and
- (b) Rule 13 does not apply,

the Trustee may pay the Benefit to the Member by paying the Benefit to another person ("Third Person") where:

- (c) the Trustee reasonably believes, on the basis of written evidence submitted by the Member, that the Third Person has been properly authorised to receive the Member's Benefit on the Member's behalf; and
- (d) to do so is in accordance with the Relevant Law³⁰.

7.11 Payment to Others on Behalf of certain Dependants

When any Reversionary Dependand or person specified in a valid Binding Death Benefit Notice or Non-Lapsing Nomination is entitled to a Benefit under Rule 7.7(b) ("Intended Dependand") is under the age of 18 years or is under any legal disability or when in the opinion of the Trustee it would be in the best interests of the Intended Dependand, the Trustee may pay all or part of any Benefit in such one or more of the following ways as the Trustee shall determine:

- (a) to or towards the maintenance, education, advancement, support or benefit of the Intended Dependand in such manner and on such terms and conditions as the Trustee shall determine; or
- (b) to any other person who appears to the Trustee to be a trustee for the Intended Dependand or Spouse, child, parent or guardian or a person having custody of the Intended Dependand for application on behalf of the Intended Dependand,

and the receipt by the person to whom the Benefit is paid shall be a complete discharge of the Trustee for the payment in respect of the Intended Dependand and the Trustee shall not be bound or concerned to see to the application of the Benefit so paid³¹.

³⁰ Deed of Variation dated 30 June 1999

³¹ Deeds of Variation dated 30 June 1999, 5 February 2001 and 20 August 2001

8 BENEFITS FOR ELIGIBLE PERSONS

8.1 Application of Rule 8

The provisions in this Rule 8 apply in respect of Benefits payable to and in respect of Division I Participants who are Eligible Persons.

8.2 Eligible Persons

A Benefit is payable in respect of a Division I Participant who is an Eligible Person when the Division I Participant:

- (a) Retires;
- (b) attains an age in such circumstances that the Operational Standards require that the Division I Participant be paid or commence to be paid a Benefit;
- (c) attains an age at which the Operational Standards permit a Benefit to be paid or commence to be paid and the Division I Participant requests that the Benefit commence to be paid;
- (d) dies;
- (e) suffers Total and Permanent Disablement;
- (f) suffers Temporary Disablement, where the Trustee has at the request of the Division I Participant taken out an insurance policy the proceeds of which are payable on the Division I Participant's Temporary Disablement;
- (g) satisfies any other circumstances where the Operational Standards permit a Benefit to be paid or commence to be paid to the Division I Participant.

8.3 Notification of Benefits payable

A Division I Participant must notify the Trustee whenever a Benefit becomes payable.

8.4 Deferral of Benefit Payable

- (a) A Division I Participant may apply to the Trustee in writing to defer payment of a Benefit which has become payable under Rule 8.2. The Trustee may agree to defer payment of the Benefit unless the Operational Standards require that the Benefit be paid.
- (b) Where payment of a Benefit is deferred under Rule 8.4(a) the Trustee may:

- (i) accept Contributions for the Division I Participant where the Operational Standards permit the acceptance of the Contributions; or
 - (ii) notify the Member that no Contributions will be accepted by or on behalf of the Division I Participant;
- (c) The Trustee must pay or commence to pay the Benefit in full where the Operational Standards require that the Benefit be paid to the Division I Participant or the Division I Participant dies.

8.5 Amount of Benefit

- (a) The amount of a Division I Participant's Benefit is calculated in accordance with the Division I Participant's Benefit Specification subject to the following provisions of this Rule 8.5.
- (b) Notwithstanding any term of a Benefit Specification:
- (i) Any Benefit payable can not be greater in amount than the balance standing to the credit of a Division I Participant's Participants Account from time to time.
 - (ii) Any Benefit payable in the event of the death or Total and Permanent Disablement of a Division I Participant will include the amount of any Insured Benefit.
- (c) Upon the death of the Division I Participant (other than a Pensioner Division I Participant) the Trustee must having regard to:
- (i) the terms of the Benefit Specification made in respect of the Division I Participant
 - (ii) such other matters as the Trustee in its absolute discretion determines as relevant; and
 - (iii) the Operational Standards generally

determine whether any Benefit or Benefits payable in accordance with Rule 8.7(b)(ii) will be paid as a lump sum or Pension or combination thereof.

Where the Trustee determines to pay any Benefit as a lump sum, the Benefit will be the proportion of the balance standing to the credit of the Division I Participant's Participants Account that is specified in respect of the Benefit recipient in a Binding Death Benefit Notice or Non-Lapsing Nomination.

Where the Trustee determines to pay the whole or part of any Benefit as a Reversionary Pension to a Reversionary Dependant, the Trustee must, with the

consent of the Reversionary Dependant, determine the value of and the terms and conditions pertaining to the payment of the Reversionary Pension PROVIDED THAT the amount available to commence the Pension must be no greater than the proportion of the balance standing to the credit of the Division I Participant's Participants Account that is specified in respect of the Benefit recipient in a Binding Death Benefit Notice³² or Non-Lapsing Nomination.

8.6 To whom Benefit payable

Upon determination of the type of Benefit to be paid and the terms and conditions of the Benefit, the Trustee will pay an amount equal to the Participant's Benefit in the manner set out in these Rules.

8.7 Payment of Benefit to Person Entitled

A Benefit will be applied in the following manner:

- (a) Upon the occurrence of an event described in Rule 8.2 other than Rule 8.2(d), subject to Rule 8.9 pay the Benefit to the Division 1 Participant;
- (b) Upon the Division 1 Participant's death or where the retirement of the Division 1 Participant is taken to have occurred for the purposes of the Operational Standards but the Division 1 Participant has died before receiving the whole of the Benefit, and the Trustee has determined that:
 - (i) the Division I Participant is a Pensioner Division I Participant, subject to Rule 8.10, continue the Pension to the Reversionary;
 - (ii) a valid Binding Death Benefit Notice or Non-Lapsing Nomination exists in relation to the deceased Division 1 Participant, subject to Rule 8.7(b)(iii) below and Rule 8.10, pay the death benefit to the persons or persons specified in the notice as either a lump sum or Reversionary Pension; or
 - (iii) where no valid Binding Death Benefit notice or Non-Lapsing Nomination exists in relation to the deceased Division 1 Participant, or the death benefit cannot for any reason (whether wholly or in part) be paid in accordance with Binding Death Benefit Notice or Non-Lapsing Nomination which exists in relation to the deceased Division 1 Participant, pay the death benefit as a lump sum to the Legal Personal Representative of the deceased Division 1 Participant³³.

³² Deeds of Variation dated 5 February 2001 and 20 August 2001

³³ Deeds of Variation dated 30 June 1999, 5 February 2001 and 20 August 2001

8.8 Death of Reversionary Dependant to whom Reversionary Pension is Payable

Upon the death of a Reversionary Dependant in respect of whom a Reversionary Pension is being paid, the Trustee shall pay the balance of the amount standing to the credit of the deceased's Division I Participant's Participants Account to the Legal Personal Representative of the Reversionary Dependant³⁴.

8.9 Payment on authorisation of Participant

Where:

- (a) a Division I Participant is entitled to be paid a Benefit under Rule 8.7(a); and
- (b) Rule 13 does not apply, the Trustee may pay the Benefit to the Division I Participant by paying the Benefit to another person ("Third Person") where:
- (c) the Trustee reasonably believes, on the basis of written evidence submitted by the Division I Participant, that the Third Person has been properly authorised to receive the Division I Participant's Benefit on the Division I Participant's behalf; and
- (d) to do so is in accordance with the Relevant Law³⁵.

8.10 Payment to Others on Behalf of certain Dependents

When any Reversionary Dependant or person specified in a valid Binding Death Benefit Notice or Non-Lapsing Nomination is entitled to a Benefit under Rule 8.7(b) ("Intended Dependant") is under the age of 18 years or is under any legal disability or when in the opinion of the Trustee it would be in the best interests of the Intended Dependant, the Trustee may pay all or part of any Benefit in such one or more of the following ways as the Trustee shall determine:

- (a) to or towards the maintenance, education, advancement, support or benefit of the Intended Dependant in such manner and on such terms and conditions as the Trustee shall determine; or
- (b) to any other person who appears to the Trustee to be a trustee for the Intended Dependant or Spouse, child, parent or guardian or a person having custody of the Intended Dependant for application on behalf of the Intended Dependant,

and the receipt of the person to whom the Benefit is paid shall be a complete discharge of the Trustee for the payment in respect of the Intended Dependant and

³⁴ Deeds of Variation dated 30 June 1999 and 5 February 2001

³⁵ Deeds of Variation dated 30 June 1999 and 5 February 2001

the Trustee shall not be bound or concerned to see to the application of the Benefit so paid³⁶.

9 DRAWDOWNS

9.1 Drawdown request

Where the Trustee has agreed to defer payment of a Benefit pursuant to these Rules or part of the balance standing to the credit of a Division I Participant's Participants Account or Member's Nominated Accounts exists by reason of a rollover to the Division or otherwise, the relevant:

- (a) Division I Participant;
- (b) Member; or
- (c) Eligible Person,

may, subject at all times to the Operational Standards and in particular to the Cashing Restrictions, and in such form as the Trustee may from time to time prescribes request the Trustee to draw all or part of that person's interest in the Division (such request being defined in this Deed as "the Drawdown Request" and the amount of the Drawdown Request as "the Drawdown").

9.2 Discretion to refuse

A Drawdown Request:

- (a) must be in an amount which is not less than the minimum Drawdown Amount nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time; and
- (b) must not cause the balance standing to the credit of the Accounts maintained in respect of the person making the Drawdown Request to fall below the minimum Account balance nominated in the current Disclosure Document or such other amount as may be nominated by the Trustee from time to time.

9.3 Pay Drawdown

The Trustee shall, subject to the provisions of Clause 4.4(e):

³⁶ Deeds of Variation dated 30 June 1999, 5 February 2001 and 20 August 2001

- (a) unless the Trustee otherwise agrees, pay the Drawdown to the relevant person on a date not less than thirty (30) days from receipt of the Drawdown Request; and
- (b) debit the amount of the Drawdown Amount to the Accounts maintained in respect of the relevant person.

10 PAYMENT OF REGULAR PENSION PAYMENTS

10.1 Payment of Pension Benefit

The Trustee shall, subject to the provisions of Rule 10.3 pay any Regular Pension Payment within fourteen (14) days of the end of each Regular Pension Interval.

10.2 Regular sale of Assets to retain liquidity of Investments

At the end of each Financial Year and at such other times as the Trustee determines is necessary the Trustee shall realise sufficient of the Investments of the Division so as to ensure that the Investments of the Division will comprise sufficient Cash from time to time to meet the amount of the Regular Pension Payment.

10.3 Sale of Investments to pay Regular Pension Payment

In the event that the Division's Investments comprise insufficient Cash which can be withdrawn to meet the amount of the Regular Pension Payment then the Trustee shall having regard to the current conditions of the person's Option Nomination and the provisions of Clause 6 generally realise some or all of the Division's non-Cash Investments and pay the Regular Pension Payment to the person from the proceeds.

10.4 Variation of Regular Pension Payment

A Member or Eligible Person may, subject to the Operational Standards and in particular to the Cashing Restrictions and to the Trustee's consent to the same, vary from time to time the Member's or Eligible Person's Regular Pension Payment or Regular Pension Interval by giving notice in writing of at least twenty-one (21) days to the Trustee in the form from time to time prescribed by the Trustee.

11 ACTUARIAL INVESTIGATION

11.1 Requirement for actuarial investigation

In the event that the Benefit Specification of a Division I Participant prescribes that all or part of the Benefits payable are to be calculated as Defined Benefits, the provisions of this Rule 11 will apply.

11.2 Appointment of Actuary

The Trustee must instruct an Actuary to carry out an actuarial investigation of the financial condition of Division I as it relates to the Division I Participant at the times required by the Operational Standards and must instruct the Actuary to report on the matters prescribed in the Operational Standards.

The Trustee shall provide a copy of the Actuary's report to the Division I Participant and upon their request to the relevant Members.

11.3 Action on unsatisfactory financial condition

If:

- (a) an Employer fails at any time to make the level of Contributions recommended in the last Actuary's report; or
- (b) the Actuary having conducted an actuarial investigation reports that the Actuary is unable to provide a funding and solvency certificate as required under the Operational Standards, or the Actuary withdraws a funding and solvency certificate previously issued,

the Trustee must take whatever steps are prescribed under the Operational Standards and may consult the Actuary to determine the appropriate course of action as prescribed in the Operational Standards.

11.4 Surplus and deficiencies

Subject to the Operational Standards and its restrictions on payments to Employer, the Trustee may upon the advice of the Actuary and with the approval of the Division I Participant deal with any surplus or deficiency disclosed by the valuation by increasing or decreasing the rates of contributions or increasing or subject to the Operational Standards decreasing the Benefits provided for in the Benefit Specification or in any other manner including a reversion of all or a part of the surplus to one or more of the Division I Participant or its Associated Employers where:

- (a) the Actuary has certified in writing to the Trustee that the payment will not have the effect that that part of Division I which relates to the Division I Participant will become technically insolvent for the purposes of the Operational Standards; and
- (b) the procedures required for authorisation of a payment to the Division I Participant or Associated Employer under the Operational Standards are followed.

12 MEMBER'S DEFALCATION

- (a) Subject to Rule 12(b), the Trustee may deduct from a Member's Benefit:
 - (i) the amount of any loss incurred by the Participant, or which the Participant considers will be incurred, in consequence of the Member's fraud, dishonesty, defalcation, serious misconduct or negligence; or
 - (ii) the costs of any civil or criminal proceedings, incurred by the Participant, or which the Participant considers will be incurred, in attempting to recover any amount owing by the Member to the Participant in consequence of the Member's fraud, dishonesty, misconduct or negligence.
- (b) Any part of a Member's Benefit which:
 - (i) is a Preserved Benefit; or
 - (ii) represents the Member's vested Benefit entitlement,must not be deducted under Rule 12(a).
- (c) The amount deducted from a Member's Benefit under Rule 12(a) must be:
 - (i) paid to the Participant, to the extent that the amount represents a loss or cost that has been incurred;
 - (ii) retained by the Trustee, where the amount represents a loss or cost that the Participant considers will be incurred, pending the finalisation of the amount of the loss or cost, whereupon the amount shall be paid to the Participant or as a Benefit to the Member as the case requires.
- (d) The Trustee may accept a statement in writing signed by the Participant specifying the amount of any loss or costs incurred or which the Participant considers will be incurred as sufficient evidence of the matters stated in it.

13 PAYMENT OF BENEFIT WHERE PARTICIPANT OR MEMBER UNDER LEGAL DISABILITY

Where a Benefit has become payable to a Division I Participant or Member under a legal disability:

- (a) the Trustee may pay the Benefit to:
 - (i) the person's Legal Personal Representative; or

- (ii) any other person the Trustee considers responsible for managing the person's affairs, if the Operational Standards so permit or the Commissioner agrees;
- (b) payment of the Benefit in accordance with Rule 13(a) is complete discharge to the Trustee as against the Division I Participant or Member (even if the Division I Participant or Member subsequently ceases to be under a legal disability) and any other person claiming an interest in the Division I Participant's or Member's Benefit.

SECOND SCHEDULE

RULES OF DIVISION II - AUSTCHOICE POOLED SUPERANNUATION TRUST

1 PURPOSE OF DIVISION II

Division II is to be established and maintained as a Pooled Superannuation Trust.

2 APPLICATION AND ELIGIBILITY

2.1 Eligibility

Participation in Division II will be restricted to Eligible Investors wishing to invest in a Pooled Superannuation Trust.

2.2 Form of Application

An Applicant for admission to Division II must lodge an Application with the Trustee.

2.3 Preconditions to acceptance

The Trustee must not accept an Application for participation in Division II unless:

- (a) The Applicant has duly completed the Application and agreed in writing to be bound by and comply with these Rules;
- (b) The Applicant has lodged the Application together with:
 - (i) where the Trustee requires the same, an Option Nomination;
 - (ii) the Contribution to which the Application relates; and
 - (iii) an Eligible Investor Statement;
- (c) Where the Applicant is a person of the class described in paragraph (a) of the definition of "Eligible Investor" the Application is accompanied by a copy of the election made by the Trustee of the relevant Superannuation Fund to become a Regulated Superannuation Fund.

2.4 Date of acceptance

An Applicant will become a Division II Participant upon the date of acceptance by the Trustee of the Eligible Investor's Application or as otherwise specified by the Trustee.

3 CONTINUING ELIGIBILITY

3.1 Trustee may request Eligible Investor Statement

The Trustee may at any time request a Division II Participant to give the Trustee an Eligible Investor Statement (“Request”).

3.2 Trustee required to request certain Eligible Investor Statements within prescribed period of one year

Where the Trustee has received an Eligible Investor Statement from a Division II Participant who is not the trustee of a Regulated Superannuation Fund, an Approved Deposit Fund or a Pooled Superannuation Trust the Trustee must, no later than one (1) year after the date of the Eligible Investor Statement, deliver a Request to the Division II Participant.

3.3 Where Division II Participant fails to comply with request

Where the Trustee has delivered a Request and the Division II Participant fails to comply with the Request within thirty (30) days after the date of the Request the Division II Participant ceases to be eligible for participation in Division II at the end of those thirty (30) days provided that the Trustee is satisfied that the Division II Participant:

- (a) has reasonable grounds for failing to comply with the Eligible Investor Statement Request; and
- (b) is likely to give the Trustee the Eligible Investor Statement within sixty (60) days of the date of the Notice of Proposed Termination (as that term is defined in Clause 14.3(d)),

and the Division II Participant does give the Trustee the Eligible Investor Statement within sixty (60) days of the said Notice of Proposed Termination the Division II Participant is to be taken not to have ceased to be eligible for participation in this Division II.

4 CONTRIBUTIONS

4.1 Contributions Levels

Each Division II Participant is for so long as it is an Eligible Investor and subject to such minimum amounts and other conditions as the Trustee may from time to time determine, entitled to make such level of Contributions to Division II as it shall determine.

4.2 Advice to Trustee

At the time of making each Contribution, the Division II Participant must advise the Trustee in writing whether or not the Contributions relate to a Current Pension

Liability of the entity in respect of which the Division II Participant is making the Contribution.

5 BENEFITS

A Division II Participant may make a Drawdown Request in respect of part or all of the balance standing to the credit of the Division II Participant's Participants Account.

6 TRANSFER OF PARTICIPANT'S INTEREST WITHIN DIVISION

Where pursuant to the governing rules of the fund or trust in respect of which a Division II Participant acts as trustee and is deemed to be an Eligible Investor the Division II Participant ("the Transferor") is authorised and empowered to transfer all or part of the assets of the fund or trust in respect of which it acts as trustee to the trustee of another fund or trust which trustee is an Eligible Investor and a Division II Participant ("the Transferee") then the Trustee shall, subject always to its duties of good faith and due diligence, where the Trustee receives a written request from the Transferor requesting and a written confirmation from the Transferee confirming the transfer of that part of the amount standing to the credit of the Transferor's Participants Account to the credit of the Transferee's Participants Account specified in the request and confirmation effect such transfer.

SCHEDULE

APPENDIX 1

GOVERNING RULES FOR THE EXECUTIVE CHOICE SUPERANNUATION CATEGORY

Eligibility

1. These Rules apply to Executive Choice Superannuation Category Members only.

Interpretation

- 1.1 This Appendix 1 only applies to benefits attributable to the Executive Choice Superannuation Category. This Appendix 1 sets out the rules governing this Category. The Category is also governed by the provisions of the Trust Deed to which the Appendix 1 is attached. In the event of any inconsistency between the provisions of the Trust Deed and this Appendix 1, this Appendix 1 prevails. Unless the contrary intention appears:
 - A power to appoint includes a power to vary or cancel the appointment.
 - When the word including introduces a list of items, it does not exclude a reference to other items of the same class.
 - A reference to a person includes a firm, a body corporate, an unincorporated associated or any authority.
- 1.2 **Co-contribution Act** means the Superannuation (Government Co-contribution for Low Income Earners) Act.
- 1.3 **Member** means, for the purposes of this Appendix 1, an Executive Choice Superannuation Category Member.
- 1.4 **Member Account** means an account kept for a Member under rule 7.1.
- 1.5 **Permanent Incapacity** means ill-health (whether physical or mental), where the Trustee is reasonably satisfied (and 2 legally qualified medical practitioners have certified) that the Member is unlikely, because of the ill-health, ever again to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.
- 1.6 **Rules** means these rules.
- 1.7 **Temporary Incapacity** means ill-health (whether physical or mental) that caused the Member to cease to be gainfully employed but does not constitute Permanent Incapacity.

2. MEMBERSHIP

Admission

- 2.1 Anyone may apply to the Trustee for admission as a Member or for the admission to the same Fund of a person for whom the applicant intends to contribute to that Fund.
- 2.2 The Trustee may reject an application.
- 2.3 Before admitting a person as a Member the Trustee may require the person:

- (a) to be examined by a registered medical practitioner approved by the Trustee; or
 - (b) to give the Trustee any document or information it considers relevant to the administration of the Fund; or
 - (c) to enter into a written agreement with the Trustee, imposing special conditions in respect of the applicant's membership; or
 - (d) any combination of (a), (b) and (c).
- 2.4 If the Trustee admits an applicant as a Member, membership is taken to have commenced when the Trustee approves the application.
- 2.5 However, the Trustee and the Member may agree that membership is taken to have commenced earlier.

3. TRANSFERS

Transfer in

- 3.1 The Trustee may:
- (a) accept a transfer of assets to the Fund in respect of a Member; and
 - (b) provide benefits in respect of the Member
- on terms which the Trustee agrees with the Member and in a manner which complies with Superannuation Law.

Transfer out

- 3.2 The Trustee may transfer assets out of the fund in respect of a Member up to the Member's Account Balance and with or without the Member's consent. However, the transfer must comply with Superannuation Law.
- 3.3 The Trustee is not responsible for the manner in which the transferee deals with the amount transferred.
- 3.4 If the Member's total Account Balance is transferred, the Member is no longer entitled to benefits from the Fund.

4. CONTRIBUTIONS

Members

- 4.1 A Member may make contributions if the Trustee agrees.

SGC shortfall

- 4.2 The Trustee may accept a Shortfall Component transferred to the Fund for a Member and must treat it as a contribution for the Member.

Acceptance of contributions

- 4.3 The Trustee may:
- (a) accept contributions for a Member for any other person;

(b) at its discretion, refuse to accept all or part of a contribution.

4.4 The Trustee must not accept contributions contrary to Superannuation Law. However, if it does, and if Superannuation Law permits, the Trustee:

(a) must repay the contributions to the contributor; but

(b) may first make deductions for any liabilities or expenses incurred (and provisions for liabilities and expenses) in relation to the contributions.

5. BENEFITS – ENTITLEMENT

Rule 5 sets out the circumstances in which a benefit becomes payable from the Fund. Rule 6 deals with when and how the benefit is usually paid.

Request – age 65

5.1 If a Member (who has not otherwise become entitled to a benefit under these rules) requests a benefit at or after age 65, the Member becomes entitled to a benefit equal to the Member's Account Balance.

Death

5.2 A Member may give the Trustee a Benefit Nomination or a Benefit Direction. When the Trustee accepts a Benefit Nomination or a Benefit Direction from a Member, any previous Benefit Nomination or a Benefit Direction from a Member is taken to have been revoked.

5.3 The Trustee may refuse to accept Benefit Directions (or a particular Benefit Direction) without giving any reason.

5.4 If a Member dies the Trustee must pay a benefit equal to the Member's Account Balance.

5.5 If the Trustee holds a current Benefit Direction in relation to any part of the benefit and the Benefit Direction can be followed, the Trustee must follow the Benefit Direction in relation to that part of the benefit.

5.6 If the Trustee does not hold a current Benefit Direction in relation to any part of the benefit or if the relevant Benefit Direction cannot be followed for any reason, the Trustee must pay that part of the benefit to any or all of the Member's Dependents and legal personal representatives in the proportions that the Trustee decides.

5.7 If there is no Dependant or legal personal representative then, if Superannuation Law permit, the Trustee may pay that part of the benefit to any other people in proportions the Trustee decides.

5.8 A Benefit Nomination is given for information only and does not affect the Trustee's discretion in distributing the benefit.

5.9 Subject to the instructions as to the manner of payment in a Benefit Direction, the Trustee may pay any part of the benefit as a lump sum or as a pension or in any other form as it considers appropriate,

5.10 In respect of any pension paid under rule 5, the Trustee may determine that any of the provisions of rule 6 apply as if the person entitled to the pension was the Member (except for the purpose of determining which provisions apply).

Required payment age

- 5.11 If a Member (who has not otherwise become entitled to a benefit under these rules) reaches the age when Superannuation Law require the Trustee to pay or start paying a benefit, the Member becomes entitled to a benefit equal to the Member's Account Balance.

Retirement or leaving employment

- 5.12 If a Member (who has not otherwise become entitled to a benefit under these rules):
- (a) leaves any business, trade, profession, vocation, calling, occupation or employment because of Permanent or Temporary Incapacity; or
 - (b) retires or retired (before or after joining the Fund) from any business, trade, profession, vocation, calling, occupation or employment; or
 - (c) ceases any employment (at any time and for any reason except death) and the employer has contributed to the Fund for the Member
- the Member becomes entitled to a benefit equal to the Member's Account Balance.

Request – rollover amounts and Spouse benefits

- 5.13 If a Member requests payment of a benefit, the Trustee must pay the benefit to the extent that the payment complies with Superannuation Law.

Financial Incapacity

- 5.14 If the Trustee believes a person entitled to a benefit cannot manage the person's financial affairs, the Trustee must pay the benefit to another person to be used for the first person's advantage. The Trustee is not responsible for the application of the benefit by the payee. However, the payment must comply with Superannuation Law.

Hardship and compassionate grounds

- 5.15 The Trustee may at any time pay to a Member a benefit up to the Member's Account Balance if the balance complies with Superannuation Law in relation to financial hardship or compassionate grounds.

No assignments

- 5.16 The Trustee must not recognise any assignment or charge of a benefit, or any other interest in the Fund, which is contrary to Superannuation Law.

Interest on benefits

- 5.17 If the Member agrees, the Trustee may credit or debit interest at the Crediting Rate to a benefit paid after the date it becomes payable.

Deductions for Tax

- 5.18 The Trustee must comply with Superannuation Law regarding deductions of Tax from benefits and other payments from the Fund.

Trustee's discharge

- 5.19 The Trustee's only obligation in respect of a benefit is to pay it in good faith to or on behalf of a person the Trustee believes is entitled to the benefit. Otherwise, the Trustee is completely discharged by that payment.

Forfeited benefits

- 5.20 A Member forfeits the part of a benefit not attributable to Member contributions if:
- (a) the Member purports to assign, alienate or charge; or
 - (b) any other event occurs which results in another person becoming entitled to

all or part of the benefit. However, this rule has no effect to the extent that it is inconsistent with Superannuation Law or the Bankruptcy Act.

- 5.21 The Trustee must, if Superannuation Law permits, apply a forfeited benefit for the Member and the Member's Dependents in proportions which the Trustee decides and the Member agrees.

6. BENEFITS – PAYMENT

Rule 5 sets out the circumstances in which a benefit becomes payable from the Fund. Rule 6 deals with when and how the benefit is actually paid. A pension is not payable to anyone (including a reversionary beneficiary) who is not a Member.

- 6.1 If the Trustee is not a Constitutional Corporation, then the Fund's primary purpose is to provide old-age pensions.

Account Based pension

- 6.2 If a Member (other than a Member who has requested a lump sum or a pension under another rule) becomes entitled to a benefit under these rules, the Trustee must pay a benefit as a pension, on terms that the Trustee and Member agree as to the level and frequency of payment. However, the level of the pension must be at least the minimum levels prescribed by Superannuation Law and the Trustee must pay the pension at least annually.
- 6.3 A pension entitlement must not be transferred or used as security for a borrowing unless Superannuation Law permits.
- 6.4 The Trustee must debit pension payments to the Member Accounts of the Member.
- 6.5 The Member may elect to commute all or part of the pension (up to the Member's Account Balance) by notifying the Trustee in writing.
- 6.6 The Trustee must comply with the Member's election if it approves the election and the election complies with Superannuation Law (including Superannuation Law in relation to the minimum level of pension for the financial year when the commutation takes place).
- 6.7 If the Member dies while entitled to the pension, the Trustee may either pay a benefit under rules 5.4 to 5.10 or continue the pension under rule 6.43.
- 6.8 The pension commences when the Trustee and Member agree (but no later than required by Superannuation Law) and ends when the balance of the relevant Member Accounts is nil.

Fixed (non-complying) pension

- 6.9 If a person entitled to a benefit makes a written request to the Trustee for a fixed (non-complying) pension, the Trustee must pay a pension to the Member, at least annually, at the rate and for the term (if any) determined by the Trustee after consultation with an actuary having regard to:
- the fixed term or rate requested;
 - the agreed residual capital value (if any) of the pension; and
 - the Member's Account Balance.
- 6.10 When the pension commences, the rights of the Member in respect of the Member's Account Balance are replaced with the right to receive the pension. However, the Trustee must continue to keep the relevant Member Accounts in order to determine the maximum amounts payable on death, commutation or cessation of the pension as provided in the Rules.
- 6.11 Subject to Superannuation Law, the Trustee's liability in respect of the pension is limited to the balance for the time being of the relevant Member Accounts.
- 6.12 The rate may be varied from year to year. However, unless the Trustee determines otherwise the variation in any year must not be more than the average rate of increase of the Consumer Price Index in the preceding 3 years except in relation to payments, by way of commutation, for superannuation contributions surcharge. When setting the rate of the pension, the trustee may agree with the Member that the pension is to have a residual capital value. When the pension ceases, the Trustee must pay that amount to the Member as a lump sum or pension benefit. However, the amount of the residual capital value must be consistent with the actuary's advice and the manner of payment must be consistent with Superannuation Law. If no residual capital value is agreed when the pension commences, then no amount is payable when the pension ceases.
- 6.13 When the pension ceases the Trustee may (in its absolute discretion but subject to Superannuation Law) apply the balance remaining in the relevant Member Accounts for any purposes. Those purposes include granting a further benefit entitlement to the Member, but only to the extent that the balance arises because the earnings credited to the relevant Member Accounts were greater than anticipated in the actuary's advice.
- 6.14 Rules 6.3 to 6.8 apply in respect of the Member's benefit entitlement. In particular, the amount payable on commutation must accord with Superannuation Law applying to this kind of pension.
- 6.15 If the pension reverts or is commuted, it does not have a reversionary component greater than 100% of the benefit that was payable before the reversion or the commutation. In any event, any conversion to a lump sum is limited to the sum determined by applying to the pension the appropriate pension valuation factor under Schedule 1B to the Superannuation Industry (Supervision) Regulations as if the commencement day were the day on which the commutation occurs.

Lifetime pension

- 6.16 A person entitled to a benefit may make a written requested to the Trustee for a lifetime pension.
- 6.17 On receipt of the request, the Trustee must pay a pension at least annually to the Member throughout the Member's Life and if there is a reversionary beneficiary:

- (a) throughout the reversionary beneficiary's life; or
- (b) if he or she is a Child of the Member or of a former reversionary beneficiary:
- at least until he or she reaches age 16; or
 - if at age 16 he or she is a full-time student, at least until the end of his or her full-time studies or until his or her 25th birthday (whichever occurs sooner).
- 6.18 The Trustee must fix the rate of the pension after consultation with an actuary having regard to the balance of the relevant Member Accounts. The Trustee and the Member must confirm that rate by written agreement. The agreement forms part of these rules. The pension commences on the date of the agreement and the first payment relates to the year commencing on that date. Once the pension commences, the rate may not be varied unless the variation is specified in these rules.
- 6.19 The rate of the pension may be increased or decreased from year to year by the amount (if any) agreed between the Trustee and the Member. However, a decrease may occur only if the Commissioner of Taxation approves or if the CPI Change is negative and the decrease is limited to the rate of CPI Change.
- For this purpose:
- CPI Change means the percentage change in the CPI for the second last quarter before the first payment for the current year is to be made, compared to the CPI for the same quarter in the preceding year; and
 - CPI means the Consumer Price Index number that is the weighted average for the 8 capital cities published by the Australian Statistician in respect of the relevant quarter.
- 6.20 When the pension commences, the rights of the Member in respect of the balance of the relevant Member Accounts are replaced with the right to receive the pension.
- 6.21 Subject to Superannuation Law, the Trustee's liability in respect of the pension is limited to the balance for the time being of the relevant Member Accounts.
- 6.22 The pension has no residual capital value and may not be commuted except:
- (a) within 6 months after commencement (unless the pension was funded from the commutation of an annuity or another pension and commutation of the pension would therefore be inconsistent with Superannuation Law); or
 - (b) within 10 years after commencement (or from 20 September 2004, 20 years or the Member's life expectancy at commencement if less) and in favour of either the Member's estate or a reversionary beneficiary to whom the pension reverts on the Member's death; or
 - (c) if the lump sum resulting from the commutation is applied directly to the purchase of another lifetime, fixed term or market linked pension provided under these rules or equivalent rules;

- (d) to pay an assessment under the Superannuation Contributions Tax (Imposition) Act 1997; or
- (e) to give effect to an entitlement of a Non-Member Spouse in relation to a payment split under the Family Law Act.

The Trustee must comply with Superannuation Law in relation to the minimum level of pension for the financial year when the commutation takes place.

- 6.23 If the pension reverts or is commuted, the reversionary component or commuted amount must not be greater than the benefit that was payable before the reversion or commutation.
- 6.24 The pension must not be used as security for a borrowing or transferred except to a reversionary beneficiary on the death of the Member or of another reversionary beneficiary.
- 6.25 The Trustee must continue to keep the relevant Member Accounts and must debit pension payments and commutations to those Member Accounts.

Lifetime (ATE) pension

- 6.26 A person entitled to a benefit may make a written request to the Trustee for a lifetime (asset test exempt) pension. The request must specify whether the pension is intended to comply with section 9A of the Social Security Act or section 5JA of the Veterans' Entitlements Act.
- 6.27 Rules 6.17 to 6.25 apply in respect of the pension except that:
 - (a) rule 6.30 applies instead of rule 6.19;
 - (b) rule 6.22(a) does not apply and the pension may be commuted within 6 months after commencement unless it was purchased by transferring a payment resulting from the commutation of another pension that is an asset test exempt income stream under the Social Security Act or the Veterans' Entitlements Act;
 - (c) as to rule 6.22(d), the pension is commutable only to the extent necessary to cover any superannuation contributions surcharge that the pensioner is liable to pay in his or her capacity as purchaser of the pension;
 - (d) the pension may be commuted to pay a "hardship amount" as defined in section 9A of the Social Security Act or section 5JA of the Veterans' Entitlements Act;
 - (e) any conversion to a lump sum is limited to the sum determined by applying to the pension the appropriate pension valuation factor under Schedule 1B to the Superannuation Industry (Supervision) Regulations as if the commencement day were the day on which the commutation occurs; and
 - (f) the Member's reversionary partner under the Social Security Act is taken to be the Member's Spouse.

- 6.27A For the avoidance of doubt, in respect to Lifetime (ATE) pensions:

- (a) any account balances maintained do not give rise to any further entitlements beyond those permitted by Superannuation Law, and
- (b) pension payments are guaranteed for life.

Fixed Term pension

- 6.28 A person entitled to a benefit may make a written request to the Trustee for a fixed term pension.
- 6.29 On receipt of the request, the Trustee must pay a pension to the Member at least annually for the Term commencing on the day when the person first became entitled to the pension.

For this purpose:

- **Life Expectancy** means the number of years in the complete expectation of life of the relevant person as at the commencement of the pension according to the Australian Life Tables most recently published by the Australian Government Actuary before the year when the pension commenced or otherwise specified by Superannuation Law.
- For a pension commencing before 20 September 2004 **Term** means:
 - (a) if the Member's Life Expectancy is 15 years or more, a period agreed between the Trustee and the Member, being at least 15 years but not more than the Member's Life Expectancy; or
 - (b) if the Member's Life Expectancy is less than 15 years, the Member's Life Expectancy
(in each case rounded up to the nearest whole number of years if the Member wishes).
- For a pension commencing on or after 20 September 2004 **Term** means:
 - (a) the Member's Life Expectancy; or
 - (b) the Member's Life Expectancy calculated, at the Member's option, as if the Member were up to 5 years younger; or
 - (c) if the pension reverts to the Member's Spouse whose Life Expectancy is greater than the Member's, the Spouse's Life Expectancy or the Spouse's Life Expectancy calculated, at the Member's option, as if the Spouse were up to 5 years younger

(in each case rounded up to the nearest whole number of years if the Member wishes).

- 6.30 The rate of the pension may not be decreased, but may be increased from year to year by the amount (if any) agreed between the Trustee and the Member, being at most:
- (a) 5%; or
 - (b) if the CPI Increase is more than 4%, then 1% plus the rate of the CPI Increase.

For this purpose:

- CPI increase means the percentage increase in the CPI for the second last quarter before the first payment for the current year is to be made, compared to the CPI for the same quarter in the preceding year; and
- CPI means the Consumer Price Index number that is the weighted average for the 8 capital cities published by the Australian Statistician in respect of the relevant quarter.

- 6.31 The pension has no residual capital value and may not be commuted except;
- (a) within 6 months after commencement (unless the pension was funded from the commutation of an annuity or another pension and commutation of the pension would therefore be inconsistent with Superannuation Law); or
 - (b) in favour of either the Member's estate or a reversionary beneficiary to whom the pension reverts on the Member's death; or
 - (c) if the lump sum resulting from the commutation is applied directly to the purchase of another , fixed term or market linked pension provided under these rules or equivalent rules; or
 - (d) to pay an assessment under the Superannuation Contributions Tax (Imposition) Act 1997; or
 - (e) to give effect to an entitlement of a Non-Member Spouse in relation to a payment split under the Family Law Act.

Any conversion to a lump sum under this rule is limited to the sum determined by applying to the pension the appropriate pension valuation factor under Schedule IB to the Superannuation Industry (Supervision) Regulations as if the commencement day were the day on which the commutation occurs.

- 6.32 Rules 6.18, 6.20, 6.21 and 6.23 to 6.25 apply in respect of the pension and if the Member has opted for a Term related to the life expectancy of the Member's Spouse, the pension cannot be commuted until the death of both the Member and the Spouse.

Fixed Term (ATE) pension

- 6.33 A person entitled to a benefit may make a written request to the Trustee for a fixed term (asset test exempt) pension. If the pension commences before 20 September 2004, the person must have reached Pension Age. The request must specify whether the pension is intended to comply with section 9B of the Social Security Act or with the equivalent section of the Veterans' Entitlements Act.
- 6.34 Rules 6.29 to 6.32 apply in respect of the pension except that:
- (a) rule 6.31(a) does not apply and the pension may be commuted within 6 months after commencement unless it was purchased by transferring a payment resulting from the commutation of another pension that is an asset test exempt income stream under the Social Security Act or the Veteran's Entitlements Act;
 - (b) as to rule 6.31(d), the pension is commutable only to the extent necessary to cover any superannuation contributions surcharge that the pensioner is liable to pay in his or her capacity as purchaser of the pension; and
 - (c) the pension may be commuted to pay a "hardship amount" as defined in section 9A of the Social Security Act or section 5JA of the Veterans' Entitlements Act; and
 - (d) the Member's reversionary partner under the Social Security Act is taken to be the Member's Spouse.

- 6.34A For the avoidance of doubt, in respect to Fixed Term (ATE) pensions:

- (a) any account balances maintained do not give rise to any further entitlements beyond those permitted by Superannuation Law, and
- (b) pension payments are guaranteed for their fixed term.

Market linked pension

6.35 From 20 September 2004 a person entitled to a benefit may make a written request to the Trustee for a market linked pension.

6.36 On receipt of the request, the Trustee may pay a pension for:

- (a) the Member's Life Expectancy; or
- (b) the Member's Life Expectancy calculated, at the Member's option, as if the Member were up to 5 years younger; or
- (c) if the pension reverts to the Member's Spouse whose Life Expectancy is greater than the Member's, the Spouse's life Expectancy or the Spouse's Life Expectancy calculated, at the Member's option, as if the Spouse were up to 5 years younger; or
- (d) if the pension is commenced on or after 1 January 2006 and does not revert to a Member's Spouse with a life expectancy which is longer than the Members, a period not less than (a) above and no longer than the greater of the period calculated under (b) above and the period from the Members most recent birthday before the pension commences until the date upon which the Member would attain 100 year of age; or
- (e) If the pension commences after 1 January 2006 and reverts to a Member's Spouse whose life expectancy is greater than the Members a period not less than the Spouses life expectancy and not greater than the longer of the Spouses life expectancy and the period from the Spouses most recent birthday until the date the Spouse would attain 100 years of age.

(in each case rounded up to the nearest whole number of years if the Member wishes).

6.37 The level of the pension must be determined in the manner prescribed by Superannuation Law and the Trustee must pay the pension at least annually.

6.38 The pension has no residual capital value and may not be commuted except:

- (a) within 6 months after commencement (unless the pension was funded from the commutation of an annuity or another pension and commutation of the pension would therefore be inconsistent with Superannuation Law); or
- (b) in favour of one or more Dependants of either the Member or a reversionary beneficiary; or
- (c) as a lump sum in favour of legal personal representative of either the Member or a reversionary beneficiary; or
- (d) if the Trustee after making reasonable enquiries is unable to find a person mentioned in (b) or (c), a lump sum to another person; or

- (e) if the lump sum resulting from the commutation is applied directly to the purchase of another , fixed term or market linked pension provided under these rules or equivalent rules; or
- (f) to pay an assessment under the Superannuation Contributions Tax (Imposition) Act 1997; or
- (g) to give effect to an entitlement of a Non-Member Spouse in relation to a payment split under the Family Law Act.

For (b), (c) and (d), if the Member has chosen a term related to the life expectancy or age of the Member's Spouse, the pension may not be commuted until the death of both the Member and the Spouse. Any conversion to a lump sum under this rule is limited to the sum determined by applying to the pension the appropriate pension valuation factor under Schedule 1B to the Superannuation Industry (Supervision) Regulations as if the commencement day were the day on which the commutation occurs.

- 6.39 Rules 6.23 and 6.24 apply and the pension may be transferred only in accordance with rule 6.38.

Market linked (ATE) pension

- 6.40 From 20 September 2004 a person entitled to a benefit may make a written request to the Trustee for a market linked (asset test exempt) pension. The request must specify whether the pension is intended to comply with the Social Security Act or the Veterans' Entitlements Act.
- 6.41 The level of the pension must be determined in the manner prescribed by Superannuation Law and the Trustee must pay the pension at least annually.
- 6.42 Rules 6.36, 6.38 and 6.39 apply as if the Member's reversionary pensioner under the Social Security Act were the Member's Spouse and references to RBL complying pensions were to ATE pensions.

Reversionary pension

- 6.43 Unless inconsistent with the terms of the relevant pension, a Member who requests a pension may nominate one or more of the Member's Dependants as reversionary beneficiaries (either successive or concurrent) in relation to the pension. If reversionary beneficiaries are nominated as concurrent, the request must nominate the respective portions of the pension that revert to them. If no reversionary beneficiary is nominated then on the Member's death, the Trustee may nevertheless continue paying the relevant pension to any or all of the Member's Dependants and legal personal representative in proportions the Trustee decides after considering any relevant Benefit Nomination.

Lump sum

- 6.44 If a person entitled to a benefit requests, the Trustee may pay the benefit as a lump sum.

Rollover or annuity

- 6.45 A person entitled to a benefit may direct the Trustee to:
- (a) pay all or part of the benefit to another fund; or

- (b) apply all or part of the benefit to purchase an annuity in the name of the person or, if the person is a Member, in the name of the Member or one or more of the Member's Dependants.

6.46 The Trustee must comply with the direction if the payment complies with Superannuation Law.

Compulsory rollover

6.47 The Trustee may, if Superannuation Law permits, pay all or part of a benefit to another fund without the consent of the person entitled to the benefit.

Benefits in specie

6.48 If a person entitled to a benefit requests, the Trustee may pay all or part of the benefit by transferring assets to the person or the person's nominee. The transfer must comply with Superannuation Law.

Deferral, preservation and flagging

6.49 If a person entitled to a benefit requests, the Trustee may defer payment of all or part of the benefit. The deferral must comply with Superannuation Law. If the Trustee believes that the payment of any part of a Member's benefit will contravene the Family Law Act, the Trustee must not pay that part.

6.50 If Superannuation Law requires part of a benefit to be preserved, the Trustee must:

- (a) keep that part in the Fund until Superannuation Law permits it to be paid; or
- (b) with the Member's written consent (if required by Superannuation Law) pay that part³⁷ to another fund that the Trustee believes will comply with Superannuation Law regarding the preservation of benefits.

6.51 If part of the benefit is kept in the Fund and the Member dies before it is paid, the Trustee must pay it under rule 5.4 to 5.10.

Unclaimed benefits

6.52 The Trustee must comply with Superannuation Law as to unclaimed benefits and the transfer of benefits to other funds.

Types of benefit

6.53 If a Member requests, the Trustee may pay a benefit as one or more pensions or lump sums under rule 6. However, the manner of payment must be consistent with Superannuation Law and the Trustee must establish one or more separate Member Accounts as the source of each type of benefit in respect of the Member.

Types of benefit

6.54 If a Member requests, the Trustee may pay a benefit as one or more pensions or lump sums under rule 6. However, the manner of payment must be consistent with Superannuation Law and the Trustee must establish one or more separate Priority Accounts as the source of each type of benefit in respect of the Member.

7. ADMINISTRATION

Member Accounts

7.1 The Trustee must keep one or more Member Accounts for each Member to record:

- (a) contributions and other amounts (including proceeds of insurance policies) received for the Member;
- (b) earnings or losses in respect of those amounts; and
- (c) a fair proportion of the Fund's tax and expenses (including insurance premiums) and provisions for tax and expenses.

Distribution of earnings

7.2 The Trustee must distribute the Fund's earnings between the Member Accounts and the Fund's reserves in a manner which the Members agree to be fair and reasonable.

7.3 The Trustee must not distribute earnings to Member Accounts if that would take any of the Fund's reserve accounts into debit.

Reserves

7.4 The Trustee must set up one or more reserve accounts to record earnings or losses of the Fund which are not recorded in Member Accounts and amounts no longer required to pay benefits for Members.

7.5 The Trustee may use amounts held the Fund's reserve accounts for any purposes and in any manner which the Members agree to be fair and reasonable including:

- (a) averaging earnings, losses and expense over several years;
- (b) replacing contributions otherwise payable to the Fund;
- (c) providing additional benefits.

However, the Trustee may apply those amounts only as and when the Members approve and Superannuation Law permits.